

**CITY COUNCIL BUSINESS MEETING AGENDA  
1705 MAIN STREET, DAPHNE, AL  
JANUARY 4, 2010  
BUSINESS MEETING  
6:30 P.M.**

- 1. CALL TO ORDER**
- 2. ROLL CALL/INVOCATION /  
PLEDGE OF ALLEGIANCE**

**APPROVE MINUTES:** Council meeting minutes / December 21, 2009

**PRESENTATION:** Eric Byrne / Eagle Scout Project

**PRESENTATION:** Maria Nicholson / Animal Shelter Website

**PUBLIC HEARING:** West Highway 90 Retail District Overlay / **Ordinance 2010-06**

**PUBLIC HEARING:** Annexation: AJD Family Limited Partnership / Located at the Intersection of Friendship Road and County Highway 64 / **Ordinance 2010-07**

**MOTION:**

"Authorizing the council president to make informational and procedural requests on behalf of the council as a whole."

**4. REPORT STANDING COMMITTEES:**

**A. FINANCE COMMITTEE / Boulware**

From Special meeting held January 4<sup>th</sup>

**a.) Resolution:**

1.) May Day park Boat Ramp & Parking Lot Improvements / **Resolution 2010-01**

**b.) Ordinances:**

1.) Appropriation from Lodging Tax / May Day Park Boat Ramp & Parking Lot Improvements / **Ordinance 2010-05**

**B. BUILDINGS & PROPERTY - Lake**

**C. PUBLIC SAFETY - Burnam**

Review minutes / December 9, 2009

**D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Palumbo**

**E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding**

Beautification: Review minutes / December 4, 2009

**5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:**

**A. Board of Zoning Adjustments – Jones**

Review minutes / December 3, 2009

**B. Downtown Redevelopment Authority - Barnette**

**C. Industrial Development Board – Yelding**

Review minutes / December 28, 2009

**D. Library Board - Lake**

**E. Planning Commission – Barnette**

Review minutes / December 17, 2009

**F. Recreation Board - Burnam**

**G. Utility Board - Scott**

**6. REPORTS OF OFFICERS:**

**A. Mayor’s Report**

**B. City Attorney’s Report**

**C. Department Head Comments**

**7. PUBLIC PARTICIPATION:**

**8. RESOLUTIONS & ORDINANCES:**

**RESOLUTIONS:**

- a.) **May Day Park Boat Ramp & parking Lot Improvements. . . . . /Resolution 2010-01**

**ORDINANCES:**

**2ND READ**

- a.) **Annexation: Rights-of-Way AL Hwy 181 & U.S. Hwy 90. . . . . /Ordinance 2010-01**
- b.) **Defining Procedures for Going Out of Business and Other Similar Sales. . . . . /Ordinance 2010-02**
- c.) **Lodging Tax Appropriation: Park Signs. . . . . /Ordinance 2010-03**
- d.) **Lodging Tax Appropriation: Sports Complex. . . . . /Ordinance 2010-04**

**1ST READ**

- e.) **Lodging Tax Appropriation: may Day Park Boat Ramp and Parking Lot Improvements. . . . . /Ordinance 2010-05**
- f.) **Amending the Land Use and Development Ordinance / West Highway 90 Retail District Overlay. . . . . /Ordinance 2010-06**
- g.) **Annexation: AJD Family Limited Partnership / Located at the Intersection of Friendship Road and County Highway 64. . . . . /Ordinance 2010-07**

**9. COUNCIL COMMENTS**

**10. ADJOURN**

**CITY OF DAPHNE  
CITY COUNCIL MEETING**

**ROLL CALL**

**CITY COUNCIL:**

**CALL VOTES**

COUNCILMAN YELDING

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILWOMAN BARNETTE

PRESENT\_\_ ABSENT\_\_

COUNCILMAN LAKE

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILMAN BURNAM

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILMAN SCOTT

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILMAN BOULWARE

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILMAN PALUMBO

PRESENT\_\_ ABSENT\_\_ \_\_

**MAYOR**

MAYOR SMALL

PRESENT\_\_ ABSENT\_\_ \_\_

**CITY CLERK:**

DAVID L. COHEN

PRESENT\_\_ ABSENT\_\_

**CITY ATTORNEY:**

CITY ATTORNEY JAY ROSS

PRESENT\_\_ ABSENT

**MINUTE NOTES:**

**CITY COUNCIL MEETING  
MINUTES**

**NOTES:**

COMMITTEE RECOMMENDATIONS



**DECEMBER 21, 2009  
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**MOTION:** Change the January 18, 2010 Council meeting date due to Martin Luther King Day

**MOTION BY Councilman Burnam to change the date of the January 18, 2010 Council meeting to Tuesday, January 19, 2010. *Seconded by Councilman Yelding.***

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

**PRESENTATION:** Mr. Richard Lacey / Mercy Medical

Mr. Lacey asked council to set a Public Hearing date for a TEFFRA Hearing. The hearing will be published two weeks prior to the hearing. The city is not responsible in any way to repay the debt.

**MOTION BY Councilman Burnam to set a Public Hearing date for January 19, 2010 for a TEFFRA Hearing for Mercy Medical at 6:30 p.m. *Seconded by Councilman Yelding.***

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

**PUBLIC HEARING:** Infirmary Health Care System

Mr. Joe Denton, Vice President and Chief Financial Officer for Infirmary Health System, gave the presentation. He stated that this is restructuring of their existing debt through refinancing. There is no new money, and the city is not obligated to repay the related bonds.

Council President Pro tem Barnette opened the Public Hearing at 6:54.

No one spoke for or against the refinancing of bonds for Infirmary Health Care System.

Councilwoman Barnette closed the Public Hearing at 6:55 p.m.

**PUBLIC HEARING: Annexation: Rights-of-Way of AL Hwy 181 and US Hwy 90**

Mrs. Adrienne Jones, Planning Director gave the presentation. She stated that Chief White and Chief Carpenter are in support of this annexation.

Council President Pro tem Barnette opened the Public Hearing at 6:59 p.m.

**Mr. Kevin Spriggs – Owner of Eastern Shore Motel and Malbis Shell Station** – asked that the city not plant trees and bushes in front of his establishment as they did on Hwy 98.

Council President Palumbo closed the Public Hearing at 7:00 p.m.

**MOTION:** Authorize Mr. Mike Keating, with DIALOG, to perform an organizational assessment of the city departments

**MOTION BY Councilman Boulware to authorize Mr. Mike Keating, with DIALOG, to perform an organizational assessment of the city departments. NO SECOND**

**MOTION FAILED FOR LACK OF A SECOND**

**A. FINANCE COMMITTEE – Boulware**

The minutes for the December 14<sup>th</sup> meeting are in the packet. Councilman Boulware made a clarification of a statement made in the minutes in section five regarding Mr. Hamrick’s statement to offer assistance in preparation of bid specifications. He stated that these are not verbatim minutes. He said this was an assumption made there, but actually something was brought up by Mr. Yelding that because of Mr. Hamrick’s experience with municipal bids that he may very well assist the city in that process. Let the record show that he did not say that he would help or assist in the preparation of the bid specifications.

**MOTION: To forward a favorable recommendation from Council to the IDB for consideration of funding \$5,000 for the Commissioning of the USS Independence.**

**MOTION BY Councilman Yelding to forward a favorable recommendation from Council to the IDB for consideration of funding \$5,000 for the Commissioning of the USS Independence. *Seconded by Councilman Scott.***

**AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED**

**Treasurers Report**

**MOTIONBY Councilman Yelding to accept the Treasurers Report as of November 30, 2009 with a balance of \$19,392,288.27. *Seconded by Councilman Scott.***

**AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED**

**DECEMBER 21, 2009  
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**Sales and Use Tax Collections / October 31, 2009**

Sales and Use Tax Collected for October 2009	- \$ 764,641
Sales and Use Tax Budgeted for October 2009	- \$ <u>752,167</u>
Over Budget (for October)	- \$ 12,474

YTD Budget Collections Variance – Over Budget - \$ 12,474

**Lodging Tax Collections, October 31, 2009**

The Lodging Tax Collections report shows \$39,405.56 collected for October 2009.

The next meeting will be January 11, 2010 at 4:00 p.m. in the Executive Conference Room

**B. BUILDINGS AND PROPERTY COMMITTEE – Lake**

No report.

**C. PUBLIC SAFETY COMMITTEE – Burnam**

The minutes for the November 18<sup>th</sup> meeting are in the packet. There is no council action needed.

**D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo**

No report.

**E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding**

No report. There will not be a meeting in December. The next meeting will be in January.

**5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:**

**A. Board of Zoning Adjustments – Ms. Jones**

The minutes for the December meeting will be in the next council packet. There were no applications for the month of January.

**B. Downtown Redevelopment Authority – Barnette**

No report.

**C. Industrial Development Board – Yelding**

No report. The next meeting will be December 28<sup>th</sup>.

**D. Library Board – Lake**

No report.

**E. Planning Commission** – Barnette

The minutes for the August 27<sup>th</sup> meeting are in the packet.

**F. Recreation Board** – Burnam

The minutes for the November 18<sup>th</sup> meeting are in the packet.

**G. Utility Board** – Scott

No report. The December meeting will be January 6, 2010.

**6. REPORTS OF THE OFFICERS:**

**A. *Mayor's Report***

No report.

**B. *City Attorney Report***

Mr. Ross reported that the city will be getting a refund from him in the amount of \$60,000, because on a recent case which he was paid by the city AMIC also covered the cost. He will deliver the check to the city when he receives it.

**C. *Department Head Comments***

**David Cohen – City Clerk** – reported that they had the bid opening for the May Day Park boat ramp and parking lot, and there were seven bidders. The range of bids was anywhere from \$594,000 to \$998,000. The two lowest bids with the match would put the city's part between \$208,980 including engineering fees or \$277,495. He said the bid tabs that he sent to council were not official yet. The bids were in the range that they thought they would be. This is including a retaining wall that was not included in the first round that Mr. Moore did. In talks with Thompson engineering he felt the retaining wall would be over \$100,000+ and the bids reflected that. The low bid was \$102,000 up to \$200,000 for the retaining wall. The initial bid process was \$587,000 so they are very close to that which is good considering the retaining wall was left out of the first initial proposed amount in the plans. Everything else is go other than the official word from Thompson Engineering as far as bids. Hopefully, they will be able to get them to council for the first meeting in January for at least a first read. The reason he is pushing this straight to the council is because it is a time essence issue. The deadline to complete the project is June 1, 2010. It will take some time to order the pre-fab concrete and get it in, and also mobilization to May Day Park. Also, to accommodate the people that use the park.

**David Carpenter – Police Chief** – asked citizens to be diligent in looking out for their neighborhoods for any suspicious activity because of burglaries. He encouraged everyone to be safe during the holiday season.

**Ashley Campbell - Environmental Programs Manager** – asked council to suspend the rules for the Captain O'Neal drainage project that it is critical.

*Ann Morris – Library* - thanked all employees and volunteers at the library. They just finished their last program Children and Young Adults which was Santa’s Stories attended by little ones and their parents. The Teen Board dressed as elves for the program.

**7. PUBLIC PARTICIPATION**

*Mr. Mark White – Owner of Moe’s Bar-B-Q* – spoke regarding the Noise Ordinance. He requested to meet with the Ordinance Committee to discuss recent complaints.

*Mr. Kevin Spriggs – Owner of Easter Shore Motel* – spoke regarding funding the Captain O’Neal drainage problems from the Lodging Tax. He also spoke regarding crime in Daphne and cuts to the Police Department budget, and he encouraged council to re-vamp the sign section of the Overlay Ordinance.

*Mr. Rod Drummond – Ridgewood Drive* – spoke regarding hiring the Civic Center Director, and the Utility budget.

*Mr. Andrew James – Volkert & Associates* – spoke regarding the Captain O’Neal drainage project.

*Mrs. Susan Hamm – 1209 Captain O’Neal Drive* – stated that the drainage and curbing on Captain O’Neal is critical because of safety issues, and encouraged council to suspend the rules for the ordinance.

*Chief Carpenter – Police Department* – stated that they arrested three suspects in the McDonald’s robbery.

**8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS**

**RESOLUTIONS:**

- a.) **Infirmary Health System Refunding. . . . . /Resolution 2009-117**
- b.) **Support the Goals and Ideals for the 2010 Census. . . . . /Resolution 2009-118**
- c.) **Mercy Medical TEFFRA Hearing. . . . . /Resolution 2009-119**

**MOTION BY Councilman Scott to waive the reading of Resolutions 2009-117, 2009-118 and 2009-119. *Seconded by Councilman Yelding.***

**AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED**

**MOTION BY Councilman Scott to adopt Resolutions 2009-117 and 2009-119. *Seconded by Councilman Burnam.***

**AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED**

Council discussed Resolution 2009-118 Supporting the U.S. Census and was concerned about the wording of sections of the resolution.

**MOTION BY Councilman Scott to table Resolution 2009-118. *Seconded by Councilman Yelding.***

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

**ORDINANCES:**

**2ND READ**

- a.) **Rezoning: Trione Heir Property / SW of the Intersection of Main Street & /Belrose Avenue / R-2, Medium Density Single Family Residential District to B-1, Local Business District...../Ordinance 2009-65**
- b.) **Revision to Olde Towne District Map...../Ordinance 2009-66**

**1<sup>ST</sup> READ**

- c.) **General Fund Appropriation: FEMA: Captain O'Neal Drive Drainage Improvements...../Ordinance 2009-68**
- d.) **Captain O'Neal Road and Sidewalks...../Ordinance 2009-69**
- e.) **Annexation: Rights-of-Way AL Hwy 181 & U.S. Hwy 90...../Ordinance 2010-01**
- f.) **Defining Procedures for Going Out of Business and Other Similar Sales...../Ordinance 2010-02**
- g.) **Lodging Tax Appropriation: Park Signs...../Ordinance 2010-03**
- h.) **Lodging Tax Appropriation: Sports Complex...../Ordinance 2010-04**

**MOTION BY Councilman Scott to waive the reading of Ordinances 2009-65 and 2009-66. *Seconded by Councilman Burnam.***

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

MOTION BY Councilman Scott to adopt Ordinance 2009-65 and 2009-66. *Seconded by Councilman Burnam.*

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

MOTION BY Councilman Scott o suspend the rules to consider Ordinances 2009-68 and 2009-69. *Seconded by Councilman Yelding.*

ROLL CALL VOTE

Yelding	Aye	Scott	Aye
Barnette	Aye	Boulware	Aye
Burnam	Aye		

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

MOTION BY Councilman Scott to waive the reading of Ordinances 2009-68 and 2009-69. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinances 2009-68 and 2009-69. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR                      NAY Boulware                      MOTION CARRIED

ORDINANCES 2010-01, 2010-12, 2010-03 and 2010-04 WERE MADE 1<sup>ST</sup> READ.

**9. COUNCIL COMMENTS**

*Councilman Yelding* wished everyone a Merry Christmas.

*Councilman Burnam* wished everyone a Merry Christmas.

*Councilman Scott* wished everyone a Merry Christmas and a Happy New Year. He said it has been a tough year, but he works with a great group of people that work very hard.

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*Councilman Boulware* thanked the city for bearing with his ignorance for his first year on the council. He wished everyone a Merry Christmas and a Happy New Year.

*Councilwoman Barnette* stated that she got her Christmas present early with the suspension of the rules for the Captain O’Neal drainage project. She wished everyone a Merry Christmas and a Happy New Year, and encouraged everyone to remember the spirit of the holiday.

**10. ADJOURN**

**MOTION BY Councilman Yelding to adjourn. Seconded by Councilman Burnam.**

**AYE ALL IN FAVOR          NAY NONE OPPOSED          MOTION CARRIED**

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 7:45 P.M.**

Respectfully submitted by,

\_\_\_\_\_  
David L. Cohen,  
City Clerk

Certification by Presiding Officer:

\_\_\_\_\_  
August A. Palumbo,  
Council President

**PUBLIC HEARING LIST  
FOR COUNCIL MEETING**

**JANUARY 4, 2010**

**TO CONSIDER:**

- 1. West Highway 90 Retail District Overlay**
- 2. Annexation: AJD Family Limited Partnership / Located Intersection Of Friendship Road & County Road 64**

To: Office of the City Clerk  
From: Adrienne D. Jones,  
Director of Community Development  
Subject: West Highway 90 Retail District  
Overlay-Amendment to the Daphne  
Land Use and Development  
Ordinance

## MEMORANDUM

Date: November 23, 2009

### LOCATION

#### & DESCRIPTION:

"New" Overlay District to encompass the area from the traffic light at the intersection of U. S. Highway 90 and Jubilee Parkway to the traffic light at the intersection of U.S. Highway 90 and Bayview Drive to include sidewalks and walking trails for connectivity from the commercial to the residential area.

#### RECOMMENDATION:

At the November 19, 2009, regular meeting of the City of Daphne Planning Commission, seven members were present and the vote was unanimous for a favorable recommendation for the above-captioned amendment to the Daphne Land Use Ordinance.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate agenda for action by the City Council.

Thank you,  
ADJ/jd

cc: file

attachment(s)

1. Ordinance
2. Map

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**ORDINANCE 2010-**

**AN ORDINANCE ADDING/AMENDING THE CITY OF DAPHNE LAND USE AND DEVELOPMENT ORDINANCE NO. 2002-22, ADOPTED SEPTEMBER 3, 2002.**

**WHEREAS**, the Planning Commission of the City of Daphne at their regular meeting held on November 19, 2009, considered certain amendments to the City of Daphne Land Use and Development Ordinance and set forth **an affirmative recommendation** to the City Council of the City of Daphne that said amendments should be affirmed; and,

**WHEREAS**, due notice of the said amendment has been presented to the public as required by law through publication and open display at the City of Daphne Public Library and City Hall; and,

**WHEREAS**, a public hearing in regard to said amendment to the City of Daphne Land Use and Development Ordinance was held on January 4, 2010; and,

**WHEREAS**, the Mayor and City Council of the City of Daphne, after due consideration, deemed that the amendments requested are proper and believe it to be in the best interest of the City that said amendments be affirmed.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA that said amendments described below are hereby adopted as follows:**

**SECTION I: WEST HIGHWAY 90 RETAIL DISTRICT OVERLAY DISTRICT**

**ARTICLE XXXIX**

**39-1 GENERAL PROVISIONS**

**(a) Purpose of the West Highway 90 Retail Shopping District**

Whereas the City of Daphne promotes a quality living environment that sustains a balanced mix of commercial development that serves the day-to-day need of its residents, and promotes its image as a desirable and economically stable community. The City of Daphne, Alabama, a municipal corporation (the "City") hereby adopts the following provisions for the establishment of the West Highway 90 Retail Shopping District (90-WRSD) is hereby created to recognize and reinforce the importance of the existing interstate retail business corridor as a major commercial center for the City of Daphne. The intent is to enhance and encourage the retention of existing businesses and the establishment of new entrepreneurial businesses along Interstate 10 as demonstrated in the Eastern Shore Park District Overlay.

**(b) Boundaries**

The West Highway 90 Retail Shopping District (90-WRSD) is hereby established. The boundaries are as shown on the West Highway 90 Retail Shopping District Overlay Map and shall be considered an amendment to the Official Zoning Map of the City of Daphne. The map shall be amended in the same manner as any other zoning district permitted by the Land Use and Development Ordinance, and shall be amended in accordance with the provisions of Section 3-4.

This District shall be in addition to and shall overlay all other zoning districts where it is applied, so that any parcel of land lying in such an overlay district shall lie in one or more other zoning districts provided for by the Land Use and Development Ordinance.

**39-2 DISTRICT REQUIREMENTS**

The following zoning districts shall be allowed as established and most specifically defined in Article XII, Establishment of Districts: B-2, General Business and B-3, Professional Business.

**(a) Permitted Uses**

Permitted uses in the District are as provided in Article 35, Table of Permitted Uses. Article 35, the Table of Permitted Uses and Conditions, outlines the restrictions for each district. Furthermore, the outdoor display of merchandise is permitted by the operator of a store, provided that the outdoor areas for such activities are limited to off-street parking areas and sidewalks in the District. Any outdoor sales for special events shall require a special permit issued by the City.

**(b) Setbacks**

The following setback requirements shall apply in districts as outlined below.

**MINIMUM ZONING DISTRICT SETBACK REQUIREMENTS**

Zoning District	Front Yard (ft)			Rear Yard	Side Yard	Corner Lot <sup>c</sup> Side Yard (ft)	
	Arterial & Collector Streets	Local Streets & Service Roads	U.S., State or County Roads			Arterial & Collector Streets	Local Streets & Service Roads
<b>B-2</b>	30	20	100	a, b	a, b	30	25
<b>B-3</b>	30	20	100	a, b	a, b	30	25

Notes:

a. None, except it will be five (5) feet where abutting an alley, or where abutting a residential district it shall be at least thirty (30) feet.

b. Where a public or semi-public use abuts any part of a single family residential district, a buffer zone ten (10) feet wide shall be required. Where a commercial district abuts any part of a residential district a buffer zone of twenty (20) feet shall be required. Said buffer zone shall be designed in compliance with the provisions established in Section 19-10.

c. Lot Orientation: On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

**(c) Maximum Building Height**

Structures of more than five (5) stories or sixty-five (65) feet shall not be permitted.

**(d) Performance Standards for the District**

All lots in the District, and improvements thereon, shall comply with the following minimum standards:

1. Lots shall be of sufficient size to be used for the purpose intended, provide adequate parking and loading facilities in addition to space required for conduct of other operations of the business, and otherwise comply with the provisions provided herein.
2. No entrances or exits shall direct traffic into adjacent residential districts.
3. Noise, air pollutants including dust emissions, and surface runoff shall not exceed background levels by more than ten percent (10%).
4. Uses in all business districts must comply with all applicable health and safety standards, including sanitary facilities, paved and landscaped parking areas, and other requirements of this Ordinance, as well as, State and Federal regulations.
5. Non-permanent structures such as trailers, sheds, and other such buildings used for business purposes may be permitted in business districts, provided, however, that such structures may only be located at the rear and side of permanent structures and must be adequately screened by landscaped buffers or opaque fencing.
6. All dumpsters shall be enclosed on all four sides in order to conceal them from public view and screened from public view with an opaque fence or wall of permanent construction.

**39-3 IMPROVEMENT STANDARDS**

- (a) All streets in the District, whether private or dedicated for public use, shall be paved and adequately drained.
- (b) The full width of any public road improvements in the District shall be graded, including the sub-grade of the areas to be paved. This requirement may be modified for the purpose of preserving the natural beauty of an area. A base course consisting of at least eight (8) inches of a sand-clay mixture with one hundred percent (100%) standard compaction shall be laid on a soundly prepared sub-grade. A prime coat shall be sprayed uniformly over the base course. An approved type wearing surface compliant with State Highway Standard 416-A one and one-half (1-1/2) inches thick compacted shall be laid over the prime coat. If curbs and gutters are required, they must conform to approved State and County Highway Department standards.
- (c) All grading in the subdivision shall be related to the topography and environmental features of the surrounding area. Unpaved areas within a dedicated street right-of-way shall also be graded and shall be seeded in a manner that enhances the appearance of the environment.

(d) All water mains, sanitary sewers and laterals, and storm sewers shall be installed as necessary to prevent the future cutting of the pavement of any street, sidewalk, or other required pavement.

### 39-4 MINIMUM STREET REQUIREMENTS

	Major Street	Collector Street	Local Street	Cul-de-Sac (Turnaround)	Alley
Minimum Right-of-Way:	100'	60'	50'	50' (100' diam.)	30'
Minimum Pavement: As Req'd	36'	27'	28'	20' (80' diam.)	20'
Maximum Grade:	3%	5%	5%	5%	5%
Minimum Angle of Intersection in Degrees:	80°	60°	60°	60°	60°
Minimum Curb Radius at Intersection:	40'	30'	15'	15'	15'
Minimum Horizontal Curve Radius:	300'	250'	100'	100'	100'
Minimum Reverse Curve Tangent:	100'	100'	100'	100'	100'

Notes:

- 1 Cul-de-sacs shall not be longer than six hundred (600) feet measured from the centerline of the intersecting street to the center of the turnaround.
- 2 Minimum pavement width is measured from back of curb to back of curb.
- 3 Maximum grade may vary with topography subject to Planning Commission approval based on recommendation of Director of Public Works, Community Development or City Engineer.

### 39-5 SIDEWALKS & PEDESTRIAN WALKWAYS

It is the intent of this section to require the installation of five (5) feet wide concrete or asphalt sidewalks on both sides of the street in the District in order to encourage vehicles and pedestrian connectivity within the City of Daphne. Sidewalks are counted toward the improvement standards of all streets and shall be installed prior to the issuance of a Certificate of Occupancy unless an agreement for future installation has been presented to the City by the developer. In no case shall the City of Daphne be responsible for the installation of sidewalks within any subdivision development.

**(a) Installation**

Sidewalks shall provide for pedestrian traffic and design thereof shall encourage safe means of access that minimize conflicts between vehicles and pedestrians. The use of pervious and/or permeable material or other innovative low impact design measures that promote may be considered by the Planning Commission in lieu of typical sidewalk installation. Due consideration shall be given to the practicality and feasibility of sidewalk installation depending upon the proposed development and the location. Except where exempted or modified by the Planning Commission, sidewalks shall be installed as follows:

- 1) Along the perimeter of all developments where adjacent to City right-of-way.
- 2) Along the right-of-way where adjacent to the perimeter of any common area within the development; except where walking trails and/or paths are incorporated into the design for formal/recreational open space as provided in Article 11-14(h). No final plat shall be approved until this provision is satisfied.
- 3) At the discretion of the Planning Commission, the sub-divider(s)/developer(s) may be required to provide access through greenways and common areas by sidewalk or trail. In such an instance, a trail may be implemented in lieu of the installation of sidewalks or to augment the sidewalk system. The trail path and design shall be reviewed and approved by the Planning Commission. Said trail shall be no less than ten (10) feet wide and shall be composed of permeable, porous paving materials.
- 4) Pedestrian crosswalks, not less than ten (10) feet wide, shall be required where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, bus stops, and other community facilities.
- 5) For all new subdivisions, restrictive covenants, as are required in Article 17, Subdivision Review, shall provide for the installation sidewalks and/or trails by the developer.
- 6) The Planning Commission may, at its discretion, approve a final plat prior to the installation of sidewalks upon receipt of an agreement to install sidewalks, a cost estimate for sidewalk installation and a surety in the amount of 200% of the estimated cost. Said surety shall not expire prior to a 24 month period.

**39-6 WATER AND SEWER CONNECTIONS**

All developments, individual lots, or parcels shall be properly connected to a public community water and public sanitary sewer system.

**39-7 DRAINAGE AND EROSION CONTROL REQUIREMENTS**

Article 18, Drainage and Storm Sewers, of the Land Use Ordinance is incorporated herein by reference.

## **39-8 SPECIAL PROVISIONS**

### **(a) Utility Placement**

Water, sewer, gas, electric power, telephone, cable television, and other utility lines shall be installed underground by the developer and/or owner in all new commercial or industrial developments, expansions and/or renovations of existing development. Said developments shall be connected to a central distribution system, unless for good reasons other than cost, the Planning Commission approves a modification or waiver of this requirement in part or in whole, or if a special condition requires otherwise.

### **(b) Location of Roadway Fire Hydrants**

Roadway fire hydrants shall be installed along each street at the center of each block and at one corner of each roadway intersection, provided, however, that in no event shall fire hydrants be spaced so that any fire hydrant is located more than six hundred (600) feet from another fire hydrant. The water supply and pressure shall be sufficient to provide adequate fire protection and the future needs of the intended land use. Additional fire hydrant placement may be required on the interior of developed lots pursuant to local ordinance and fire regulations as adopted by the City.

### **(c) Location of Street Lighting**

Lighting shall be installed at all intersections, curves, and cul-de-sacs. If additional lighting is deemed necessary, the Director of Community Development shall require the developer to present a street lighting plan developed in conjunction with the appropriate utility company having jurisdiction within the area.

### **(d) Placement of Street Signs**

Appropriate permanent type street name signs shall be placed at all intersections within the subdivision. The developer may select signs consistent with the theme of the development, subject to approval of the Director of Community Development.

## **39-9 COMMENCEMENT OF CONSTRUCTION OR SITE DISTURBANCE**

Each person, firm, corporation, utility, entity, or agent thereof engaged in any site preparation and/or construction activities shall acquire a Site Disturbance Permit from the Department of Community Development prior to commencement of such activities pursuant to the provisions of this Article and no such activity shall commence prior to the approval of either a preliminary plat or site plan as is applicable. Fees for said permit shall be as are more specifically enumerated in Article 34 of the Land Use, entitled "Schedule of Fees."

## **39-10 FINAL INSPECTION OF IMPROVEMENTS**

To ensure compliance with development regulations the project shall be inspected by all applicable entities prior to final approval by the City of Daphne. Under no circumstance

shall the City be held liable for faulty workmanship, defects or improper engineering for private property.

### **Street Improvements**

To certify that streets are installed to minimum design standards, the developer/owner shall select an independent testing laboratory to perform necessary tests and submit test results to the Department of Community Development for prior to final inspection.

When all required improvements are installed and test results are submitted, the developer/owner shall call for a final inspection. Inspections shall be made in regard to the following: implementation of engineering design for storm water management and related improvements, utility improvements, environmental stability, landscaping, compliance with Fire Code and Building Code standards.

All appropriate entities including but not limited to the Director of Community Development, Public Works, and/or the City Engineer or a duly authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications prior to final plat approval or issuance of a certificate of occupancy.

## **39-11 SUBDIVISION REGULATIONS**

Article 17, Procedures for Subdivision Review, of the Land Use Ordinance is incorporated herein by reference.

## **39-12 PROCEDURES FOR SITE PLAN REVIEW**

### **(a) Use and Applicability**

The District Regulations shall be complied with for all development in the District, regardless of whether such development involves the construction of business and commercial structures, additions thereto, construction of a park, public rights-of-way, open space, public building or structure, or public utility, whether publicly or privately owned, and other uses as required by the Planning Commission.

### **(b) Special Provisions**

The following shall apply:

- (1) A site plan review shall be accomplished by the recommendation of the Director of Community Development and approval of the Planning Commission to assure compliance with the provisions of these District Regulations, as well as applicable building and fire codes.
- (2) Said approval shall be authorization to begin work, subject to a pre-construction meeting and the issuance of a Site Disturbance Permit. Such approval shall become void upon one (1) year from the date of approval if a

site disturbance permit has been acquired and no building or construction activities have occurred on the permitted site.

- (3) When all required improvements are installed, the developer/owner shall call for a final inspection. The Director of Community Development, and/or the City Engineer and/or Director of Public Works or authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications.

**(c) Plan Content**

The plan shall contain all information as reflected on the current departmental checklist for a site which may be modified at the discretion of the Director of Community Development when applicable.

**(d) Reconsideration of Certain of Requirements**

The Director of Community Development may waive certain requirements contained in this Article if it is determined that the requirements are not essential to a proper decision on the proposed development; or, may supplement the list with other requirements deemed necessary to clarify the nature of the proposed development. The Director of Community Development may waive the requirement for a pre-construction conference if it is determined that the project would create minimum impact to the surrounding properties.

**(e) Issuance of Site Disturbance Permit**

Each person, firm, corporation, utility, entity or agent thereof engaged in any site preparation and/or construction activities shall acquire a Site Disturbance Permit from the Department of Community Development prior to commencement of such activities as established pursuant to the provisions of this Article and no such activity shall commence prior to the approval of a site plan by the Planning Commission. Fees for said permit shall be as are more specifically enumerated in Article 34 of the Land Use Ordinance, entitled the Schedule of Fees.

**(f) Issuance of Building Permit**

Upon approval of the site plan, either as submitted or with changes and/or special conditions required by the Planning Commission, the Building Official may issue a building permit for a portion or all of the proposed development provided the application is in compliance with all applicable City, County, as well as State and Federal requirements.

**(g) Requirement of Bond**

Whenever a person, firm, corporation, developer or other entity proposes to develop a commercial site that, in the opinion of the City Engineer, Director of Community

Development or Public Works, constitutes a land disturbing activity, which may pose a risk of drainage and/or siltation damage outside the boundaries of the project, such person, firm, corporation, developer or other entity conducting the land disturbing activity shall be required to submit a performance bond to the City prior to the issuance of a site disturbance permit.

At the time of approval of the site plan by the Planning Commission, the bond shall become effective and shall extend for a period of at least two (2) years following the issuance of the Certificate of Occupancy by the City. The bond shall be in the amount of ten percent (10%) of the total cost for the performance of all site work on the said location with bond to cover such drainage, erosion and siltation damage, if any.

The Director of Community Development or other administrative official as designated by the City Council shall determine the prescribed bond, as well as the adequacy and the security thereon.

**(h) Release of Bond**

At the expiration of twenty-four (24) months from the issuance of the Certificate of Occupancy, the City Engineer, Director of Public Works shall determine if the drainage design implementation of the project has:

- (1) Been performed in accordance and functions within the parameters of the design standards as set forth by the project engineer;
- (2) Received from the project engineer a Certificate of Performance which states the drainage functions have been constructed in substantial accordance with the plans, specifications, and engineering guidelines;
- (3) Had any material adverse impact on any streams, waterways or third parties; and,
- (4) Complied with all ADEM regulations in effect at the time of said completion.

Upon the Director of Community Development's receipt and evaluation of the criteria as enumerated in this Section and upon recommendation of the Planning Commission, the City shall release the developer and/or the bondholder from further obligations under said bond.

If it is determined that the requirements of this Section have not been met then the bond may be extended for one six (6) month interval to allow the developer and/or bondholder additional time to correct the deficiencies which prohibited the release of the bond. If a site contractor is unable and/or unwilling to satisfy the deficiencies as enumerated by the City Engineer/Director of Public Works, the bond shall be forfeited with the bond being payable to the City for the direction of such work and/or activities necessary for the completion of the improvements. The developer and/or bondholder of the property thereof shall be liable for any additional cost incurred.

### **39-13 PARKING REQUIREMENTS FOR OVERLAY DISTRICTS**

#### **(a) General**

Off-street automobile storage or parking space shall be provided with vehicular access to a street or alley. Parking shall comply with the minimum requirements noted.

## PARKING SCHEDULE

(a)	Land Use on Lot:	Parking Requirements
	Dwellings:	
	(1) Hotels/Motels: Without restaurants, lounges, and banquet facilities	One and a half (1.5) space for each bedroom
	(With in-house restaurants, convention/meeting capabilities):	One and one-half banquet facilities, or one and a half (1.5) spaces for each guest bedroom
(b)	Public Assembly:	
	(1) Theaters, Auditoriums, Coliseums, Stadiums, and Similar Places of Assembly:	One (1) space for each four (4) seats
(c)	Health Facilities:	
	(1) Hospitals, Sanitariums, Nursing Homes, Homes for the Aged and Similar uses:	One (1) space for each four (4) beds, plus one (1) space for each employee on the maximum shift.
	(2) Kennels and Animal Hospitals	A parking area equal to thirty (30) percent of the total enclosed or covered area.
	(3) Medical, Dental and Health Offices and Clinics:	One (1) space for each two hundred (200) square feet of floor area used for offices and similar purposes.
	(4) Mortuaries and Funeral Parlors	Ten (10) spaces per parlor, chapel unit or one
(d)	Business:	
	(1) Restaurants (including bars, grills, diners, cafes, taverns, night clubs, lunch counters, and all similar dining and/or drinking establishments	Ten (10) parking spaces for each one thousand (1,000) square feet of floor area.
	(2) Commercial and Shopping Centers:	One (1) space per two hundred fifty (250) square feet of floor area.
(e)	Uses Not Listed Above	Four and one-half (4.5) parking spaces per one thousand (1,000) square feet of floor area.
	CALCULATION OF FLOOR AREA: In the calculation of floor area to determine parking ratios, the term "floor area" shall mean enclosed areas which are heated and cooled.	Expressly excluded from this term are garden center floor areas and outdoor storage areas or outdoor sales areas.

**(b) Design Standards**

(1) Definition

An off-street parking space is an all-weather surfaced area not in a street or alley, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords unobstructed ingress and egress to each space.

(2) Parking Area Dimensions

The design and dimensions of the standard parking area shall have a minimum nominal dimension of eighteen (18) feet in depth and nine (9) feet in width.

The design and dimension of handicap parking areas shall be in accordance with the Americans with Disabilities Act.

(3) Width of Two-Way Access Driveways

The minimum width of two-way access driveways within parking areas shall be twenty-four (24) feet.

(4) Paving Standards: Parking spaces and driveways shall be paved to the standards established by the City.

(5) Drainage

Off-street parking facilities shall be drained to prevent damage to abutting property and streets, and to prevent pollutants from draining onto such streets and the adjacent lots. Landscape and perimeter areas shall be so graded as to direct runoff to the storm drainage system. The storm drainage system shall be designed to include water quality measures for the first one (1) inch of rainfall.

(6) Off-Street Loading and Unloading Space

Off-street loading/unloading spaces shall be provided as hereinafter required by these District Regulations.

(a) Size of Spaces

Each off-street loading/unloading space shall have minimum dimensions of fourteen (14) feet in height, twelve (12) feet in width, and fifty-five (55) feet in length.

However, upon sufficient demonstration a particular loading space will be used exclusively by shorter trucks, the Planning Commission may, upon request, reduce the minimum length accordingly to as much as thirty-five (35) feet.

(b) Connection to Street or Alley

Each required off-street loading and unloading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks.

(c) Floor Area More Than Ten Thousand (10,000) Square Feet

There shall be provided for each commercial building, or similar use requiring the receipt or distribution of materials or merchandise and having a floor area of more than ten thousand (10,000) square feet, at least one (1) off-street loading and unloading space. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street, or alley.

(d) Location

All required off-street loading and unloading spaces shall be located on the same lot as the building which they are intended to serve or on an adjacent lot when shared with the user occupying said adjacent lot.

**39-14 LANDSCAPE AND TREE PROTECTION**

**(a) Purpose**

The intent of this Section is to establish minimum standards for the provision, installation, and maintenance of landscape plantings and trees in order to achieve a healthy, beautiful, and safe community.

**(b) Applicability and Use**

(1) Applicability:

The provisions of this Article apply to all projects within the District involving the construction of business and commercial structures, all existing structures which increases the gross floor area by thirty (30) percent or more and other projects as required by the Planning Commission.

(2) Use or Ownership Provision:

In the event of a change in: (a) use of property, (b) occupancy, or (c) ownership regardless of name change to any business, commercial, or

industrial development, it shall be the responsibility of the owner to comply with the provisions of this Article within one hundred and eighty (180) days from the date in which the change occurs.

**(c) Buffer Zone Requirements**

Where a business district in the District abuts, without any intervening public road right-of-way, any part of an adjoining residential area, a buffer zone twenty (20) feet wide shall be required.

The buffer shall run the entire length of the abutting lot line(s). Under no circumstances shall this buffer impair vehicular flow and shall be part of the yard requirements. Said protection buffer shall be maintained in such a manner to accomplish its purpose continuously. This District shall comply with the following minimum standards and said buffer zone shall be constructed of at least one of the following three (3) designs or a combination thereof, as determined by the Director of Community Development and approved by the Planning Commission:

(1) Wall or Fence

If a wall or fence of solid appearance is provided as a protection buffer, it shall be at least six (6) feet in height and of a construction and a design recommended and approved by the Planning Commission.

(2) Screen Planting Strip

A staggered double row of evergreen plantings at least ten (10) feet in width which will grow to at least ten (10) feet in height and spaced in a manner in which after three years it will provide an impervious visual barrier.

(3) Natural Forest

A natural forest is in its undisturbed forest which provides a nearly impervious visual barrier due to the dense nature of the plants and/or trees. If this option is chosen, the width of the buffer zone shall be twenty-five (25) feet and shall be shown on the landscape plan. The Director of Community Development shall determine whether the barrier is satisfactory via site inspection prior to final approval.

**(d) Landscape Standards**

(1) Site Plan Review

A site plan shall not be approved by the Planning Commission without an acceptable landscape and irrigation plan. A Certificate of Occupancy shall not be issued for any development project unless a certification of compliance letter has been submitted from the design engineer and the design landscape architect. Said certification shall include the following: inspection date; signature and seal of said engineer and landscape architect; list of deficiencies and/or deviations from plans approved by the Planning Commission; and a statement regarding compliance with plans submitted.

(2) Subdivision Review

A subdivision shall not be approved by the Planning Commission without an acceptable landscape and irrigation plan, as the same is defined pursuant to the provisions of this Section of the District Regulations.

All subdivisions shall require a landscape plan for the common areas of the subdivision: the entrance, detention pond, and other areas which are deemed appropriate by the Planning Commission.

(3) Jubilee Square Mall or West Highway 90 Retail Shopping District Landscaping Retrofit

Jubilee Square Mall or The District shall be developed as a Low Impact Development (LID) wherein the Planning Commission shall consider innovative low impact development landscape design, techniques and methods as a means to decrease stormwater runoff, pollution, erosion and to recharge groundwater. Bio-retention areas, porous asphalt, permeable pavers, pervious walkways, elevated landscape beds, bio-retention cells, vegetated swales, infiltration trenches, and dry wells to increase storage volume and facilitate infiltration are encouraged.

(4) Interstate 10 Landscaping

To the extent the City has authority to do so, it authorizes the developer/owner to remove some trees in that portion of Interstate 10 which abuts the northern boundary of the District. Such removal is conditioned upon the following:

- (a) Submission to and approval by the Planning Commission of a landscaping plan prepared by the developer/owner;
- (b) Obtaining any necessary permits from the Alabama Department of Transportation for the installation of landscaping improvements within the area from which trees are removed; and,
- (c) The developer/owner's installation of the landscaping improvements according to the approved landscaping plan.

**(e) Revisions to Landscape Plan**

If proposed construction shall cause changes in the landscape or irrigation plan, a revised plan shall be submitted to the Director of Community Development for re-evaluation.

**(f) Issuance of Site Disturbance Permit**

A landscape and irrigation plan shall be submitted for review by and the recommendation or other comments of the Director of Community Development and shall be subject to the approval of the Planning Commission prior to the issuance of a Site Disturbance Permit.

**(g) Compliance with Landscape Provisions**

All subject properties, as well as those owned by the City, shall comply with the provisions of this Article.

**(h) Certification and Plan Requirements**

Landscape plans shall be drawn and stamped by a licensed landscape architect registered in the State of Alabama.

The landscape plan shall be of professional quality and include the following:

- (1) Date, scale, north arrow, title, and names and contact information for property owner(s), developer, and the landscape architect.
- (2) Location of existing boundary line dimensions of the building site, existing water sources, significant drainage features, existing and proposed streets or alleys, existing or proposed utility easements on or adjacent to the building site, rights-of-way, setbacks, locations of proposed parking spaces, and location of existing and/or proposed sidewalks.
- (3) The location(s) and dimension(s) of the proposed landscaped areas within the parking
- (4) Locations, type, and design of the proposed irrigation system.
- (5) Location and species of buffer zone vegetation.

**(i) Certification by Alabama Licensed Landscape Architect**

Any and all landscape plans as required in this Section shall, in addition to any other requirements, be reviewed and approved by an Alabama licensed and registered landscape architect to be designated by the Planning Commission with the professional costs for such services to be reimbursed to the City by the party submitting the plans for approval. Such landscape architect's review shall include the design, irrigation, location and type of planting, and any and all other criteria

necessary so as to ensure that the planting and design is consistent with local standards.

If the landscape architect's review fee is known at the time of the plan's submission, the submitting party shall pay the fee upon submission. Otherwise, the fee shall be paid by the submitting party within ten (10) days of receipt of a statement of the amount of the fee.

### **39-15 OFF-STREET PARKING FACILITIES**

The design and appearance of parking areas are intended to be compatible with the character of the community. Toward this objective, the following landscaping standards shall be observed in the construction of off-street parking areas which accommodate six (6) or more parking spaces:

- (a) At least fifteen percent (15%) of the total lot area intended for off-street parking shall be suitably landscaped.
- (b) Interior portions of the parking area at intervals of twelve (12) parking spaces shall be broken by provision of landscaped islands. Such landscape islands shall include the placement of shade or flowering trees at least two and one-half (2-½) inches or greater in caliper and ten (10) feet in height at planting.
- (c) Each separate landscaped area must be a minimum of two hundred eighty (280) square feet if it is to be counted toward the minimum landscaped area requirements.
- (d) Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops.
- (e) The owner, tenant and/or agent, if any, shall be jointly and severally responsible for watering and maintaining all landscaping in a healthy, neat and orderly condition, replacing it when necessary, and keeping it free of refuse and debris.
- (f) A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities.

If required, such areas shall be planted with a combination of trees, shrubs, and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Director of Community Development.

- (g) Innovative landscape designs using "natural cluster of trees" rather than the required one (1) tree at intervals of twelve (12) parking spaces may be used if approved by the Planning Commission.

## 39-16 SIGN PROVISIONS

### (a) Signs Prohibited in the West Highway 90 Retail Shopping District

The following signs are prohibited:

(1) Prohibited Placement

Any sign erected or painted upon a sloped roof, fence, tree, stand pipe, fire escape, or utility pole is prohibited, except that a manufacturer's or installer's identification (ID) plate shall be permitted, provided that such plate does not exceed 5 x 8 inches in size.

(2) Prohibited Wording

Any sign which is not a traffic control sign and uses the word "Stop" or "Danger" prominently displayed and/or which is a copy or imitation of official traffic control signs is prohibited.

(3) Flashing Signs Prohibited

(a) General Prohibition:

Except as otherwise provided in subsection (b) (1) below, flashing signs, signs which contain intermittent illuminations and digital LED signs/reader boards are prohibited.

(b) Exceptions:

This subsection does not prohibit the following:

(1) Signs required for traffic control; and,

(2) Signs which exhibit time, date, temperature, and other customary public information.

(4) Prohibited Sign Types

Portable signs, bench signs, snipe signs, sandwich signs, except as allowed in Section 33-5, Subsection (d)(e) of Article 33 of the Land Use Ordinance, ladder-type signs, billboard signs or off-premises signs. "Billboard" is defined as "an off-premises or off-site sign advertising an establishment, merchandise, product, service, or entertainment which is not sold, provided, manufactured, or furnished on the property on which said sign is located." "Off-premises sign" is defined as "a billboard or other sign on which any portion thereof relates to a premises (or activities thereon) other than the property on which said sign is located."

(5) Prohibited Sign Effects

Signs which produce sound, noise, cause interference with radio, telephone, television or other communication transmission, produce or reflect motion pictures; emit visible smoke, vapor, particles, odor, are animated, or produce any rotation, motion, or movement.

(6) Illuminated Tubing

(a) General Prohibition:

Illuminated tubing or strings of lights that outline property lines, sales area, roof lines, doors, windows, wall edges, similar areas or other architectural features of a building are prohibited.

(b) Exception:

This prohibition shall not apply to temporary displays erected in connection with holiday decorations and community decorations.

**(b) Permitted Signs**

The following signs are permitted, subject to review by the Planning Commission to determine compliance with the sign criteria provided below in this and further subject to the requirement that permitted signs shall have internal illumination only.

The maximum allowable square footage established in each zoning designation and/or overlay district shall apply as provided in each district. Said allowable area shall not be exceeded. In the event that channel letters, as defined in Article 8, Definitions, are proposed, then the maximum allowable square footage shall be calculated at a rate of eighty percent (80%) in lieu of the standard rate of one hundred percent (100%).

(1) Monument and Pylon Signs:

Except as otherwise provided in these District Regulations, the following monument and pylon signs are permitted in the District.

(2) West Highway 90 Retail Shopping District Pylon Sign:

- (a) The developer/owner or their designee is permitted to install and maintain one (1) on-premise pylon sign on their development as a location to be approved by the Planning Commission. This sign is permitted to have panels for multiple businesses in the District, provided that the panel space on each side of the West Highway 90 Retail Shopping District Pylon Sign shall not exceed nine hundred (900) square feet in the aggregate and no individual panel shall have more than two hundred and fifty (250) square feet or less than one hundred and fifty (150) square feet per side.

- (b) The height of the West Highway 90 Retail Shopping Pylon Sign shall not exceed ninety (90) feet and shall be determined based on a sight line study obtained by the developer/owner and approved by the Planning Commission as justification for the proposed height and to insure that the top panel on the sign is visible while traveling in any direction on Interstate 10.

The sight line study shall consider the following:

- a. The topographical elevation of the location of the West Highway 90 Retail Shopping District Interstate Pylon Sign;
  - b. Any obstruction to the sign panels by trees, other signs, structures or items along Interstate 10.
- (c) Any lot in the District which abuts Interstate 10 and either has at least two hundred (200) feet along the right-of-way of Interstate 10, or is located at the intersection of the Interstate 10 ramp/right-of-way and Highway 90, shall be permitted one (1) individual lot interstate pylon sign at or near said lot's common boundary with Interstate 10.
  - (d) Permitted individual lot interstate signs shall not exceed fifteen (15) feet in width, nor forty-five (45) feet in height, and shall have a maximum area of three hundred (300) square feet per face. Lots in the West Highway 90 Retail Shopping District which border Interstate 10, other than those described immediately above may not have an individual lot interstate pylon sign unless approved as a variance by the Board of Zoning Adjustment.

(3) Shopping Center or Development Signs

One (1) sign is permitted on U.S. Highway 90 identifying the development. Each side may also have panels beneath the development identification not exceeding one hundred and fifty (150) square feet each for multiple businesses within the District. No sign shall exceed twenty-one (21) feet in height or fifteen (15) feet in width.

(4) Monument Signs

Each lot having frontage on U.S. Highway 90, or any other public road or right-of-way within or abutting the District shall be permitted to have one (1) monument sign for each public road right of way which the lot abuts. The sign shall be placed perpendicular to the said highways and/or right of way. If the lot's road frontage is three hundred (300) feet or less, then the permitted sign area shall not exceed fifty (50) square feet per face. If the lot's road frontage exceeds three hundred (300) feet then the permitted sign area shall not exceed one hundred (100) square foot per face. All monument signs shall have a pedestal. The sign shall not exceed fifteen (15) feet in height, pedestal included.

(5) Directional Signs

Directional Signs shall be permitted at the intersection of all roads in the West Highway 90 Retail Shopping District. Directional Signs shall not exceed sixteen (16) square feet per face.

(6) Wall-Mounted Signs

Each establishment/business premises under 65,000 square feet of building area in B-1, Local Business and B-2, General Business districts may acquire an additional permit for a wall-mounted sign of a size not to exceed the lesser of three hundred fifty (350) square feet or thirty (30) percent of the surface frontal area of the building. Each establishment 65,000 square feet of building area or larger may acquire a permit for wall mounted signage of a size not to exceed six and one half percent (6.5%) of the surface frontal area of the building. Signs mounted on mansards, marquees, and awnings are deemed to be wall signs.

(a) Side Surface Area Wall-Mounted Signage

A business establishment sixty five thousand (65,000) square feet of building area or more may have two (2) additional wall-mounted signs of a size not to exceed five percent (5%) of the surface area of the side of the building. Said signage shall be limited to one side of the building, either the left or right side or the rear of the building.

(b) Accessory Use Advertisement Wall-Mounted Sign

A business establishment between forty thousand (40,000) square feet of building area to one hundred thousand (100,000) square feet of building area may have one (1) additional wall-mounted sign of a size not to exceed one hundred (100) square feet for the purpose of advertising an accessory use.

A business with over one hundred thousand (100,000) square feet of building area may have two (2) additional wall-mounted signs of a size not to exceed one hundred (100) square feet each for the purpose of advertising accessory uses. No business establishment may have more than three (3) wall-mounted signs.

(7) Menu Type Signs

One menu type sign per drive-thru window service shall not exceed forty (40) square feet in area or eight (8) feet in height.

(8) Gasoline and Fuel Signs

Gasoline or other motor vehicle fuel pricing signs, in addition to permitted name or identification signs, are permitted in any business or industrial district. Such

signs shall not exceed twelve (12) square feet in area and must comply with the other applicable sign requirements for the West Highway 90 Retail Shopping District.

(9) New Construction Signs

(a) General Provision

Temporary non-illuminated signs not more than thirty-two (32) square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress may be permitted. One (1) such sign, no greater than ten (10) feet in height, is allowed for each street frontage. Such signs shall be removed upon completion of the project.

(b) Temporary Advertising Sign

A temporary advertising sign will be permitted to the owner for the development for each individual business premises, shopping center premises provided the area of each sign shall not exceed thirty-two (32) square feet, is non-illuminated, and is within the confines of the development. These signs shall be the height no greater than ten (10) feet mounted from the ground, for no more than one (1) sign, either single or double faced, per street frontage.

(c) Temporary Promotional Banners

Two (2) temporary signs or banners not exceeding fifty (50) square feet each in area and temporary decorative flags, bunting, pennants and streamers for recognizing grand openings are permitted. Said temporary banners shall be kept in good condition and shall be permitted no more than fourteen (14) days. Furthermore, decorative seasonal banners are permitted on light standards at all times, provided that the same are maintained in good condition.

### **39-17 DISTRICT MAP**

The West Highway 90 Retail Shopping Overlay District Map Exhibit is hereby adopted as a part of this Ordinance, (See Appendix).

### **SECTION 3: REPEALER.**

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

**SECTION 4: SEVERABILITY.**

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

**SECTION 5: EFFECTIVE DATE.**

This Ordinance shall be in full force and effect upon its adoption and publication as required by law.

**APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ day of \_\_\_\_\_, 2010.**

**THE CITY OF DAPHNE,**

**AN ALABAMA MUNICIPAL CORPORATION**

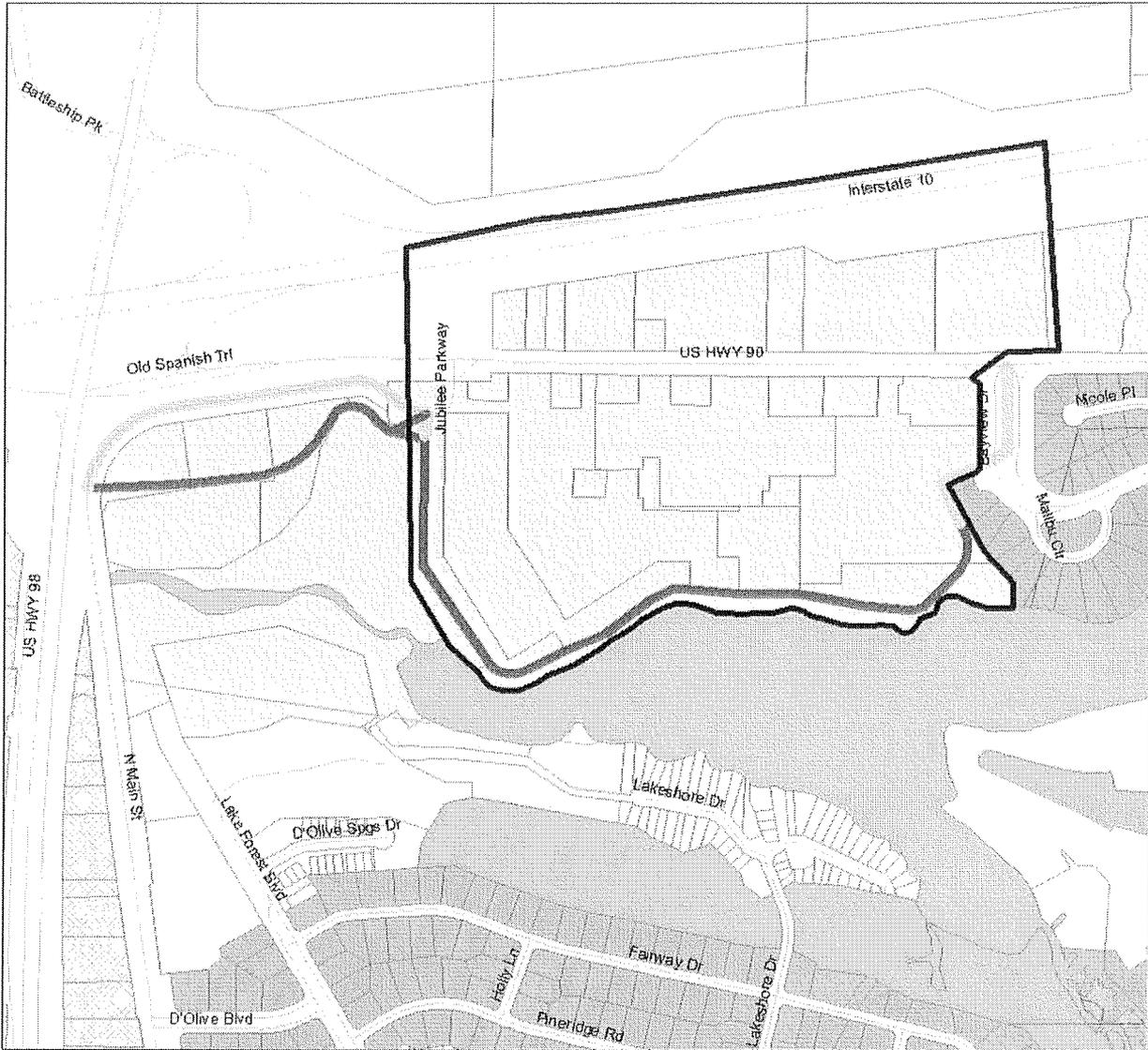
\_\_\_\_\_  
**AUGUST A. PALUMBO,  
COUNCIL PRESIDENT**

\_\_\_\_\_  
**FRED SMALL,  
MAYOR**

**ATTEST:**

\_\_\_\_\_  
**DAVID L. COHEN,  
CITY CLERK, MMC**

DRAFT Highway 90 West Retail District Overlay DRAFT



ADOPTED BY THE CITY OF DAPHNE  
PLANNING COMMISSION

DATE:

PLANNING COMMISSION CHAIRMAN

ADOPTED BY THE DAPHNE CITY COUNCIL  
DATE:

MAYOR  
FRED SMALL

CITY CLERK  
DAVID COHEN

**Legend**

- Hwy 90 West Retail Overlay
- Streets
- Proposed Sidewalk & Trail
  - sidewalk
  - trail
- R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
- R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
- R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
- R-4 HIGH DENSITY SINGLE & MULTI-FAMILY RESIDENTIAL
- R-5 MOBILE HOME RESIDENTIAL
- B-1 LOCAL BUSINESS
- B-2 GENERAL BUSINESS
- B-3 PROFESSIONAL BUSINESS
- CA COMMERCIAL/INDUSTRIAL
- MU MULTI-USE
- WILDERNESS AREA
- GOLF COURSE
- ET JURISDICTION



This Ordinance is intended to be adopted by the City of Daphne in accordance with the provisions of the Alabama Constitution and the Alabama Code, and the City of Daphne is not responsible for the accuracy or completeness of the information contained herein. The City of Daphne makes no representation, warranty, or liability for any errors or omissions in this document. The City of Daphne is not responsible for any damages or losses resulting from the use of this document. The City of Daphne is not responsible for any damages or losses resulting from the use of this document. The City of Daphne is not responsible for any damages or losses resulting from the use of this document.

To: Office of the City Clerk  
From: Adrienne D. Jones, *ADJ*  
Director of Community Development  
Subject: AJD Family Limited Partnership  
Ms. Patsy Defillipi  
Annexation Review  
Date: August 28, 2009

## MEMORANDUM

**PRESENT ZONING:** B-1, Professional Business, and B-2, Local Business, in Baldwin County District 15

**PROPOSED ZONING:** B-1, Local Business, City of Daphne

**LOCATION:** Southeast of the intersection of County Road 64 and Friendship Road

**RECOMMENDATION:** At the August 27, 2009, regular meeting of the City of Daphne Planning Commission, seven members were present and the vote was unanimous for a **favorable recommendation** for the above-mentioned petition for annexation.

**REFERENCE:** Proposed Italian Settlement Business Park

Upon receipt of said documentation, please place on the appropriate agenda for action by the City Council.

Thank you,  
ADJ/jd

cc: file

attachment(s)

1. Community Development Staff Report
2. Petition
3. Legal description
4. Map of property
5. Preliminary Master Plan



*The Jubilee City*

**COMMUNITY DEVELOPMENT STAFF REPORT:**

**Annexation Review: Italian Settlement**

2<sup>nd</sup> revision 14.78 acres +/- (1<sup>st</sup> revision 10.84 acres; originally proposed 10.49 acres)

**Owner:** ADJ Family Limited Partnership

**Contiguous to Daphne Corporate Limits:** Yes (County Road 64)

**Existing Conditions:** Undeveloped

**Existing Zoning:** B-1 Professional Business District—Baldwin County District 15  
& B-2 Local Business District

**Proposed Zoning:** B-1 Local Business

**Surrounding Zonings/Uses: District 15 Baldwin County**

North- (B-1) Existing residence

South- (B-3) Existing church

East- (B-1) Remaining AJD property - undeveloped

West-Friendship Road (A mix of commercial and residential uses on the west side of Friendship Road)

**Existing Service Providers:**

Utilities—Belforest Water

Electric—Riviera Utilities

**Affected City Service Providers:**

Fire Protection—Station 2 (North Main Street)

Police Protection—Police Beat 1

Sewer and Gas—Daphne Utilities

**Baldwin County Schools—N/A**



Community Development

In May the Planning Commission considered annexing this property into the Daphne City limits with B-2 zoning. The Planning Commission forwarded an unfavorable recommendation to the Council. The petition was withdrawn prior to the Council holding a public hearing. One of the primary issues stated in the May hearing was the suitability of B-2 zoning at this particular location. The applicant has amended the petition and is now requesting B-1 Local Business. After the Site Preview meeting on 08/19/09, an additional 3.94 acres were incorporated into the boundary for the purpose of stormwater management. All other aspects of the project remain the same.

*August 2009  
Planning Report*

STATE OF ALABAMA

COUNTY OF BALDWIN

**PETITION FOR ANNEXATION OF CERTAIN PROPERTY  
INTO THE CORPORATE LIMITS OF THE MUNICIPALITY  
OF THE CITY OF DAPHNE, ALABAMA**

**(A.J.D. FAMILY LIMITED PARTNERSHIP)**

The undersigned, Ms. Patsy Defilippi, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as a portion of Italian Settlement to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of its petition:

1. **Description Of Property:** The description of the property which Petitioner requests to be annexed into the City of Daphne is described in Exhibit "A" attached hereto and made a part of this Petition as if fully set out herein (the "Property").
2. **Map Of Property:** Attached hereto as Exhibit "B" and made a part of this Petition, is a map of the Property showing its relationship to the corporate limits of the municipality of the City of Daphne.
3. **Owner:** The Petitioner, Ms. Patsy Defilippi as Manager, is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne.
4. **Specific Conditions:** This Petition is conditioned upon the adoption of an ordinance, which shall include specifically the conditions requested below upon annexing the said Property into the corporate limits of the City of Daphne. Please state the requested zoning, if other than R-1, or any other conditions which may apply upon annexation:

B1 Local Business

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5. Code: This Petition is filed pursuant to the provisions of Article 21, Chapter 42, Title 11, Code of Alabama, 1975, as amended.

DATED this 17 day of April, 2009.

Respectfully submitted,

A.J.D. Family Limited Partnership  
Name of Corporation

By: *Patsy DeFilippi*  
Its: Manager

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that Patsy DeFilippi whose name as Manager of AJD Family Ltd Partnership, an Alabama corporation, 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 and with full authority, executed the same voluntarily on the day same bears date.

GIVEN under my hand and official seal on this the 17th day of April, 2009.

*John J. Howard*

NOTARY PUBLIC

My commission expires:

(NOTARY SEAL)

NOTARY PUBLIC STATE OF ALABAMA  
MY COMMISSION EXPIRES: Dec 28, 2011  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

**ORDINANCE NO. 2010-**

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE  
LIMITS  
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA**

**AJD Family Limited Partnership  
(Property located on the Southeast of intersection of County Road 64 and  
Friendship Road)**

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

**WHEREAS**, the owners of the property described in Section 2 of this Ordinance have signed and filed a written petition with the City Clerk of the City of Daphne, Alabama, requesting that such property be annexed to the corporate limits of the City of Daphne, Alabama; and,

**WHEREAS**, all of such property is located and contained within an area contiguous to the corporate limits of the City of Daphne, Alabama and does not lie within the corporate limits or police jurisdiction of any other municipality; and,

**WHEREAS**, said petition contains an accurate description of the property or territory proposed to be annexed together with a map of said property showing its relationship to the corporate limits of the City of Daphne; and,

**WHEREAS**, said petition has been presented to the Planning Commission of the City of Daphne on August 27, 2009 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned B-1, Local Business District**; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on January 4, 2010 concerning the petition for annexation; and,

**WHEREAS**, the City Council of the City of Daphne, Alabama has determined that it is in the best interest of said City that the property described in Section 2 hereof be annexed to the corporate limits of the City of Daphne, and that all the requirements of Sections 11-42-21 through 11-42-24, Code of Alabama, 1975, as amended have been complied with by said Petitioner.

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

**SECTION 1: CONSENT TO ANNEXATION.** The City Council of the City of Daphne, Alabama does by this Ordinance assent to the annexation of the property described in Section 2 of this Ordinance to the corporate limits of the City of Daphne, Alabama, and does by the adoption of this Ordinance, extend and rearrange said corporate limits to embrace and include such property.

**SECTION 2: THE PROPERTY.** That property requested to be annexed into the City of Daphne is described in Exhibit "A", attached hereto and made a part of this Ordinance as if fully set out herein.

**SECTION 3: MAP OF PROPERTY.** The property hereby annexed to the City of Daphne, Alabama, is set forth and described in Exhibit "B" and attached hereto a map of the property showing its relationship to the corporate limits of the municipality of the City of Daphne and made a part of this Ordinance.

**SECTION 4: PUBLICATION.** This Ordinance shall be published as required by Section 11-42-21, Code of Alabama, 1975, as amended, and the property described herein shall be annexed to the corporate limits of the City of Daphne, Alabama, upon such publication.

**SECTION 5: PROBATE COURT.** A description of the property described in this Ordinance shall be filed in the Office of the Judge of Probate of Baldwin County, Alabama, as required by Section 11-42-21, Code of Alabama, 1975, as amended.

**"Exhibit A"**

**DESCRIPTION OF ANNEXATION:**

COMMENCING AT THE NORTHEAST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE RUN N-89°39'12"-W, 1273.36 FEET TO A POINT; THENCE RUN S-00°22'22"-W, 39.50 FEET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64 AND THE POINT OF BEGINNING; THENCE CONTINUE S-00°22'22"-W, 15.00 FEET TO A POINT; THENCE RUN N-89°39'57"-W, 1149.56 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 170.00 FEET TO A POINT; THENCE RUN N-89°39'12"-W, 15.00 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 183.24 FEET TO A POINT; THENCE RUN S-89°34'56"-E, 90.22 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 409.55 FEET TO A POINT; THENCE RUN S-89°45'00"-E, 304.23 FEET TO A POINT; THENCE RUN S-00°12'13"-W, 564.17 FEET TO A POINT; THENCE RUN N-89°45'00"-W, 304.69 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 404.36 FEET TO A POINT; THENCE RUN S-89°28'24"-E, 39.78 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 200.00 FEET TO A POINT; THENCE RUN N-89°28'24"-W, 300.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF FRIENDSHIP ROAD; THENCE RUN N-00°15'00"-E, ALONG SAID EAST RIGHT-OF-WAY LINE 1775.61 FEET TO A POINT; THENCE RUN N-89°39'12"-W LEAVING SAID EAST RIGHT-OF-WAY LINE, 170.00 FEET TO A POINT; THENCE RUN N-00°15'00"-E, 170.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64; THENCE RUN S-89°39'57"-E ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1164.59 FEET TO THE POINT OF BEGINNING, CONTAINING 14.78 ACRES, MORE OR LESS.

**SECTION 6: REPEALER**

Ordinances numbers 2009-56 is hereby repealed in its entirety.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
DAPHNE, ALABAMA on this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
August A. Palumbo,  
Council President

\_\_\_\_\_  
Fred Small,  
Mayor

ATTEST:

\_\_\_\_\_  
David L. Cohen,  
City Clerk, MMC

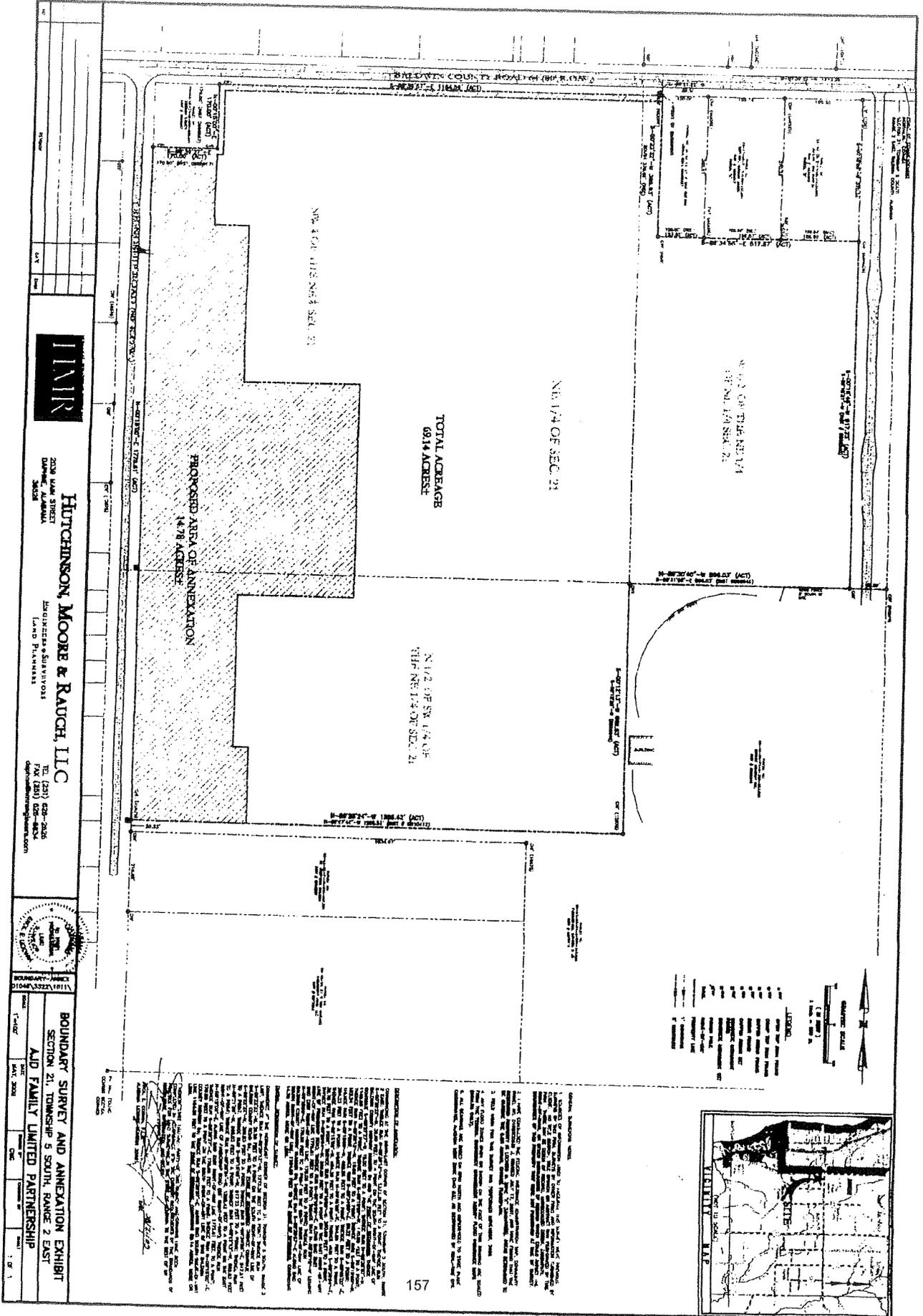
**AJD FAMILY LIMITED PARTNERSHIP**  
**SOUTHEAST OF THE INTERSECTION OF**  
**COUNTY ROAD 64 AND FRIENDSHIP ROAD**

**ANNEXATION**

**EXHIBIT "A"**

DESCRIPTION OF ANNEXATION:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE RUN N-89°39'12"-W, 1273.36 FEET TO A POINT; THENCE RUN S-00°22'22"-W, 39.50 FEET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64 AND THE POINT OF BEGINNING; THENCE CONTINUE S-00°22'22"-W, 15.00 FEET TO A POINT; THENCE RUN N-89°39'57"-W, 1149.56 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 170.00 FEET TO A POINT; THENCE RUN N-89°39'12"-W, 15.00 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 183.24 FEET TO A POINT; THENCE RUN S-89°34'56"-E, 90.22 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 409.55 FEET TO A POINT; THENCE RUN S-89°45'00"-E, 304.23 FEET TO A POINT; THENCE RUN S-00°12'13"-W, 564.17 FEET TO A POINT; THENCE RUN N-89°45'00"-W, 304.69 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 404.36 FEET TO A POINT; THENCE RUN S-89°28'24"-E, 39.78 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 200.00 FEET TO A POINT; THENCE RUN N-89°28'24"-W, 300.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF FRIENDSHIP ROAD; THENCE RUN N-00°15'00"-E, ALONG SAID EAST RIGHT-OF-WAY LINE 1775.61 FEET TO A POINT; THENCE RUN N-89°39'12"-W LEAVING SAID EAST RIGHT-OF-WAY LINE, 170.00 FEET TO A POINT; THENCE RUN N-00°15'00"-E, 170.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64; THENCE RUN S-89°39'57"-E ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1164.59 FEET TO THE POINT OF BEGINNING, CONTAINING 14.78 ACRES, MORE OR LESS.



**HUTCHINSON, MOORE & RAUCH, LLC**  
 2020 MAIN STREET  
 DUNWOODY, ALABAMA 36024  
 ENGINEERS & SURVEYORS  
 LAND PLANNERS  
 TEL (205) 626-3626  
 FAX (205) 626-4024  
 info@hutchinsonmoore.com



**BOUNDARY SURVEY AND ANNEXATION EXHIBIT**  
 SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST  
**AJD FAMILY LIMITED PARTNERSHIP**  
 DATE: 11/11/11  
 SCALE: 1" = 1'

**REVISION**  
 3/11/11

# ITALIAN SETTLEMENT BUSINESS PARK



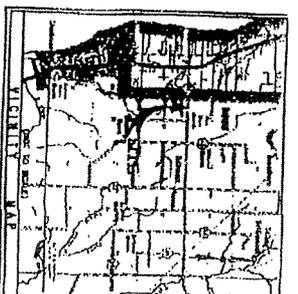
**HUTCHINSON MOORE & RAUCH, LLC**  
 2015 LAMAR STREET  
 DUNCAN, OKLAHOMA 73506

ENGINEERS & SURVEYORS  
 LAND SURVEYORS

TEL: (251) 638-2325  
 FAX: (251) 638-4534  
 www.hmrllc.com

PRELIMINARY MASTER PLAN  
 SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST  
 AID FAMILY LIMITED PARTNERSHIP

DATE: 11-1-2011  
 SCALE: AS SHOWN  
 SHEET NO: 1 OF 1



LEGEND

1	EXISTING LOT	1	EXISTING LOT
2	EXISTING LOT	2	EXISTING LOT
3	EXISTING LOT	3	EXISTING LOT
4	EXISTING LOT	4	EXISTING LOT
5	EXISTING LOT	5	EXISTING LOT
6	EXISTING LOT	6	EXISTING LOT
7	EXISTING LOT	7	EXISTING LOT
8	EXISTING LOT	8	EXISTING LOT
9	EXISTING LOT	9	EXISTING LOT
10	EXISTING LOT	10	EXISTING LOT
11	EXISTING LOT	11	EXISTING LOT
12	EXISTING LOT	12	EXISTING LOT
13	EXISTING LOT	13	EXISTING LOT
14	EXISTING LOT	14	EXISTING LOT
15	EXISTING LOT	15	EXISTING LOT
16	EXISTING LOT	16	EXISTING LOT
17	EXISTING LOT	17	EXISTING LOT
18	EXISTING LOT	18	EXISTING LOT
19	EXISTING LOT	19	EXISTING LOT
20	EXISTING LOT	20	EXISTING LOT
21	EXISTING LOT	21	EXISTING LOT
22	EXISTING LOT	22	EXISTING LOT
23	EXISTING LOT	23	EXISTING LOT
24	EXISTING LOT	24	EXISTING LOT
25	EXISTING LOT	25	EXISTING LOT
26	EXISTING LOT	26	EXISTING LOT
27	EXISTING LOT	27	EXISTING LOT
28	EXISTING LOT	28	EXISTING LOT
29	EXISTING LOT	29	EXISTING LOT
30	EXISTING LOT	30	EXISTING LOT
31	EXISTING LOT	31	EXISTING LOT

SUBJECT TO AMENDMENT

NOT TO SCALE

158  
49

**CITY COUNCIL MEETING  
STANDING COMMITTEE RECOMMENDATIONS:**

**FINANCE COMMITTEE REPORT**

**BUILDINGS & PROPERTY COMMITTEE REPORT**

**PLANNING/ZONING/CODE ENFORCEMENT COMMITTEE REPORT**

**PUBLIC SAFETY/ORDINANCE COMMITTEE REPORT**

**PUBLIC WORKS/BEAUTIFICATION/MUSEUM COMMITTEE REPORT**

**SPECIAL FINANCE COMMITTEE MEETING  
DAPHNE CITY HALL EXECUTIVE ROOM  
JANUARY 4, 2010  
5:45 P.M.**

**I. ROLL CALL**

**II. PUBLIC PARTICIPATION**

**III. CURRENT BUSINESS**

A. Bids: (*Resolution*)

1. 2010-A-MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS

B. Appropriation Request – Lodging Tax (*Ordinance*)

1. MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS - \$

**V. ADJOURN**



December 22, 2009

Suzanne Sweetser  
Purchasing Agent  
City of Daphne  
1705 Main St.  
Daphne, Alabama 36526

Subject: City of Daphne Project 2010-A  
Mayday Park Boat Ramp and Parking Lot Improvements  
Bid Tabulation and Recommendation for Award

Dear Ms. Sweetser,

Enclosed please find the certified bid tabulation for the subject project. The results of the tabulation differ from the "As-Read" bids of December 17th. The error in the bids occurred in four contractor's prices. The low bidder produced an error in the extension for Item "Install Timber Boardwalk". The bid stated 280.50 LF with a unit price of \$185.19 per linear foot and a total of \$45,141.80. The correct extension for this item should be \$51,945.80 and the correct total bid is \$594,530.35.

Based on Waterfront Construction Inc. submitting a qualified bid and acknowledgement from the State of Alabama Licensing Board for General Contractors that said corporation holds a current contractor's license (No. 38802) and is qualified for the type of work required, I recommend the City of Daphne award the contract for construction to Waterfront Construction, Inc. in the amount of **\$594,530.35**.

Further, I have also enclosed the bid booklets received. I will await instructions from you prior to proceeding with production of contract booklets for execution by the contractor and the City of Daphne. If you have any questions or if you require additional information, please do not hesitate to contact me.

Sincerely,

Micah Jones, P.E.  
Manager, Baldwin County Branch

encl.

cc: David Cohen, City of Daphne  
Ack Moore, Thompson Engineering

218 North Alston St.  
Foley, AL 36535  
251.970.2880 ph / 251.970.2884 fax  
www.thompsonengineering.com

**MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS**  
**BID DATE: DECEMBER 17, 2009**

ITEM DESCRIPTION	UNIT	QTY	Asphalt Services 11045 Old Hwy 31 Spanish Fort, AL 36527 Contractor's License No. 22479		Waterfront Construction P.O. Box 938 Dauphin Island, AL 36528 Contractor's License No. 38802		Bay South Limited P.O. Box 250 Saraland, AL 36571 Contractor's License No. 21694		Carter's Contracting Services 23263 Harmony Church Rd. Andalusia, AL 36421 Contractor's License No. 14389	
			UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
MOBILIZATION	LS	1	\$146,074.00	\$146,074.00	\$74,249.00	\$74,249.00	\$28,000.00	\$28,000.00	\$135,000.00	\$135,000.00
DEMOLITION (CURB REMOVAL, PAVEMENT REMOVAL)	LS	1	\$8,907.00	\$8,907.00	\$4,600.00	\$4,600.00	\$6,940.00	\$6,940.00	\$50,000.00	\$50,000.00
SAWCUT PAVEMENT	LF	90	\$5.00	\$450.00	\$6.67	\$600.30	\$18.00	\$1,620.00	\$5.00	\$450.00
RELOCATE WOODEN FENCE	LF	54	\$15.00	\$810.00	\$11.11	\$599.94	\$19.00	\$1,028.00	\$25.00	\$1,350.00
INSTALL PRECAST CONCRETE PILES	LF	485	\$120.00	\$58,200.00	\$81.00	\$39,285.00	\$68.00	\$32,980.00	\$104.25	\$50,561.25
INSTALL PRECAST CONCRETE SLABS	SY	283.25	\$500.00	\$131,625.00	\$241.68	\$68,622.26	\$510.00	\$134,257.50	\$200.00	\$52,650.00
INSTALL CONCRETE PILE CAPS (W/ REINFORCING STEEL)	CY	15	\$1,750.00	\$26,250.00	\$676.67	\$10,150.05	\$1,500.00	\$22,500.00	\$2,750.00	\$41,250.00
INSTALL CONCRETE RAMP CURB	LF	258	\$22.00	\$5,676.00	\$20.00	\$5,160.00	\$43.00	\$11,084.00	\$30.00	\$7,740.00
INSTALL DELINEATOR POSTS	EA	20	\$250.00	\$5,000.00	\$20.00	\$1,000.00	\$93.00	\$1,860.00	\$140.00	\$2,800.00
INSTALL HANDRAIL	LF	116	\$35.00	\$4,060.00	\$24.14	\$2,800.24	\$36.00	\$4,176.00	\$200.00	\$23,200.00
INSTALL TIMBER BOARDWALK	LF	280.50	\$274.45	\$76,983.23	\$185.19	\$51,945.80	\$190.00	\$53,295.00	\$216.35	\$60,686.18
INSTALL PERMEABLE PAVERS (AGGREGATE & LIMEROCK INCLUDED)	SY	2,922	\$56.65	\$165,531.30	\$37.88	\$110,685.36	\$53.00	\$154,868.00	\$67.00	\$195,774.00
INSTALL 8" SUBGRADE FOR PAVERS	SY	2,922	\$2.40	\$7,012.80	\$20.88	\$61,011.36	\$2.50	\$7,305.00	\$15.00	\$43,830.00
INSTALL CONCRETE APRON	SY	280	\$72.80	\$20,384.00	\$41.78	\$11,698.40	\$49.50	\$13,860.00	\$100.00	\$28,000.00
INSTALL ASPHALT PARKING SPACES (BASE INCLUDED)	SY	20	\$75.00	\$1,500.00	\$180.00	\$3,600.00	\$42.00	\$840.00	\$200.00	\$4,000.00
CLEAN, WASHED SAND	CY	250	\$14.00	\$3,500.00	\$19.83	\$4,957.50	\$12.00	\$3,000.00	\$35.00	\$8,750.00
INSTALL CONCRETE PARKING BLOCKS	EA	4	\$50.00	\$200.00	\$50.00	\$200.00	\$55.00	\$220.00	\$115.00	\$460.00
INSTALL FLOATING TURBIDITY BARRIER	LF	400	\$14.00	\$5,600.00	\$5.00	\$2,000.00	\$7.00	\$2,800.00	\$24.00	\$9,600.00
INSTALL CONCRETE RIBBON CURB	LF	675	\$12.00	\$8,100.00	\$10.00	\$6,750.00	\$8.00	\$5,400.00	\$14.00	\$9,450.00
INSTALL HANDICAPPED PARKING SYMBOLS	EA	2	\$400.00	\$800.00	\$100.00	\$200.00	\$100.00	\$200.00	\$400.00	\$800.00
INSTALL 13" X 22" RCAP	LF	80	\$22.00	\$1,760.00	\$49.50	\$3,960.00	\$51.00	\$4,080.00	\$50.10	\$4,008.00
INSTALL 13" X 22" DOUBLE CONCRETE MES	EA	2	\$400.00	\$800.00	\$580.00	\$1,160.00	\$615.00	\$1,230.00	\$1,360.00	\$2,720.00
INSTALL SHEET PILE WALL	SF	3,840	\$32.00	\$122,880.00	\$26.75	\$102,720.00	\$31.00	\$119,040.00	\$51.00	\$195,840.00
MISCELLANEOUS GRADING AROUND NEW PIPES	LS	1	\$1,500.00	\$1,500.00	\$600.00	\$600.00	\$25,000.00	\$25,000.00	\$500.00	\$500.00
SEED AND MULCH	AC	1	\$1,400.00	\$1,400.00	\$800.00	\$800.00	\$1,000.00	\$1,000.00	\$2,000.00	\$2,000.00
INSTALL CONCRETE VALLEY GUTTER	LF	152	\$13.95	\$2,120.40	\$7.00	\$1,064.00	\$15.00	\$2,280.00	\$17.00	\$2,584.00
INSTALL GRAVEL DRIVEWAY (4" THICK)	SY	72	\$7.95	\$572.40	\$6.59	\$474.48	\$10.00	\$720.00	\$25.00	\$1,800.00
LOOSE RIPRAP CLASS 2, 24" THICK	SY	45	\$75.00	\$3,375.00	\$42.56	\$1,915.20	\$55.00	\$2,475.00	\$96.00	\$4,320.00
INSTALL SOLID SODDING (BERMUDA OR CENTIPEDE)	SY	250	\$4.00	\$1,000.00	\$4.51	\$1,127.50	\$4.00	\$1,000.00	\$5.00	\$1,250.00
INSTALL 4" TOPSOIL	SY	250	\$2.50	\$625.00	\$12.00	\$3,000.00	\$15.00	\$3,750.00	\$6.00	\$1,500.00
SILT FENCE, TYPE A	LF	750	\$5.00	\$3,750.00	\$2.10	\$1,575.00	\$3.00	\$2,250.00	\$5.00	\$3,750.00
SILT FENCE REMOVAL	LF	750	\$1.00	\$750.00	\$1.00	\$750.00	\$1.00	\$750.00	\$2.50	\$1,875.00
ENGINEERING CONTROLS	LS	1	\$15,000.00	\$15,000.00	\$4,000.00	\$4,000.00	\$2,000.00	\$2,000.00	\$10,000.00	\$10,000.00
DEMOLITION	LS	1	\$44,058.00	\$44,058.00	\$16,268.96	\$16,268.96	\$5,000.00	\$5,000.00	\$40,000.00	\$40,000.00
<b>CERTIFIED BID TOTALS</b>				<b>\$876,254.13</b>		<b>\$594,530.35</b>		<b>\$656,814.50</b>		<b>\$998,498.43</b>

**MAYDAY PARK BOAT RAMP  
BID DATE:**

ITEM DESCRIPTION	UNIT	QTY	Gillis Construction 9823 Smithfield Farms Rd Bay Minette, AL 36507 Contractor's License No. 43045		Gulf Equipment Corp. 5212 Willis Rd Theodore, AL 36582 Contractor's License No. 18767		Peavy Construction 2109 Wolf Ridge Rd Mobile, AL 36612 Contractor's License No. 19187	
			PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
MOBILIZATION	LS	1	\$20,000.00	\$20,000.00	\$50,000.00	\$50,000.00	\$184,000.00	\$184,000.00
DEMOLITION (CURB REMOVAL, PAVEMENT REMOVAL)	LS	1	\$8,000.00	\$8,000.00	\$7,300.00	\$7,300.00	\$6,500.00	\$6,500.00
SAWCUT PAVEMENT	LF	90	\$10.00	\$900.00	\$5.00	\$450.00	\$5.00	\$450.00
RELOCATE WOODEN FENCE	LF	54	\$18.52	\$1,000.08	\$20.00	\$1,080.00	\$5.00	\$270.00
INSTALL PRECAST CONCRETE PILES	LF	485	\$135.00	\$65,475.00	\$293.00	\$142,105.00	\$116.00	\$56,260.00
INSTALL PRECAST CONCRETE SLABS	SY	263.25	\$133.00	\$35,012.25	\$219.00	\$57,651.75	\$263.65	\$69,405.86
INSTALL CONCRETE PILE CAPS (W/ REINFORCING STEEL)	CY	15	\$500.00	\$7,500.00	\$900.00	\$13,500.00	\$890.33	\$13,354.95
INSTALL CONCRETE RAMP CURB	LF	258	\$20.00	\$5,160.00	\$30.00	\$7,740.00	\$35.00	\$9,030.00
INSTALL DELINEATOR POSTS	EA	20	\$100.00	\$2,000.00	\$100.00	\$2,000.00	\$90.00	\$1,800.00
INSTALL HANDRAIL	LF	116	\$100.00	\$11,600.00	\$22.30	\$2,596.80	\$55.00	\$6,380.00
INSTALL TIMBER BOARDWALK	LF	280.50	\$678.20	\$189,674.10	\$280.00	\$78,540.00	\$229.59	\$64,400.00
INSTALL PERMEABLE PAVERS (AGGREGATE & LIMEROCK INCLUDED)	SY	2.922	\$30.80	\$89,997.60	\$65.40	\$191,098.80	\$65.68	\$191,916.96
INSTALL 8" SUBGRADE FOR PAVERS	SY	2.922	\$14.00	\$40,908.00	\$4.50	\$13,149.00	\$3.15	\$9,204.30
INSTALL CONCRETE APRON	SY	280	\$72.00	\$20,160.00	\$88.00	\$24,640.00	\$101.23	\$28,344.40
INSTALL ASPHALT PARKING SPACES (BASE INCLUDED)	SY	20	\$135.00	\$2,700.00	\$35.00	\$700.00	\$180.00	\$3,600.00
CLEAN, WASHED SAND	CY	250	\$25.00	\$6,250.00	\$22.30	\$5,575.00	\$14.00	\$3,500.00
INSTALL CONCRETE PARKING BLOCKS	EA	4	\$200.00	\$800.00	\$120.00	\$480.00	\$25.00	\$100.00
INSTALL FLOATING TURBIDITY BARRIER	LF	400	\$10.00	\$4,000.00	\$8.00	\$3,200.00	\$9.95	\$3,980.00
INSTALL CONCRETE RIBBON CURB	LF	675	\$17.00	\$11,475.00	\$17.00	\$11,475.00	\$10.60	\$7,155.00
INSTALL HANDICAPPED PARKING SYMBOLS	EA	2	\$200.00	\$400.00	\$60.00	\$120.00	\$250.00	\$500.00
INSTALL 13" X 22" RCAP	LF	80	\$61.48	\$4,918.40	\$52.00	\$4,160.00	\$51.03	\$4,082.40
INSTALL 13" X 22" DOUBLE CONCRETE MES	EA	2	\$500.00	\$1,000.00	\$670.00	\$1,340.00	\$431.25	\$862.50
INSTALL SHEET PILE WALL	SF	3.840	\$60.20	\$231,168.00	\$33.40	\$128,256.00	\$34.04	\$130,713.60
MISCELLANEOUS GRADING AROUND NEW PIPES	LS	1	\$5,000.00	\$5,000.00	\$2,230.00	\$2,230.00	\$750.00	\$750.00
SEED AND MULCH	AC	1	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$1,800.00	\$1,800.00
INSTALL CONCRETE VALLEY GUTTER	LF	152	\$20.00	\$3,040.00	\$20.00	\$3,040.00	\$19.65	\$2,986.80
INSTALL GRAVEL DRIVEWAY (4" THICK)	SY	72	\$75.00	\$5,400.00	\$16.00	\$1,152.00	\$15.00	\$1,080.00
LOOSE RIPRAP, CLASS 2, 24" THICK	SY	45	\$86.00	\$3,870.00	\$73.00	\$3,285.00	\$75.00	\$3,375.00
INSTALL SOLID SODDING (BERMUDA OR CENTIPEDE)	SY	250	\$3.00	\$750.00	\$7.00	\$1,750.00	\$6.50	\$1,625.00
INSTALL 4" TOPSOIL	SY	250	\$25.00	\$6,250.00	\$9.00	\$2,250.00	\$14.00	\$3,500.00
SILT FENCE, TYPE A	LF	750	\$10.00	\$7,500.00	\$4.30	\$3,225.00	\$4.00	\$3,000.00
SILT FENCE REMOVAL	LF	750	\$10.00	\$7,500.00	\$1.20	\$900.00	\$1.00	\$750.00
ENGINEERING CONTROLS	LS	1	\$50,000.00	\$50,000.00	\$3,900.00	\$3,900.00	\$2,500.00	\$2,500.00
DEMOBILIZATION	LS	1	\$10,000.00	\$10,000.00	\$7,400.00	\$7,400.00	\$1,000.00	\$1,000.00
CERTIFIED BID TOTALS				\$861,408.43		\$778,279.35		\$818,176.77

**CITY OF DAPHNE**  
**BID DOC. NO: 2010-A-MAYDAY PARK BOAT RAMP AND PARKING**  
**LOT IMPROVEMENTS**  
**DECEMBER 7, 2009**  
**2:00 P.M.**

**PRESENT WERE:**

<b>MS. SUZANNE HENSON</b>	<b>SR ACCOUNTANT</b>
<b>MR. MICAH JONES</b>	<b>THOMPSON ENGINEERING</b>
<b>MR. KEVIN ANSON</b>	<b>THOMPSON ENGINEERING</b>

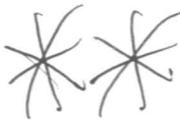
INVITAIONS TO BID WERE PICKED-UP, E-MAILED, OR FAXED,   7   SEALED BIDS WERE RECEIVED.

THE PRESENTED BIDS WERE OPENED AND THE BIDS WERE READ ALOUD AS FOLLOWS:

<u>VENDER</u>	<u>BID BOND</u>	<u>ADDEN #1</u>	<u>ADDEN #2</u>	<u>AMOUNT</u>
ASPHALT SERVICES, INC.	X	X	X	875,524.13
GULF EQUIPMENT	X	X	X	778,279.35
CARTER'S CONTRACTING	X	X	X	998,492.18 <i>Corrected by Thompson - 998,498.43</i>
BAY SOUTH, LTD.	X	X	X	656,814.50
WATERFRONT CONSTRUCTION, INC.	X	X	X	587,726.30 <i>Corrected by Thompson - 594,530.35</i>
GILLIS CONSTRUCTION, INC.	CK	X	X	859,260.15 <i>Corrected by Thompson - 861,408.43</i>
PEAVY CONSTRUCTION CO.	X	X	X	818,176.77

  
 \_\_\_\_\_  
 SUZANNE HENSON, SR. ACCOUNTANT

2. CITY shall, on an actual cost basis: Remove the old boat ramp, construct a new public boat ramp with elevated access extending from shore and docking pier, and renovate the parking area on the above described property. In addition, the CITY shall, on an actual cost basis construct new public boat ramps, piers adjacent to ramp, and suitable parking surface conforming to ADCNR/MRD approved engineered drawings.
3. All construction work referred to in paragraph 2 shall be completed on or before December 15, 2009
4. CITY shall notify ADCNR/MRD's Engineers prior to commencement of work for on-site inspection of work as it progresses, and all construction work shall be subject to the approval of ADCNR/MRD's Engineers.
5. CITY shall be responsible for designing and planning said construction work for obtaining all necessary permits; i.e. Corps of Engineers, Alabama Department of Environmental Management, Alabama Department of Transportation, etc. prior to construction.
6. In consideration of the performance of the heretofore described construction, ADCNR/MRD agrees to pay CITY 75% of total toward the cost of the construction, but not to exceed \$445,000. CITY agrees to pay any costs in excess of the amount paid by ADCNR/MRD. CITY agrees to submit to ADCNR/MRD its invoice, in triplicate, stating the services performed and the consideration that is due and unpaid. CITY shall not commence construction on the premises until ADCNR/MRD has first approved in writing the plans and specifications of their construction and the place where they are to be located. ADCNR/MRD Engineer(s) shall perform a final inspection on the ramp and facilities upon completion of construction to ascertain conformance to the approved plans and specifications. Final payment shall be withheld until the project is accepted and approved.



**RESOLUTION 2010-  
2010-A-MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS**

**WHEREAS**, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

**WHEREAS**, the City did heretofore receive a grant from the ADCNR (Alabama Dept of Conservation and Natural Resources) for improvements to the boat ramp at May Day Park; and

**WHEREAS**, such grant requires the City to make improvements to the Boat Ramp and Parking Lot at May Day Park ; and

**WHEREAS**, the City of Daphne did receive and review bids for the MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS and has determined that the bid as presented is reasonable; and

**WHEREAS**, staff recommends the bid for MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS be awarded to Waterfront Construction, Inc..

**NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE**, hereby accept the bid from Waterfront Construction, Inc. in the amount of \$594,530.35 as specified in BID SPECIFICATION NO. 2010-A-MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS.

**APPROVED AND ADOPTED** by the Mayor and City Council of the City of Daphne, Alabama, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
**August A. Palumbo, Council President**  
Date & Time Signed:\_\_\_\_\_

\_\_\_\_\_  
**Fred Small, Mayor**  
Date & Time Signed:\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
David L. Cohen, City Clerk CMC

**ORDINANCE 2010**

**Lodging Tax Appropriation  
May Day Boat Ramp and Parking Lot Improvements**

**WHEREAS**, Ordinance 2010-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2010; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

**WHEREAS**, Lodging Tax funds may be used for the purchase, development, and maintenance of beachfront property; and

**WHEREAS**, the City did heretofore receive a grant from the ADCNR (Alabama Dept of Conservation and Natural Resources) for improvements to the boat ramp at May Day Park; and

**WHEREAS**, such grant requires the City to make improvements to the Boat Ramp and Parking Lot at May Day Park ; and

**WHEREAS**, such project will total \$ \_\_\_\_\_ (*\$594,530 + Engineering cost*) and 75% funding with a maximum not to exceed \$445,000 is available from the ADCNR; and

**WHEREAS**, the City's match required is \$\_\_\_\_\_.

**NOW, THEREFORE**, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the Fiscal Year 2010 Budget is hereby amended to include a Lodging Tax appropriation in the amount of \$\_\_\_\_\_ (City's match) for the May Day Boat Ramp and Parking Lot Improvements and the Mayor is hereby authorized to execute any and all documents related to the project.

**APPROVED AND ADOPTED** by the Mayor and City Council of the City of Daphne, Alabama, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
**August A. Palumbo, Council President**  
Date & Time Signed: \_\_\_\_\_

\_\_\_\_\_  
**Fred Small, Mayor**  
Date & Time Signed: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
David L. Cohen, City Clerk MMC

**Public Safety Committee**  
*Wednesday, December 9, 2009*

Councilman Greg Burnam, Chairman Councilman Gus Palumbo Councilman Derek Boulware Fire Chief James White PW Sup. Bill Eady	Police Chief David Carpenter Captain Scott Taylor Captain Daniel Bell Tracy Bishop - Secretary
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**Committee Members Attending:**

Councilman Gus Palumbo, Councilman Derek Boulware, Councilman Greg Burnam, Chief David Carpenter, Lt. Alaric Yelding, and Bill Eady.

**CALL TO ORDER**

Councilman Burnam **convened** the meeting at 4:35 p.m.

**PUBLIC PARTICIPATION** – Village Pointe Foundation representatives were present asking for more security at the park. There has been some undesirable people and actions taking place there. They will be doing their part as far as clearing out trails more, putting in a keypad so that public safety, recreation, etc can have access to the park at any time. A new gate and keypad would cost around \$4,000. Chief Carpenter suggested that maybe they install card readers since public safety already has swipe cards they could use so that keypad numbers would not get into the wrong people’s hands. Also they are looking at a camera system for the park. Councilman Boulware agreed that the parks need more security and patrols. Councilman Burnam suggested taking it to the council to ask for a swipe card system to be installed. Councilman Palumbo suggested posting signs warning that the area is being patrolled by Daphne Police Department. Councilman Boulware suggested better lighting may be a deterrent to undesirable activities taking place at Bayfront and Village Pointe.

**APPROVAL OF MINUTES FROM PREVIOUS MEETING**

**Minutes from November 2009 Meeting**

Mr. Burnam made a motion to approve the minutes. Councilman Palumbo seconded and the motion passed.



**FIRE DEPARTMENT**

**A. New Business**

Statistics for October 2009 were reviewed. No one present.

**B. Old Business**

**POLICE DEPARTMENT**

**A. New Business**

Statistics for October 2009 were reviewed. Participated in Tip a Hero at Sam's Club helping raise money by holding a bucket for donations for Children's Miracle Network. We planted 50 plants for the Daphne Intermediate School alongside the fire department. We are concentrating on the parking lots during this Christmas Season hopefully to deter criminal acts.

**Old Business**

**OTHER BUSINESS**

**ADJOURN**

There being no further business to discuss, Mr. Burnam adjourned the meeting at 5:20 p.m. The next meeting will be Wednesday, January 13, 2010 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,

Daphne Public Safety Committee

**CITY OF DAPHNE  
FIRE DEPARTMENT MONTHLY REPORT**

Report Period:      October 2009

	Current:	FY to Date:
<b>Suppression:</b>		
<b>1-Fire/Explosion:</b>	-	-
10-Fire, Other	0	12
11-Structure Fire/Commercial	0	4
11-Structure Fire/Residential	1	18
12-Fire in Mobile Property used as fixed structure	0	0
13-Mobile Property (vehicle) Fire	0	3
14-Natural Vegetation Fire	1	9
15-Outside Rubbish Fire	0	2
16-Special Outside Fire	0	2
17-Cultivated Vegetable Crop Fire	0	0
<b>2-Overpressure Rupture:</b>	0	0
<b>3-Rescue Call and Emergency Medical Service Incidents:</b>	139	1253
<b>4-Hazardous Conditions (No fire):</b>	3	38
<b>5-Service Call:</b>	29	189
<b>6-Good Intent Call:</b>	14	106
<b>7-False Alarm &amp; False Call:</b>	13	135
<b>8-Severe Weather &amp; Natural Disaster:</b>	0	1
<b>9-Other Situation:</b>	0	2
<b>Total Emergency Calls:</b>	<b>198</b>	<b>1729</b>
<b>Monthly Total Calls:</b>	<b>200</b>	<b>2768</b>
<b>Response Time:</b>		
<b>Highest:</b>	17	17
<b>Lowest:</b>	<1	<1
<b>Average (Minutes/Seconds) :</b>	4:46	4:46
<b>Miscellaneous Reports:</b>		
<b>Training Hours</b>	232	1008
<b>Property Loss - \$</b>	10,000	1,006,000
<b>Fire Personnel Injuries by Fire/Civilian Injuries by Fire</b>	0	2
<b>Advance Life Support Rescues</b>	141	767
<b>Number of Patients Treated</b>	79	888
<b>Child Passenger Safety Seat Inspections/Installations</b>	28	78
<b>Classes</b>		
<b>Classes</b>	47	62
<b>Persons Attending</b>	1265	2706
<b>Plan Reviews</b>		
<b>Plan Reviews</b>	2	34
<b>Final/Certificate of Occupancy</b>	0	7
<b>General/Annual Inspections</b>	54	946
<b>General/Re-Inspections (Violation Follow-up - Annual)</b>	2	136
<b>Business Licenses</b>	10	71
<b>Consultations-</b>	0	5
<b>All Other/Misc. Activities</b>	0	5
<b>Total Activities:</b>	<b>68</b>	<b>1204</b>

Authorized by:

*James White*

Chief James White



CITY OF DAPHNE  
PO Box 400  
DAPHNE, AL 36526

## December 2009 List

### Parks and Recreation Department

- *As a future project, DBC supports removing oak stump in Centennial Park & replacing with a gazebo.*

### Public Works Department

- Centennial Park breakers / electrical still under powered
- Street cleaning / rock removal needed at Hwy 90 and 98 intersection. PW to contact ALDOT
- Hwy 98 Median master plan to be submitted to ALDOT
- Lott Park Plantings
- Guard Rail Plantings
- Dog Park Planting
- Master landscaping plan needed for Hwy 98 at Main Street intersection
- Master plan needed for Daphne I-10 exits



Respectfully submitted,  
Selena Vaughn  
605-6243  
vaughn@mchsi.com

Patrol Division		Detective Division:		JAIL:			Animal Control		Crimes Reported This Month:	
(Capt. Bell/Lt. Hempfleng)		(Capt. Bell/Lt. Beedy)		(Capt. Taylor/Lt. Yelding)			(Capt. Taylor/ Lt. Yelding)			
						YTD				
# Complaints	1,168	# New Cases Received:	53	Total Arrestees Received & Processed:	190	190			Arson	0
# Misd. Arrests	63	# Previous Unsolved Cases:	121	Arrestees by Agency:			#Complaints	85	Burglary – Commercial	1
# Felony Arrests	3	# Cases Solved:	32	Daphne PD	125	125	#Follow-ups	121	Burglary – Residence	2
DUI Arrests	12	Resulting in Total Arrests:	8	BCSO	16	16	#Citations	9	Burglary - Vehicle	1
Alias Warrant Arrests	33	Felonies:	7	Spanish Fort PD	33	33	#Warnings	5	Criminal Mischief	12
Citations	233	Misdemeanors:	1	Silverhill PD	13	13	#Felines Captured	13	Disorderly Conduct	0
Close Patrols	428	Houses Searched	0	Troopers	3	3	#Canines Captured	36	Domestic Disturbance	18
Warnings	126			Other Agencies	0	0	#Other Captured	30	False Info to Police	1
Motorist Assists	263						#Returned to Owner	14	Felony Assault	0
Roadway Accidents	51	<b>Warrants:</b>					#Adopted Out	26	Felony Theft	15
Private Property Accidents	19	Bettner Served	56				#Euthanized	25	Harassment	11
Traffic Homicide	0	Agency Assists	15	Highest	38				Identity Theft	4
		Recalls (Pd Fines)	28	Lowest	28				Indecent Exposure	0
<b>DRUG REPORT</b>		Total Warrants Served	99						Kidnapping	0
<b>ROUTINE PATROL/SPECIAL OPS</b>				Meals Served	2,913	2,913			Menacing	0
		<b>Sex Offender:</b>		Medical Cost	\$2,496.98	\$2,496.98			Misdemeanor Assault	1
# Misd. Marijuana Arrest	5	New Registration:	2	Worker Inmate Hours	1,118	1,118			Misdemeanor Theft	21
# Felony Marijuana Arrest	0	Contact Verification	2						Murder	0
# Controlled Substance Arrest:	1	Total # registered in Daphne	2						Other Death Investigations	4
# Drug Paraphernalia Arrest	5	<b>DARE:</b>							Public Intoxication	0
Vehicles Searched	70	# Hours Report Writing:	8						Public Lewdness	0
		# Students Instructed SRO	510						Receiving Stolen Property	0
Drugs Seized:	2	# Students Instructed DARE	400						Reckless Endangerment	1
Type: marijuana		# Police Reports by SRO	5						Resisting Arrest	0
Money Seized	0	# Arrest by SRO	1						Robbery	0
Vehicles Seized	0								Sex Crime Investigations	0
		<b>CODE ENFORCEMENT:</b>							Suicide	0
Commercial Vehicle Inspections	11	Warnings:	6						Suicide, attempted	1
		Citations	2						Theft of Services	0
		Warning Compliance	39						Unauthorized Use of Services	1
		Follow – Up	41						Weapon Offenses	0
									White Collar Crimes	3
<i>Approved by:</i>				<i>David Carpenter, Chief of Police</i>						

# Daphne Beautification Committee

## December 4, 2009 Meeting Minutes

Called to Order 9:07

November Meeting Minutes were not available for approval.

Treasury reported a balance of \$2645.05 from 2007 remaining, and \$1496.64 from 2009 awaiting an outstanding purchase order for Dog Park landscaping to go through. The 2010 balance is \$9,250.00 with \$400 budgeted for Beautification Awards, \$5,000 for Arbor Day, \$2,000 for seasonal decorations and \$1,650 for miscellaneous.

Parks & Recreation was not present. Selena Vaughn reported that benches and swings were being installed at Bayfront, and that bay parks' signs were being held up due to being sent through Council for approval for fund appropriation out of the lodging tax.

Public Works Report by Margorie Bellue:

The landscaping plan for Hwy 98 median crossovers will hopefully be completed in January to be submitted to ALDOT for approval. Dorothy Morrison expressed concern for how long this project has taken, especially considering we already had a few sponsors we are unable to pursue until approval from ALDOT is gained.

Christmas decorating and parade prep have kept PW busy and they are 3 short in employees. Scrolls were hung this year as there was not enough time. Also, plans to have DBC 2009 planting projects done in November are delayed. Lott Park shrubs, Dog Park plantings and Main Street guard rails will have to be completed as time allows.

Arbor Day is on track. Margorie is ordering the trees and filling out the Arbor Day Foundation paperwork. Margorie had Ickes confirm they will provide free mulch again to the public at our event.

It is time to order new Mardi Gras flags as after last season we had to throw out the worn flags. Margorie has to have someone look at the electrical shortcomings at Centennial Park as it does not support Christmas and Mardi Gras decorations. This was not taken care of last year as DBC originally thought.

### Sub-Committee Reports

Arbor Day— Carolyn is working with Margorie on the school poster contest. The proclamation is being edited & will be presented by the mayor at the 1st February council meeting. Beautification Awards—Next award will be in January for District 4&5 combined. Finance had no report. Gator Alley had no report. Main Street is on hold. Median Crossovers is waiting on PW & ALDOT. Tomasina Werner reported the Open House and murals publicity was going well. Copies of recently printed articles she submitted were passed around. Seasonal Decorations will have to choose Mardi Gras flags to order soon.

Open Business— A brief discussion by volunteers about coordinating efforts for decorating, providing refreshments and staffing the Open House for the evening. Volunteers met immediately following the general meeting. -The top ten list follows as a separate report.

No New Business.

Meeting adjourned at 10 AM.

**CITY COUNCIL MEETING  
REPORTS OF SPECIAL COMMITTEES**

**NOTES:**

**BOARD OF ZONING ADJUSTMENTS REPORT:**

**DOWNTOWN REDEVELOPMENT AUTHORITY REPORT:**

**INDUSTRIAL DEVELOPMENT BOARD:**

**LIBRARY BOARD:**

**PLANNING COMMISSION REPORT:**

**RECREATION BOARD REPORT:**

**UTILITY BOARD REPORT:**

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CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF DECEMBER 3, 2009 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL

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The Vice Chairman stated the number of members present constituted a quorum and the regular meeting of the Board of Zoning Adjustment was called to order at 6:00 p.m. Let us have roll call.

**Call of Roll:**

Members Present:

Jeri Hargiss, Secretary  
Glen Swaney  
Billy Mayhand, Vice Chairman  
Frank Lamb  
Jim Moss

Members Absent:

Willie Robison, Chairman  
Barry Taylor

Staff Present:

Adrienne D. Jones, Director of Community Development  
Pat Houston, Recording Secretary  
Tony Hoffman, BZA Attorney

The Vice Chairman stated thank you. Next item on the agenda is the approval of the August 6th minutes. Has everyone read the minutes? The Chair will entertain a motion to approve the minutes as written.

**Approval of Minutes:**

The minutes of the August 6, 2009 meeting were considered for approval.

The Vice Chairman will entertain a motion to approve the minutes as written with no amendments or deletions.

**A Motion was made by Mr. Swaney and Seconded by Mr. Lamb to approve the minutes as written.**

Upon roll call vote, **the Motion carried.**

<b>Mr. Swaney</b>	<b>Aye</b>
<b>Ms. Hargiss</b>	<b>Aye</b>
<b>Mr. Lamb</b>	<b>Aye</b>
<b>Mr. Mayhand</b>	<b>Aye</b>
<b>Mr. Moss</b>	<b>Abstained</b>

Mr. Moss stated I abstain since I was not present at that meeting.

**New Business:**

**Appeal #2009-09 - Paul & Marianne Grundhoefer**

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF DECEMBER 3, 2009 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

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The Vice Chairman stated next is new business on the agenda, Appeal #2009-09, Paul & Marianne Grundhoefer, a variance request to allow a detached carport to be built ten-feet six inches from the primary structure at 130 Durnford Hill Court, in lieu of the required twenty-feet, which is an R-1 Single Family, Low Density, Residential Zone. Okay, Ms. Jones, would you take us through this please.

Ms. Jones stated subject property is located at 130 Durnford Hill Court. Ms. Jones displayed a Power Point Presentation of 130 Durnford Hill Court, the home of the request for a variance to build a detached carport. She stated it is zoned R-1 Single Family, Low Density. Here you see the site plan that has been submitted along with the application. The area that is highlighted to the north is the purposed carport and accessory building. Here is an illustration showing the twenty-feet or where the twenty-feet would lay in relationship to the house. The applicant is proposing to construct a detached carport building to be located ten-feet from the residence in lieu of the required twenty-feet as provided in Article 9-12 of the Land Use Ordinance. This picture shows a view looking directly into the back yard northward. This is a picture looking to the west and you may be able to see some of the flags.

Mr. Moss stated I see a pet.

Ms. Jones stated this is a view standing at the corner of the property looking towards the area where the carport will be located and also you see the fence, and the gate, that opens into Schiefflin Lane. This picture shows you the view from Schiefflin Lane looking into the Grundhoefer's back yard. Here is another view of the Schiefflin Lane right-of-way, which is part of the reason for this request. In your packet and as I also showed before, let me see if I can get back to that slide, the area to the north we can show you where Schiefflin Lane is in relationship to the lot. It is sort of the bold dashed line and it actually encroaches into the lot. Now I do not have it in the power point, but I do have it in your packet. I have a plat of the subdivision and it shows that when the original subdivision was developed or proposed it showed the Schiefflin Lane encroachment onto this property only. So this would pose a unique situation where only this property would be affected. The result of the Schiefflin Lane encroachment creates a situation where the setback lines are zigzagged. Here is Schiefflin Lane, and the setback would be offset because of Schiefflin Lane. Now the applicant is proposing to build the carport ten-feet from the residence, in lieu of what the ordinance requires, which is twenty-feet. So the area here in the darker green is the area of encroachment which should be ten-feet.

Mr. Lamb stated how many feet is that?

Ms. Jones stated ten.

Mr. Lamb stated what is the distance from the rear of the proposed carport to the property line? From there back.

Ms. Jones stated that is five-feet six inches. This slide talks about the previous request that you may remember about this property. It was in 2005 and the applicants asked for the addition of an attached carport storage area. There are different rules for an attached carport than there are for a detached carport or accessory building. The rear setback for an attached structure is the same as it is for the primary structure, which would be forty-feet, and at that time I believe you denied the application for an attached carport. I am not sure what the encroachment was, but I think it was thirty-four-feet which would have been excessive. My fourth point is that the detached accessory structure is five-feet from the side and five-feet from the rear property lines.

Mr. Lamb stated would you back that up for a minute? It is my understanding that a detached accessory building can be built right on the property line.

Ms. Jones stated five-feet from the property line. Here let us look at the next slide which talks about the criteria that is taken directly out of 9-12 of the Ordinance. The criteria for a detached accessory structure is that it one not be on the lot by itself, not in the front yard, not more than a story high, and shall not be closer than twenty-feet to the main building except in an R-4 zone and remember this is an R-1 zone. Also that it maintains not less than five-feet from the sides and not less than five-feet from the rear setback.

Mr. Swaney stated did I just see there where that indicated fifteen-feet from the rear property line?

Ms. Jones stated fifteen feet. No, sir. No more than fifteen-feet high.

Mr. Swaney stated okay. Fifteen-feet high.

Ms. Jones stated yes.

The Vice Chairman stated does this proposal meet those requirements?

Ms. Jones stated it meets all except the one that is highlighted, the one that speaks to being twenty-feet from the main building. They are proposing to be ten-feet which basically says they get to encroach into this setback by ten-feet.

Mr. Moss stated is this an unusual situation that affects this lot only in that subdivision?

Ms. Jones stated it is the only one that is affected by the encroachment of Schiefflin Lane.

Mr. Moss stated thanks.

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The Vice Chairman stated is Schiefflin Lane being used as a thoroughfare? Driveway?

Ms. Jones stated not a thoroughfare, but I think it is being used as a driveway for many of the residents. I think that is my last slide.

Mr. Lamb stated it seems to me that several years ago we had an accessory building on Old County Road across from Bayside Academy that was on the property line and the adjoining property owner was upset. At that time it seemed to me that you could build an accessory building all the way up to the property line, but you are saying five-feet from it.

Ms. Jones stated five-feet because usually there are drainage and utility easements that run along those rear and side property line. So we are always trying to keep people from putting structures over utility easements anyway.

Mr. Lamb stated you can put a driveway right on the property line.

Ms. Jones stated yes.

Mr. Swaney stated I do recall numerous cases in Lake Forest where the sheds are five-foot or so from the property line. Directly below the large dashed line for Schiefflin Lane is that a sewer easement or should I say a drainage easement.

Ms. Jones stated drainage and utility easement.

Mr. Swaney stated how wide is it?

Ms. Jones stated twenty-feet. You have the site plan and boundary survey in your book.

Mr. Swaney stated we are not encroaching on the drainage and utility easement?

Ms. Jones stated no.

Mr. Swaney stated okay.

The Vice Chairman stated any other questions for Ms. Jones at this time? Is there anyone that would like to speak on behalf of the petitioner? If so, please step forward and state your name for the record.

Mr. Broom stated my name is Kent Broom and I am a Landscape Architect and the Grundhoefer's hired me to come up with a proposal that would work for their backyard. I do a lot of this, master plans for residents.

Mr. Broom stated I looked at this property and saw a unique situation with the forty-foot setback in the back, as far as Schiefflin Lane which basically takes up about half of their back property. I felt

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like we could probably come up with some ideas that would work for their backyard as far as a storage, carport, swimming pool, and a future cabana, but in order for this to work we might have to encroach on that twenty-foot setback. I talked to Adrienne and she said we will try to come up with something. I felt this was the best avenue to have everything work and have this great property look its best and functional without interfering with any of the neighbors or the right-of-way. As you can see the structure is five-feet six inches off the back property line and that includes that forty-foot setback for that right-of-way. So basically from the other property line we are almost forty six-feet off that far property line which is to the north. It is not showing on there, but it is right up in there.

Mr. Moss stated excuse me sir. Is that pool existing?

Mr. Broom stated no, this is all proposed.

The Vice Chairman stated do you have those same plans with you?

Mr. Broom stated this is the same plan that you are seeing right up here.

The Vice Chairman stated may I see them?

Mr. Broom stated sure.

The Vice Chairman stated I think yours may be a better view than what we are seeing up there. It may look a little better to me.

Mr. Swaney stated is the carport going to be an open structure?

Mr. Broom stated yes.

Mr. Swaney stated thank you.

The Vice Chairman stated thank you very much. You may continue.

Mr. Broom stated that is all I have to say, thank you.

The Vice Chairman stated does anyone else have anything to say?

Mr. Broom stated I am sorry, if I may.

The Vice Chairman stated go ahead.

Mr. Broom stated just to let you know Schiefflin, if they would pull that drawing back up, this is two lots up from their property. Schiefflin actually ends another lot up this way. The pavement stops and becomes a trail back to these houses.

Mr. Broom stated so it is not maintained by the City or anything else, but the City has access to the property and as you goes closer to his property you can see how it whines around there and then that fence is in back of his property and that easement goes up to this fence here

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and you can see that this structure is built right on the property line. There is thirty-feet between this person and that property and it is not even being used except by this person.

The Vice Chairman stated I asked Ms. Jones a minute ago if this structure would meet those requirements, but I do not know. Do you have any drawings of what the structure would actually look like? You said it would be like a carport with a storage area in the rear or something to that effect.

Mr. Broom stated that is correct, but I do not have drawing of the actual structure.

The Vice Chairman stated it does meet the height requirements and all that?

Mr. Broom stated yes.

The Vice Chairman stated any other questions? Thank you.

Ms. Jones stated I will add something. My recommendation for it is approval because it is in the rear of their property and the encroachment is on themselves and not anyone else. Also as I have placed in your report I have an email from Richard Merchant, the Building Official asking for his opinion on this and he also supports this variance as well.

The Vice Chairman stated are there any comments from our Attorney?

Mr. Hoffman stated no sir.

Mr. Swaney stated I have one question. I just wanted to make certain. Obviously there are not any people here speaking in opposition tonight.

Mr. Moss stated no, your report shows all of the neighbors approving it.

The Vice Chairman stated have we heard all of the comments? If so, the Chair will entertain a motion.

A **Motion** was made by Mr. Swaney and **Seconded** by Mr. Moss to approve **Appeal #2009-09, Paul & Marianne Grundhoefer, for a variance to allow a detached carport to be built ten-feet six inches from the primary structure at 130 Durnford Hill Court, in lieu of the required twenty-feet.**

Upon roll call vote, **the Motion carried unanimously.**

**Ms. Hargiss           Aye**  
**Mr. Swaney           Aye**  
**Mr. Lamb             Aye**

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
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Mr. Mayhand        Aye  
Mr. Moss            Aye

The Vice Chairman stated the appeal is granted and we have some paperwork you can pick up in the Community Development office tomorrow morning around 9:00 a.m.

Mr. Moss stated I have something. There is a mistake in the September minutes. It was a statement I made. I know we are not bringing them up tonight, but they are on the agenda. Can I make a correction to those, since it is my correction, in case I am not here for the next meeting?

The Vice Chairman stated you can make it with Ms. Houston and she can make the correction before they come up for a vote at the next meeting.

Mr. Moss stated Pat look on page 36, third paragraph down. Mr. Moss stated I would like to make a comment to Ms. Jones I really statement about. That is not what was said. I really appreciate and approve what you said when you said that you are just looking for an answer you are not looking for confrontation. You just want an answer. I just wanted it to be on the record that I did appreciate and was supporting her there. If you can make those corrections I am good with it.

Ms. Houston stated okay.

There being no other business the meeting was adjourned.

**Adjournment:**

A **Motion** was made by **Mr. Lamb** and **Seconded** by **Mr. Swaney** to adjourn.

**The Motion carried unanimously.**

There being no further business the meeting was adjourned at 6:15 p.m.

**Respectfully submitted by:**

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Pat Houston, Recording Secretary

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF APRIL 6, 2006 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL

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APPROVED:

\_\_\_\_\_  
Willie Robison, Chairman

/ph

**DECEMBER 28, 2009  
CITY OF DAPHNE, AL  
INDUSTRIAL DEVELOPMENT BOARD MEETING  
1705 MAIN STREET  
6:00 P.M.**

**DRAFT**

**1. CALL TO ORDER/ROLL CALL**

Members present – Tom Byrnes, Toni Fassbender, Dennis Kerney, Pokey Miller, Brian Groeschell, Doug Bailey.

Absent: Dan Romanchuk.

Also present – Rebecca Hayes and Councilman Derek Boulware.

**1. NEW BUSINESS**

Consideration of a request from the City Council to fund \$5,000 toward the Commissioning of the USS Independence.

Councilman Boulware presented the request. He stated that Austel has completed the USS Independence, and that Captain Hal Pierce along with the Mobile Council Navy League is spearheading the christening of the ship in order to spotlight ship building in hopes of bringing more industry to the area. They have made presentations to Baldwin County, Fairhope, Spanish Fort, Mobile, Fairhope and Daphne. They are hoping that the spotlight will have an input on the EADS – Northrup-Grummond contract which will have an effect on Baldwin County.

Councilman Boulware stated that the city did not write the check because of the economic times, and at this time the city is not flush with cash. The thinking behind sending this to IDB was that with the exposure this could bring industry into the area and council felt this was something that could come through IDB.

The board members discussed the request. They discussed whether this was within the scope of the IDB as set forth by AL Code. They wanted the City Attorney to review the code to see whether this would be legal. They also wanted to know what the other cities have contributed and how it was financed, and how the money will be spent.

**MOTION BY Tom Byrne to appropriate \$5,000 toward the commissioning of the USS Independence based upon the request from the City Council, and contingent upon the approval by the City Attorney. Seconded by Dennis Kearney.**

**Doug Bailey amended the motion to include contingent upon what other towns are doing and an accounting of the budget for the commissioning.**

**Tom Byrne and Dennis Kearney accepted the amendment.**

**AYE ALL IN FAVOR NAY NONE OPPOSED ABSTAIN FASSBENDER**

2. **ADJOURN**

**MOTION BY Tom Byrne to adjourn. Seconded by Doug Bailey.**

**ALL IN FAVOR**

**NONE OPPOSED**

**MOTION CARRIED**

**THERE BEING NO FURTHER BUSINESS TO DISCUSS THE MEETING  
ADJOURNED AT 7:15 P.M.**

Respectfully Submitted,

\_\_\_\_\_  
Rebecca A. Hayes,  
Acting Recording Secretary

Approved:

\_\_\_\_\_  
Toni Fassbender, Chairman

**THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF DECEMBER 17, 2009  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

**DRAFT**

**SUMMARIZATION OF MINUTES:**

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**CALL TO ORDER:**

The number of members present constitutes a quorum and the regular meeting of the City of Daphne Planning Commission was called to order at 6:05 p.m.

**CALL OF ROLL:**

**Members Present:**

Fred Small, Mayor  
Joe Lemoine  
Frank Martin, Secretary  
Don Terry, Vice Chairman  
Ed Kirby, Chairman  
Larry Chason  
Cathy Barnette, Councilwoman  
Chief James "Bo" White

**Members Absent:**

Victoria Phelps

**Staff Present:**

Adrienne D. Jones, Director of Community Development  
Jan Dickson, Planning Coordinator  
Nancy Anderson, GIS Manager  
Erick Bussey, Associate Attorney

**Staff Absent:**

Jay Ross, Attorney  
Missty Gray, Attorney  
Ashley Campbell, Environmental Programs Manager

**Others Absent:**

Rob McElroy, General Manager/Utilities Board of the City of Daphne  
Danny Lyndall, Operations Manager/Utilities Board of the City of Daphne

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF DECEMBER 17, 2009  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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The first order of business is the call to order.

Chairman: Please let the record reflect Ms. Phelps is not present.

The next order of business is approval of the minutes.

**APPROVAL OF MINUTES:**

The minutes of the November 19, 2009 regular meeting were considered for approval.

Chairman: A copy of the minutes was furnished to us previously. Do any of the Commissioners have any questions or comments? If there are no additions, deletions, or corrections at this time, the Chair will entertain a motion.

A **Motion** was made by Mr. Terry and **Seconded** by Ms. Barnette **to table the minutes of the November 19, 2009 regular meeting. The Motion carried unanimously.**

**OLD BUSINESS:**

The first order of business under old business is an administrative presentation for Apalachee Residential Community.

**ADMINISTRATIVE PRESENTATION:**

For the record, the site plan was approved by the Daphne Planning Commission on July 28, 2005 and revised in August 28, 2006. A site disturbance permit was issued on March 21, 2007 and a one-year extension was granted on January 24, 2008 and January 22, 2009.

An introductory presentation was given by Dr. Barry Booth, one of the owners, requesting an extension of the one-year requirement for the site disturbance permit issued for the Apalachee Residential Community. We have continued working on the project to move forward when the real estate market and economy improve.

Ms. Barnette: This project may have been feasible at one point, but now it does not meet the overlay district requirements. It has been pending for a long time and you have been asking for extensions since 2005. Therefore, I would not be in support of another extension of the site disturbance permit for this project.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF DECEMBER 17, 2009  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Lemoine and **Seconded** by Mayor Small **to grant a one-year extension for the site disturbance permit issued to the Apalachee Residential Community until January 28, 2011. The Motion carried. Ms. Barnette opposed.**

The next order of business under old business is an administrative presentation for Paradiso Subdivision.

An introductory presentation was given by Mr. Steve Pumphrey, representing Volkert & Associates, requesting an extension of time for the preliminary plat approval for Paradiso Subdivision. The preliminary plat was approved by the Planning Commission on January 22, 2009. This is the same song different verse although this is a request for our first extension. We also are waiting on the real estate market or the economy to improve. We have been working with an architectural group on the designs of the guard house, fences and other designs in preparation of moving forward.

Ms. Barnette: We need to set some type of protocol to follow to obtain and maintain a site disturbance permit or an extension thereof. I would not be in favor of granting this development an extension either.

Mr. Chason: In the beginning, I was not a fan in support of this development, but they proved they did meet the requirements of the Ordinance. I do not think they are waiting for the market conditions to change, but for the economy to improve.

Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Chason and **Seconded** by Mr. Lemoine **to grant a one-year extension of the preliminary plat approval for Paradiso Subdivision.**

An **Amended Motion** was made by Mr. Chason and **Seconded** by Mr. Lemoine **to grant a one-year extension of the preliminary plat approval for Paradiso Subdivision until January 28, 2011. The Motion carried. Ms. Barnette opposed.**

The first order of business under new business is site plan review for Eastern Shore Hyundai.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
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COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

DRAFT

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**NEW BUSINESS:**

**SITE PLAN REVIEW:**

**File S09-15:**

**Site:** Eastern Shore Hyundai  
(Site, grading, drainage & BMP plan for temporary construction/sales trailer and store vehicle inventory)

**Zoning:** B-2, General Business

**Location:** Northwest of the intersection of Alabama Highway 181 and Justina Avenue, Lot 1A, the Resubdivision of Lot 1, Eastern Shore Park Subdivision, between Chris Myers Nissan and Eastern Shore Toyota

**Area:** 5.43 Acres +

**Owner:** Esfahani Real Estate Holdings of Alabama, L.L.C. - Shawn Esfahani

**Engineer:** Hutchinson, Moore & Rauch - Tim Lawley

An introductory presentation was given by Mr. Tim Lawley, representing Hutchinson, Moore & Rauch, requesting site plan review for site, grading and drainage for a temporary construction and sales facility located northwest of the intersection of Alabama Highway 181 and Justina Avenue on Lot 1A of the Resubdivision of Lot 1, Eastern Shore Park Subdivision. I think we have addressed all of the issues mentioned at the site preview meeting. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: It is my understanding the dealership has occupied the site.

Mr. Lawley: They have, but I was not aware of that until it was pointed out at the site preview meeting.

Mayor Small: That is true, but the sales are conducted out of the Eastern Shore Toyota building.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
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Mr. Chason: Ms. Fassbender has signed as the person designated as Eastern Shore Park Subdivision's representative.

Mr. Lawley: She is the responsible party for the Eastern Shore Park Subdivision's Property Owners' Association.

Chairman: We have never allowed a temporary structure to have signage without approval of a site plan. I would like to see the temporary structure come back to us and get approved as part of the site plan for the development. We have had several banks that have come to us and the temporary structure was presented as a part of the site plan. Was the pavement on the back of this lot was a part of the approval of the site plan for Eastern Shore Toyota before the lot was subdivided? The site plan submitted does not address issues discussed at the site preview meeting such as erosion control, landscaping and irrigation, signage and architectural renderings in preliminary form.

Mr. Lawley: I do not know if the subdivision was approved before or after the site plan. We were not the engineers for that project. Ms. Jones' recommendation was to request approval of the site disturbance permit with the understanding that no buildings would be placed on the site until a complete site plan is submitted.

Chairman: No buildings shall be placed on the site until a complete site plan is submitted and approved by the Planning Commission. What do the X's located on the site plan sheet represent?

Mr. Lawley: I will have a representative respond to that question.

Mr. Cliff Dearman, controller for Eastern Shore Toyota: These areas are vendors/subcontractors we use for the dealership for washing, detailing, etc.

Mr. Chason: For clarification, what is being asked for in this site plan application.

Chairman: The owner is asking for the placement of a temporary building, erosion and drainage.

Mr. Lemoine: This site already has a tent located on the site with signage which says Eastern Shore Toyota and Eastern Shore Hyundai.

Chairman: Mr. Lemoine, unfortunately in the Land Use Ordinance we do not regulate the placement of tents or the signage on them.

Mr. Lemoine: Will there be cars on this lot?

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Mr. Lawley: There already are cars on this lot.

Ms. Barnette: Why are the cars there?

Mr. Lawley: The cars are being sold out of the Eastern Shore Toyota building because the dealership for Eastern Shore Hyundai was closed and relocated to this site.

Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

**A Motion** was made by Mr. Chason and **Seconded** by Mr. Terry **to grant site plan approval to allow the issuance of a site disturbance permit and placement of a temporary building on the existing asphalt and no signage shall be allowed until a site plan has been presented and approved by the Planning Commission.**

**An Amended Motion** was made by Mr. Chason and **Seconded** by Mr. Terry **to grant site plan approval to allow the issuance of a site disturbance permit and placement of a temporary building on the existing asphalt for a period not to exceed ninety days and no signage shall be allowed until a site plan has been presented and approved by the Planning Commission. The Motion carried unanimously.**

The next order of business is preliminary/final plat review for the Resubdivision of Lot 1, Ephraim Subdivision.

**PRELIMINARY/FINAL PLAT REVIEW:**

**File SDPF09-16:**

**Subdivision: Resubdivision of Lot 1, Ephraim Subdivision**

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

**Location: On the North side of Wilson Avenue**

**Area: 1.61 Acres ±, (2) lots**

**Owner: Johnny Ephraim**

**Agent: Charles & Earline Harris**

**Surveyor: Geo Surveying - Matt Kountz**

An introductory presentation was given by Ms. Earline Harris and Mr.

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Charles Harris, the owners' representatives, requesting preliminary/final plat review of a one-point six one-acre subdivision consisting of two lots located on the north side of Wilson Avenue. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? He opened the floor to public participation. With no adjacent property owners present, he closed public participation. The note requested at the site preview meeting has been added to the plat. If there is no objection, the Chair will entertain a motion.

Ms. Barnette: This is a stretch for a family subdivision.

A **Motion** was made by Mayor Small and **Seconded** by Mr. Lemoine **to approve the preliminary/final plat for the Resubdivision of Lot 1, Ephraim Subdivision. The Motion carried unanimously.**

The next order of business is preliminary plat review for Dunmore Subdivision, Phase Two, Part B.

**PRELIMINARY PLAT REVIEW:**

**File SDP09-08:**

**Subdivision: Dunmore, Phase Two, Part B**

**Zoning: R-3, High Density Single Family Residential**

**Location: On the East side of Alabama Highway 181, South of Austin Road, North of Dick Higbee Road**

**Area: 10.47 Acres +, (28) lots**

**Owner: Hearthstone Multi-Asset Entity**

**Engineer: Rester & Coleman Engineers - Joel Coleman**

An introductory presentation was given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting preliminary plat review of a ten four seven-acre subdivision consisting of twenty-eight lots located on the east side of Alabama Highway 181 just south of Austin Road and north of Dick Higbee Road. As suggested at the work session by Mayor Small, I added two notes to the plat regarding the finished floor elevations and maintenance of the easements. The minimum finished floor elevations to be no less than two (2) feet above the roadway centerline elevation at the lowest front lot corner.

Mr. Coleman: The drainage easements may also serve as ingress and egress easements for maintenance for any drainage improvements

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**SUMMARIZATION OF MINUTES:**

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contained within. Any structure placed by an individual lot owner, past or present, within or encroaching into a drainage easement may be removed with any repair or replacement of said structure to be at the expense of the individual lot owner. I will be happy to answer any questions you may have.

Mayor Small: Did you read those notes shown on the reduced drawing?

Mr. Coleman: No sir. I have them written down.

Mayor Small: I was wondering because I did not bring my magnifying glass and I still have not found them.

Chairman: They are added to the list of notes.

Mayor Small: These notes add clarification for the residents of the subdivision.

Chairman: Do any of the Commissioners have any questions or comments? He opened the floor to public participation. With no adjacent property owners present, he closed public participation. If there is no objection, the Chair will entertain a motion.

Mr. Bussey, associate attorney: I am an adjacent property owner of this subdivision, and I support the approval of the application for Dunmore Subdivision.

A **Motion** was made by Mayor Small and **Seconded** by Ms. Barnette **to approve the preliminary plat for the Dunmore Subdivision, Phase Two, Part B. The Motion carried unanimously.**

The next order of business is public participation.

**PUBLIC PARTICIPATION:**

No public participation.

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

**ATTORNEY'S REPORT:**

Mr. Bussey: No report.

The next order of business is commissioner's comments.

**COMMISSIONER'S COMMENTS:**

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF DECEMBER 17, 2009  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

DRAFT

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**SUMMARIZATION OF MINUTES:**

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Merry Christmas.

The next order of business is the director's comments.

**DIRECTOR'S COMMENTS:**

Ms. Jones: Santa Claus will be bringing you a zoning ordinance for Christmas.

**ADJOURNMENT:**

Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion to adjourn.

A **Motion** was made and **Seconded to adjourn. The Motion carried unanimously.**

***There being no further business, the meeting was adjourned at 6:41 p.m.***

***Respectfully submitted by:***

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Jan Dickson, Planning Coordinator

**APPROVED:** January 28, 2009

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Ed Kirby, Chairman

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF DECEMBER 17, 2009  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

DRAFT

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THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
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THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF DECEMBER 17, 2009  
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**CITY COUNCIL MEETING  
MAYOR'S REPORT**

**NOTES:**

**CITY ATTORNEY'S REPORT**

**NOTES:**

**DEPARTMENT HEAD'S COMMENTS**

**CITY COUNCIL MEETING  
RESOLUTIONS, ORDINANCES, ORDERS & OTHER BUSINESS**

**NOTES:**

RECOMMENDATIONS

**COUNCIL COMMENTS:**

**RESOLUTION 2010-01**  
**2010-A-MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS**

**WHEREAS**, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

**WHEREAS**, the City did heretofore receive a grant from the ADCNR (Alabama Dept of Conservation and Natural Resources) for improvements to the boat ramp at May Day Park; and

**WHEREAS**, such grant requires the City to make improvements to the Boat Ramp and Parking Lot at May Day Park ; and

**WHEREAS**, the City of Daphne did receive and review bids for the MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS and has determined that the bid as presented is reasonable; and

**WHEREAS**, staff recommends the bid for MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS be awarded to Waterfront Construction, Inc..

**NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE**, hereby accept the bid from Waterfront Construction, Inc. in the amount of \$594,530.35 as specified in BID SPECIFICATION NO. 2010-A-MAYDAY PARK BOAT RAMP AND PARKING LOT IMPROVEMENTS.

**APPROVED AND ADOPTED** by the Mayor and City Council of the City of Daphne, Alabama, this \_\_\_\_\_ day of \_\_\_\_\_ , 2010.

\_\_\_\_\_  
**August A. Palumbo,**  
**Council President**

\_\_\_\_\_  
**Fred Small,**  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
David L. Cohen,  
City Clerk MMC

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2010-01**

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**AN ORDINANCE TO ANNEX THE RIGHT OF WAYS OF ALABAMA STATE  
HIGHWAY 181 AND U.S. HIGHWAY 90 INTO THE CORPORATE  
LIMITS OF THE CITY OF DAPHNE**

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**WHEREAS**, on the 26<sup>th</sup> day of October, 2009, the State of Alabama, being the owner of the real property herein described, did file with the City a letter containing the signature of Jim R. Ippolito, Jr., Esq., an authorized agent of the State of Alabama Department of Transportation, and a map of said property showing its proximity to the corporate limits of the City of Daphne, Alabama, whereby the State of Alabama provided its consent to the annexation of said real property into the corporate limits of the City of Daphne, Alabama; and

**WHEREAS**, the City of Daphne, Alabama, desires to utilize said real property for the health, safety, and welfare purposes of providing fire and police protection; and

**WHEREAS**, the Planning Commission of the City of Daphne, Alabama, at its regularly scheduled meetings of July 23, 2009, and September 24, 2009, forwarded a favorable recommendation to the City Council of the City of Daphne, Alabama for annexation of the areas shown in Exhibit "B"; and

**WHEREAS**, after proper publication, a public hearing was held on December 21, 2009 by the City Council of the City of Daphne concerning said letter for annexation; and

**WHEREAS**, the City Council of the City of Daphne determine it is in the public interest that said real property be annexed into the City of Daphne, Alabama and that all legal requirements for annexing said real property have been met pursuant to Sections 11-42-20 through 11-42-24, Code of Alabama (1975);

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

**SECTION I: ANNEXATION**

The boundary lines of the City of Daphne, Alabama, be, and the same are hereby altered or rearranged as to include all of the territory heretofore encompassed by the corporate limits of the City of Daphne, Alabama and in addition thereto the following described territory, to-wit:

NAME: Rights-of-Way of Alabama State Highway 181 and U.S. Highway 90

**DESCRIPTION:**

BEGINNING AT THE POINT OF INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF BALDWIN COUNTY ROAD 13 AND THE SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 90; THENCE RUN NORTH TO THE NORTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 90; THENCE RUN EASTERLY ALONG SAID NORTH RIGHT-OF-WAY LINE TO THE POINT OF INTERSECTION OF SAID NORTH RIGHT-OF-WAY LINE AND THE WEST RIGHT-OF-WAY LINE OF ALABAMA STATE HIGHWAY 181; THENCE RUN NORTHERLY ALONG SAID WEST RIGHT-OF-WAY LINE TO THE NORTHEAST CORNER OF BALDWIN COUNTY TAX PARCEL 05-32-08-27-0-000-012.068; THENCE RUN EASTERLY LEAVING SAID WEST RIGHT-OF-WAY LINE TO THE NORTHWEST CORNER OF BALDWIN COUNTY TAX PARCEL 05-32-07-26-0-000-021.036, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF SAID ALABAMA STATE HIGHWAY 181; THENCE RUN SOUTHERLY ALONG SAID EAST RIGHT-OF-WAY LINE TO THE POINT OF INTERSECTION OF SAID EAST RIGHT-OF-WAY LINE AND THE NORTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 90; THENCE RUN EASTERLY ALONG SAID NORTH RIGHT-OF-WAY LINE TO THE SOUTHEAST CORNER OF BALDWIN COUNTY TAX PARCEL 05-32-07-35-0-000-001.008; THENCE RUN SOUTH TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 90; THENCE RUN WESTERLY ALONG SAID SOUTH RIGHT-OF-WAY LINE TO THE POINT OF INTERSECTION OF SAID SOUTH RIGHT-OF-WAY LINE AND THE EAST RIGHT-OF-WAY LINE OF ALABAMA HIGHWAY 181; THENCE RUN SOUTHERLY ALONG SAID EAST RIGHT-OF-WAY LINE TO THE POINT OF INTERSECTION OF SAID EAST RIGHT-OF-WAY LINE AND A PROJECTION OF THE SOUTH RIGHT-OF-WAY LINE OF LAWSON ROAD; THENCE RUN WESTERLY ALONG SAID PROJECTED LINE TO THE POINT OF INTERSECTION OF SAID SOUTH RIGHT-OF-WAY LINE OF LAWSON ROAD AND THE WEST RIGHT-OF-WAY LINE OF ALABAMA STATE HIGHWAY 181; THENCE RUN NORTHERLY ALONG SAID WEST RIGHT-OF-WAY LINE TO THE POINT OF INTERSECTION OF SAID WEST RIGHT-OF-WAY LINE AND THE SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 90; THENCE RUN WESTERLY ALONG SAID SOUTH RIGHT-OF-WAY LINE THE POINT OF BEGINNING. LYING IN SECTIONS 26, 27, 34 AND 35, OF TOWNSHIP 4 SOUTH, RANGE 2 EAST AND SECTIONS 2 AND 3 OF TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

Being contiguous to the Corporate Limits of the City of Daphne, Alabama.

**SECTION II: PUBLICATION**

This ordinance shall be published as provided by law, and a certified copy of the same shall be filed with the Probate Court of Baldwin County, Alabama.

**SECTION III: SEVERABILITY**

The provisions of this Ordinance are severable. 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 portions thereof.

**SECTION IV: EFFECTIVE DATE**

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
DAPHNE, ALABAMA ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_  
AUGUST A. PALUMBO,  
DAPHNE COUNCIL PRESIDENT  
Date & Time Signed:\_\_\_\_\_

\_\_\_\_\_  
FRED SMALL,  
MAYOR  
Date & Time Signed:\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
DAVID COHEN,  
CITY CLERK, MMC

**CITY OF DAPHNE**  
**ORDINANCE NO. 2010-02**

---

**AN ORDINANCE TO DEFINE THE PROCEDURES AND PENALTIES FOR GOING OUT OF  
BUSINESS AND OTHER SIMILAR SALES**

---

**WHEREAS**, commercial activity is vital to the growth and development of the City of Daphne; and

**WHEREAS**, the collection of sales tax derived from commercial activities and the regulation of said commercial activities is within the City's responsibility for the health, safety, and welfare of its citizens, and visitors; and

**WHEREAS**, there is currently no ordinance delineating the procedure for which a commercial entity may begin the process of selling its inventory and terminating its existence within the corporate limits of the City of Daphne; and

**WHEREAS**, the City Council of the City of Daphne, after due consideration and upon deliberation, has determined it to be in the best interests of the City to require commercial entities to follow set regulations when a commercial entity terminates its existence.

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

**SECTION I: DEFINITIONS**

*Applicant* is any person applying for a license under this chapter, including its principal, if such person is the agent of another who is the true owner, notwithstanding whether that other is an individual, partnership, association, firm or corporation and notwithstanding whether the name of the true owner appears on the application or not.

*Distressed merchandise sale* is any offer to sell to the public or a sale to the public of goods, wares or merchandise on the implied or direct representation that such sale is being held other than in the ordinary course of business and not otherwise defined herein. Without limiting the generality of the above, "distress merchandise sales" shall include, but not be limited to, any sale advertised either specifically or in substance to be any one of the following:

- (1) Fire sale;
- (2) Smoke damage sale;
- (3) Water damage sale;
- (4) Adjustment sale;

- (5) Insurance salvage sale;
- (6) Mortgage sale;
- (7) Adjuster's sale;
- (8) Re-organization sale; or
- (9) Other sale of similar intent or terminology to any of the above.

***Fire and other altered goods sale*** means a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

***Going out of business sale*** means any sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand, the business will cease and be discontinued including, but not be limited to, the following sales: alteration, assignee's, bankrupt, benefit of administrator's, benefit of creditor's, benefit of trustee's, building coming down, closing, creditor's committee, creditor's end, executor's final days, forced out of business, insolvents, last days, lease expires, liquidation, loss of lease, receiver's, trustee's, quitting business, forced out.

***Goods*** means goods, wares, merchandise or other property capable of being the object of a sale regulated under this article.

***Inventory*** is a list of the goods, wares or merchandise, on hand, which the applicant intends to offer for sale at such sale. The inventory shall show the quantity, kind and grade of each item, the wholesale cost thereof, the price at which each item is proposed to be sold and the total wholesale and retail value of the inventory based on the foregoing.

***Person*** is any individual, partnership, association, firm, corporation or organization of any kind.

***Removal of business sale*** means a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the inventory on hand and will then move to and resume business at a new or other existing location in the City.

## **SECTION II: LICENSE**

### **A. License Requirement.**

A license issued by the City Finance Director, or her designee, shall be obtained by any person before selling or offering for sale any goods at a sale to be advertised or held out by any means to be one (1) of the following kinds:

- (1) Going out of business sale.

- (2) Removal of business sale.
- (3) Fire and other altered stock sale.

**B. Application.**

***Written information required.*** A person desiring to conduct a sale regulated by this article shall make a written application to the City Finance Director, or her designee, setting forth and containing the following information:

- (1) The true name and address of the owner of the goods to be the object of the sale.
- (2) A sworn statement by the legal owner of the business, stating that no additional inventory will be added to the existing inventory during the sale.
- (3) A description of the place where such sale is to be held.
- (4) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy.
- (5) The dates and period of time in which the sale is to be concluded.
- (6) The full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted.
- (7) The means to be employed in advertising such sale, together with the proposed content of any advertisement.

**C. Conditions; fee.**

A license shall be issued under this article on the following terms:

- (1) ***Licensing period and fee.*** The license shall authorize the sale described in the application for a period of time and for a license fee as described in this subsection:
  - (a) No more than 30 consecutive calendar days following issuance. . . \$150.00
  - (b) No more than 60 consecutive calendar days following issuance. . . \$300.00

The City Council may authorize that sales continue for an additional 30 consecutive calendar-day period beyond the 60-day period above, upon receipt of a written request stating the reasons for the request. Upon said authorization from the City Council, the applicant shall incur an additional \$150.00 mandatory fee.

(2) **Nature of sale.** The license shall authorize only the one type of sale described in the application at the location named therein.

(3) **Saleable goods.** The license shall authorize only the sale of goods in inventory at the beginning of the sale.

(4) **Surrender of general license.** Upon being issued a license under this article for a going out of business sale, the licensee shall surrender to the City Finance Director, or her designee, all other business licenses they may hold at that time applicable to the location and goods covered by the application for a license under this article.

(5) **Non-transferability.** Any license provided for in this article shall not be assignable or transferable.

**D. Duties of licensee.**

It shall be the duty of the licensee to:

(1) **Adhere to inventory.** During any going out of business sale or distress merchandize sale, a licensee may sell, offer for sale or advertise for sale goods, wares or merchandise which were not included in the inventory filed with his application. Should any inventory be added to the stock of merchandise set forth in the certified inventory attached to the application for the license, the licensee shall file an amendment with the City Finance Director, or her designee, listing the additional inventory and when it was received by the licensee. Failure to adhere to this provision shall result in immediate revocation of the license to conduct an out of business sale or distress merchandize sale in addition to any penalties pursuant to Section IV of this Ordinance.

(2) **Advertise properly.** Refrain from employing any untrue, deceptive or misleading advertising.

(3) **Adhere to advertising.** The licensee shall conduct the licensed sale in strict conformity with any applicable advertising regulations or holding out incident thereto.

(a) A licensee shall not advertise a going out of business sale or distress merchandise sale earlier than seven (7) days prior to the date on which the sale is licensed to begin. Advertising of such sales shall state the date when the sale is to begin and, during the last fifteen (15) days of such sale, shall clearly and prominently state the date the sale shall end. However, licensees are not authorized to use the City of Daphne's name or the number of the license issued pursuant to this article in conjunction with advertising the sale.

**SECTION III: RESTRICTIONS**

**A. Interval between sales.**

Any person who has held a sale, as regulated under this article, at the location stated in the application, within one (1) year last past from the date of such application shall not be granted a license.

**B. Restricted location.**

Where a person applying for a license under this article operates more than one place of business, the license issued shall apply only to the one store, or branch specified in the application, and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the license sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it, or participating in any way in the licensed sale unless a separate license is obtained for each location.

**C. Sales to be held only at regular store hours.**

No going out of business sale or distress merchandise sale shall be held at times other than regular store hours of the applicant, except that the City Council may make reasonable provision for extra evening hours upon good cause shown by the applicant.

**D. False bidders prohibited.**

No person who is not a bona fide potential purchaser shall act at any going out of business sale or distress merchandise sale as bidder, or what is commonly known as a "capper," "booster" or "shiller," or offer to make any false bid to buy any article sold or offered for sale at any going out of business sale or distress merchandise sale.

**E. Exceptions and exemptions.**

(1) *Exception for survivors of businessmen.* Upon the death of a person doing business in the City, his heirs, devisees or legatees shall have the right to apply at any time for a license under this article.

(2) *Persons exempted.* The provisions of this article shall not apply to nor affect the following persons:

(a) Lay persons acting pursuant to an order or process of a court of competent jurisdiction; or

(b) Persons acting in accordance with their powers and duties as public officials.

**SECTION IV: PENALTIES**

(1) A person convicted of a willful violation of any of the provisions of this article shall be fined not more than Five Hundred Dollars (\$500.00) and may be

imprisoned for not more than six (6) months, or both, at the discretion of the court trying the case.

(2) Each separate sale, offering for sale or advertising for sale at a going out of business sale or distress merchandise sale of any goods, wares or merchandise in violation of the provisions of this article constitutes a separate offense.

**SECTION V: CONSTRUCTION**

The provisions of this article are intended to augment and be in addition to the general licensing ordinances of the City. Where this article imposes a greater restriction upon persons, premises, business or practices than is imposed by the general licensing ordinances of the City, this article shall control.

**SECTION VI: SEVERABILITY**

The provisions of this Ordinance are severable. 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 portions thereof.

**SECTION VII: EFFECTIVE DATE**

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ day of \_\_\_\_\_, 2010.**

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**AUGUST PALUMBO  
COUNCIL PRESIDENT**

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**FRED SMALL  
MAYOR**

**ATTEST:**

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**DAVID L. COHEN  
CITY CLERK. MMC**

**ORDINANCE 2010-03**

**Lodging Tax Appropriation  
Park Signs**

**WHEREAS**, Ordinance 2009-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2009; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

**WHEREAS**, Lodging Tax funds may be used for the purchase, development, and maintenance of beachfront property; and

**WHEREAS**, the Beautification Committee has requested that the City Council consider an appropriation for the placement of directional and informational signs at the City's various bay front parks.

**NOW, THEREFORE**, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the Fiscal Year 2010 Budget is hereby amended to include a Lodging Tax appropriation in the amount of \$ 4,909 for the purchase of directional and informational signs to be located at the City's various bay front parks.

**APPROVED AND ADOPTED** by the Mayor and City Council of the City of Daphne, Alabama, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
**August A. Palumbo,  
Council President**

\_\_\_\_\_  
**Fred Small,  
Mayor**

**ATTEST:**

\_\_\_\_\_  
David L. Cohen,  
City Clerk, MMC

**ORDINANCE 2010-04**

**Lodging Tax Appropriation  
Sports Complex**

**WHEREAS**, Ordinance 2009-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2009; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

**WHEREAS**, Ordinance 2009-55 sets forth an allocation of Lodging Tax proceeds that may be used for certain recreational grounds capital items; and

**WHEREAS**, estimated annual revenues total \$ 160,000 for such recreational purposes; and

**WHEREAS**, the City has certain newly constructed soccer and football fields at the Sports Complex which require immediate funding (to complete the project) for the installation of lighting, (2) bathrooms, and (4) bleachers; and

**WHEREAS**, the lodging tax funding source for such capital recreational items has not accumulated to the point of providing funding for such improvements.

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

1) The Fiscal Year 2010 Budget is hereby amended to include a Lodging Tax appropriation for the Sports Complex in the amount of \$ 875,000 for the following capital improvements:

- \$ 550,000: Soccer/Football Lighting
- \$ 275,000: (2) Bathroom/Concession Buildings
- \$ 50,000: (4) Elevated Bleachers

2) Lodging tax proceeds allocated for such recreational grounds capital items have not accumulated to fund such improvements. However, the Lodging Tax Fund does have funds in the amount of \$ 1,134,305 available for the acquisition, development, and maintenance of bay front property. Such funds shall be "loaned" to the recreation reserve and repaid to the bay front reserve as future recreation lodging tax collections are realized.

**APPROVED AND ADOPTED** by the Mayor and City Council of the City of Daphne, Alabama, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
**August A. Palumbo, Council President**

\_\_\_\_\_  
**Fred Small, Mayor**

**ATTEST:**

\_\_\_\_\_  
David L. Cohen, City Clerk, MMC

**ORDINANCE 2010-05**

**Lodging Tax Appropriation  
May Day Boat Ramp and Parking Lot Improvements**

**WHEREAS**, Ordinance 2010-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2010; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

**WHEREAS**, Lodging Tax funds may be used for the purchase, development, and maintenance of beachfront property; and

**WHEREAS**, the City did heretofore receive a grant from the ADCNR (Alabama Dept of Conservation and Natural Resources) for improvements to the boat ramp at May Day Park; and

**WHEREAS**, such grant requires the City to make improvements to the Boat Ramp and Parking Lot at May Day Park ; and

**WHEREAS**, such project will total \$ 653,983 (*\$594,530 + \$59,453 Engineering cost*) and 75% funding with a maximum not to exceed \$445,000 is available from the ADCNR; and

**WHEREAS**, the City's match required is \$ 208,983.

**NOW, THEREFORE**, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the Fiscal Year 2010 Budget is hereby amended to include a Lodging Tax appropriation in the amount of \$208,983 (City's match) for the May Day Boat Ramp and Parking Lot Improvements and the Mayor is hereby authorized to execute any and all documents related to the project.

**APPROVED AND ADOPTED** by the Mayor and City Council of the City of Daphne, Alabama, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
**August A. Palumbo, Council President**

\_\_\_\_\_  
**Fred Small, Mayor**

**ATTEST:**

\_\_\_\_\_  
David L. Cohen, City Clerk MMC

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**ORDINANCE 2010-06**

**AN ORDINANCE ADDING/AMENDING THE CITY OF DAPHNE LAND USE AND DEVELOPMENT ORDINANCE NO. 2002-22, ADOPTED SEPTEMBER 3, 2002.**

**WHEREAS**, the Planning Commission of the City of Daphne at their regular meeting held on November 19, 2009, considered certain amendments to the City of Daphne Land Use and Development Ordinance and set forth **an affirmative recommendation** to the City Council of the City of Daphne that said amendments should be affirmed; and,

**WHEREAS**, due notice of the said amendment has been presented to the public as required by law through publication and open display at the City of Daphne Public Library and City Hall; and,

**WHEREAS**, a public hearing in regard to said amendment to the City of Daphne Land Use and Development Ordinance was held on January 4, 2010; and,

**WHEREAS**, the Mayor and City Council of the City of Daphne, after due consideration, deemed that the amendments requested are proper and believe it to be in the best interest of the City that said amendments be affirmed.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA that said amendments described below are hereby adopted as follows:**

**SECTION I: WEST HIGHWAY 90 RETAIL DISTRICT OVERLAY DISTRICT**

**ARTICLE XXXIX**

**39-1 GENERAL PROVISIONS**

**(a) Purpose of the West Highway 90 Retail Shopping District**

Whereas the City of Daphne promotes a quality living environment that sustains a balanced mix of commercial development that serves the day-to-day need of its residents, and promotes its image as a desirable and economically stable community. The City of Daphne, Alabama, a municipal corporation (the "City") hereby adopts the following provisions for the establishment of the West Highway 90 Retail Shopping District (90-WRSD) is hereby created to recognize and reinforce the importance of the existing interstate retail business corridor as a major commercial center for the City of Daphne. The intent is to enhance and encourage the retention of existing businesses and the establishment of new entrepreneurial businesses along Interstate 10 as demonstrated in the Eastern Shore Park District Overlay.

**(b) Boundaries**

The West Highway 90 Retail Shopping District (90-WRSD) is hereby established. The boundaries are as shown on the West Highway 90 Retail Shopping District Overlay Map and shall be considered an amendment to the Official Zoning Map of the City of Daphne. The map shall be amended in the same manner as any other zoning district permitted by the Land Use and Development Ordinance, and shall be amended in accordance with the provisions of Section 3-4.

This District shall be in addition to and shall overlay all other zoning districts where it is applied, so that any parcel of land lying in such an overlay district shall lie in one or more other zoning districts provided for by the Land Use and Development Ordinance.

**39-2 DISTRICT REQUIREMENTS**

The following zoning districts shall be allowed as established and most specifically defined in Article XII, Establishment of Districts: B-2, General Business and B-3, Professional Business.

**(a) Permitted Uses**

Permitted uses in the District are as provided in Article 35, Table of Permitted Uses. Article 35, the Table of Permitted Uses and Conditions, outlines the restrictions for each district. Furthermore, the outdoor display of merchandise is permitted by the operator of a store, provided that the outdoor areas for such activities are limited to off-street parking areas and sidewalks in the District. Any outdoor sales for special events shall require a special permit issued by the City.

**(b) Setbacks**

The following setback requirements shall apply in districts as outlined below.

**MINIMUM ZONING DISTRICT SETBACK REQUIREMENTS**

Zoning District	Front Yard (ft)			Rear Yard	Side Yard	Corner Lot <sup>c</sup> Side Yard (ft)	
	Arterial & Collector Streets	Local Streets & Service Roads	U.S., State or County Roads			Arterial & Collector Streets	Local Streets & Service Roads
<b>B-2</b>	30	20	100	a, b	a, b	30	25
<b>B-3</b>	30	20	100	a, b	a, b	30	25

Notes:

a. None, except it will be five (5) feet where abutting an alley, or where abutting a residential district it shall be at least thirty (30) feet.

b. Where a public or semi-public use abuts any part of a single family residential district, a buffer zone ten (10) feet wide shall be required. Where a commercial district abuts any part of a residential district a buffer zone of twenty (20) feet shall be required. Said buffer zone shall be designed in compliance with the provisions established in Section 19-10.

c. Lot Orientation: On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

**(c) Maximum Building Height**

Structures of more than five (5) stories or sixty-five (65) feet shall not be permitted.

**(d) Performance Standards for the District**

All lots in the District, and improvements thereon, shall comply with the following minimum standards:

1. Lots shall be of sufficient size to be used for the purpose intended, provide adequate parking and loading facilities in addition to space required for conduct of other operations of the business, and otherwise comply with the provisions provided herein.
2. No entrances or exits shall direct traffic into adjacent residential districts.
3. Noise, air pollutants including dust emissions, and surface runoff shall not exceed background levels by more than ten percent (10%).
4. Uses in all business districts must comply with all applicable health and safety standards, including sanitary facilities, paved and landscaped parking areas, and other requirements of this Ordinance, as well as, State and Federal regulations.
5. Non-permanent structures such as trailers, sheds, and other such buildings used for business purposes may be permitted in business districts, provided, however, that such structures may only be located at the rear and side of permanent structures and must be adequately screened by landscaped buffers or opaque fencing.
6. All dumpsters shall be enclosed on all four sides in order to conceal them from public view and screened from public view with an opaque fence or wall of permanent construction.

**39-3 IMPROVEMENT STANDARDS**

- (a) All streets in the District, whether private or dedicated for public use, shall be paved and adequately drained.
- (b) The full width of any public road improvements in the District shall be graded, including the sub-grade of the areas to be paved. This requirement may be modified for the purpose of preserving the natural beauty of an area. A base course consisting of at least eight (8) inches of a sand-clay mixture with one hundred percent (100%) standard compaction shall be laid on a soundly prepared sub-grade. A prime coat shall be sprayed uniformly over the base course. An approved type wearing surface compliant with State Highway Standard 416-A one and one-half (1-1/2) inches thick compacted shall be laid over the prime coat. If curbs and gutters are required, they must conform to approved State and County Highway Department standards.
- (c) All grading in the subdivision shall be related to the topography and environmental features of the surrounding area. Unpaved areas within a dedicated street right-of-way shall also be graded and shall be seeded in a manner that enhances the appearance of the environment.

- (d) All water mains, sanitary sewers and laterals, and storm sewers shall be installed as necessary to prevent the future cutting of the pavement of any street, sidewalk, or other required pavement.

**39-4 MINIMUM STREET REQUIREMENTS**

	Major Street	Collector Street	Local Street	Cul-de-Sac (Turnaround)	Alley
Minimum Right-of-Way:	100'	60'	50'	50' (100' diam.)	30'
Minimum Pavement: As Req'd	36'	27'	28'	20' (80' diam.)	20'
Maximum Grade:	3%	5%	5%	5%	5%
Minimum Angle of Intersection in Degrees:	80°	60°	60°	60°	60°
Minimum Curb Radius at Intersection:	40'	30'	15'	15'	15'
Minimum Horizontal Curve Radius:	300'	250'	100'	100'	100'
Minimum Reverse Curve Tangent:	100'	100'	100'	100'	100'

Notes:

- 1 Cul-de-sacs shall not be longer than six hundred (600) feet measured from the centerline of the intersecting street to the center of the turnaround.
- 2 Minimum pavement width is measured from back of curb to back of curb.
- 3 Maximum grade may vary with topography subject to Planning Commission approval based on recommendation of Director of Public Works, Community Development or City Engineer.

**39-5 SIDEWALKS & PEDESTRIAN WALKWAYS**

It is the intent of this section to require the installation of five (5) feet wide concrete or asphalt sidewalks on both sides of the street in the District in order to encourage vehicles and pedestrian connectivity within the City of Daphne. Sidewalks are counted toward the improvement standards of all streets and shall be installed prior to the issuance of a Certificate of Occupancy unless an agreement for future installation has been presented to the City by the developer. In no case shall the City of Daphne be responsible for the installation of sidewalks within any subdivision development.

**(a) Installation**

Sidewalks shall provide for pedestrian traffic and design thereof shall encourage safe means of access that minimize conflicts between vehicles and pedestrians. The use of pervious and/or permeable material or other innovative low impact design measures that promote may be considered by the Planning Commission in lieu of typical sidewalk installation. Due consideration shall be given to the practicality and feasibility of sidewalk installation depending upon the proposed development and the location. Except where exempted or modified by the Planning Commission, sidewalks shall be installed as follows:

- 1) Along the perimeter of all developments where adjacent to City right-of-way.
- 2) Along the right-of-way where adjacent to the perimeter of any common area within the development; except where walking trails and/or paths are incorporated into the design for formal/recreational open space as provided in Article 11-14(h). No final plat shall be approved until this provision is satisfied.
- 3) At the discretion of the Planning Commission, the sub-divider(s)/developer(s) may be required to provide access through greenways and common areas by sidewalk or trail. In such an instance, a trail may be implemented in lieu of the installation of sidewalks or to augment the sidewalk system. The trail path and design shall be reviewed and approved by the Planning Commission. Said trail shall be no less than ten (10) feet wide and shall be composed of permeable, porous paving materials.
- 4) Pedestrian crosswalks, not less than ten (10) feet wide, shall be required where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, bus stops, and other community facilities.
- 5) For all new subdivisions, restrictive covenants, as are required in Article 17, Subdivision Review, shall provide for the installation sidewalks and/or trails by the developer.
- 6) The Planning Commission may, at its discretion, approve a final plat prior to the installation of sidewalks upon receipt of an agreement to install sidewalks, a cost estimate for sidewalk installation and a surety in the amount of 200% of the estimated cost. Said surety shall not expire prior to a 24 month period.

### **39-6 WATER AND SEWER CONNECTIONS**

All developments, individual lots, or parcels shall be properly connected to a public community water and public sanitary sewer system.

### **39-7 DRAINAGE AND EROSION CONTROL REQUIREMENTS**

Article 18, Drainage and Storm Sewers, of the Land Use Ordinance is incorporated herein by reference.

### **39-8 SPECIAL PROVISIONS**

**(a) Utility Placement**

Water, sewer, gas, electric power, telephone, cable television, and other utility lines shall be installed underground by the developer and/or owner in all new commercial or industrial developments, expansions and/or renovations of existing development. Said developments shall be connected to a central distribution system, unless for good reasons other than cost, the Planning Commission approves a modification or waiver of this requirement in part or in whole, or if a special condition requires otherwise.

**(b) Location of Roadway Fire Hydrants**

Roadway fire hydrants shall be installed along each street at the center of each block and at one corner of each roadway intersection, provided, however, that in no event shall fire hydrants be spaced so that any fire hydrant is located more than six hundred (600) feet from another fire hydrant. The water supply and pressure shall be sufficient to provide adequate fire protection and the future needs of the intended land use. Additional fire hydrant placement may be required on the interior of developed lots pursuant to local ordinance and fire regulations as adopted by the City.

**(c) Location of Street Lighting**

Lighting shall be installed at all intersections, curves, and cul-de-sacs. If additional lighting is deemed necessary, the Director of Community Development shall require the developer to present a street lighting plan developed in conjunction with the appropriate utility company having jurisdiction within the area.

**(d) Placement of Street Signs**

Appropriate permanent type street name signs shall be placed at all intersections within the subdivision. The developer may select signs consistent with the theme of the development, subject to approval of the Director of Community Development.

**39-9 COMMENCEMENT OF CONSTRUCTION OR SITE DISTURBANCE**

Each person, firm, corporation, utility, entity, or agent thereof engaged in any site preparation and/or construction activities shall acquire a Site Disturbance Permit from the Department of Community Development prior to commencement of such activities pursuant to the provisions of this Article and no such activity shall commence prior to the approval of either a preliminary plat or site plan as is applicable. Fees for said permit shall be as are more specifically enumerated in Article 34 of the Land Use, entitled "Schedule of Fees."

**39-10 FINAL INSPECTION OF IMPROVEMENTS**

To ensure compliance with development regulations the project shall be inspected by all applicable entities prior to final approval by the City of Daphne. Under no circumstance shall the City be held liable for faulty workmanship, defects or improper engineering for private property.

## **Street Improvements**

To certify that streets are installed to minimum design standards, the developer/owner shall select an independent testing laboratory to perform necessary tests and submit test results to the Department of Community Development for prior to final inspection.

When all required improvements are installed and test results are submitted, the developer/owner shall call for a final inspection. Inspections shall be made in regard to the following: implementation of engineering design for storm water management and related improvements, utility improvements, environmental stability, landscaping, compliance with Fire Code and Building Code standards.

All appropriate entities including but not limited to the Director of Community Development, Public Works, and/or the City Engineer or a duly authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications prior to final plat approval or issuance of a certificate of occupancy.

### **39-11 SUBDIVISION REGULATIONS**

Article 17, Procedures for Subdivision Review, of the Land Use Ordinance is incorporated herein by reference.

### **39-12 PROCEDURES FOR SITE PLAN REVIEW**

#### **(a) Use and Applicability**

The District Regulations shall be complied with for all development in the District, regardless of whether such development involves the construction of business and commercial structures, additions thereto, construction of a park, public rights-of-way, open space, public building or structure, or public utility, whether publicly or privately owned, and other uses as required by the Planning Commission.

#### **(b) Special Provisions**

The following shall apply:

- (1) A site plan review shall be accomplished by the recommendation of the Director of Community Development and approval of the Planning Commission to assure compliance with the provisions of these District Regulations, as well as applicable building and fire codes.
- (2) Said approval shall be authorization to begin work, subject to a pre-construction meeting and the issuance of a Site Disturbance Permit. Such approval shall become void upon one (1) year from the date of approval if a site disturbance permit has been acquired and no building or construction activities have occurred on the permitted site.

- (3) When all required improvements are installed, the developer/owner shall call for a final inspection. The Director of Community Development, and/or the City Engineer and/or Director of Public Works or authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications.

**(c) Plan Content**

The plan shall contain all information as reflected on the current departmental checklist for a site which may be modified at the discretion of the Director of Community Development when applicable.

**(d) Reconsideration of Certain of Requirements**

The Director of Community Development may waive certain requirements contained in this Article if it is determined that the requirements are not essential to a proper decision on the proposed development; or, may supplement the list with other requirements deemed necessary to clarify the nature of the proposed development. The Director of Community Development may waive the requirement for a pre-construction conference if it is determined that the project would create minimum impact to the surrounding properties.

**(e) Issuance of Site Disturbance Permit**

Each person, firm, corporation, utility, entity or agent thereof engaged in any site preparation and/or construction activities shall acquire a Site Disturbance Permit from the Department of Community Development prior to commencement of such activities as established pursuant to the provisions of this Article and no such activity shall commence prior to the approval of a site plan by the Planning Commission. Fees for said permit shall be as are more specifically enumerated in Article 34 of the Land Use Ordinance, entitled the Schedule of Fees.

**(f) Issuance of Building Permit**

Upon approval of the site plan, either as submitted or with changes and/or special conditions required by the Planning Commission, the Building Official may issue a building permit for a portion or all of the proposed development provided the application is in compliance with all applicable City, County, as well as State and Federal requirements.

**(g) Requirement of Bond**

Whenever a person, firm, corporation, developer or other entity proposes to develop a commercial site that, in the opinion of the City Engineer, Director of Community Development or Public Works, constitutes a land disturbing activity, which may pose a risk of drainage and/or siltation damage outside the boundaries of the project, such person, firm, corporation, developer or other entity conducting the land disturbing

activity shall be required to submit a performance bond to the City prior to the issuance of a site disturbance permit.

At the time of approval of the site plan by the Planning Commission, the bond shall become effective and shall extend for a period of at least two (2) years following the issuance of the Certificate of Occupancy by the City. The bond shall be in the amount of ten percent (10%) of the total cost for the performance of all site work on the said location with bond to cover such drainage, erosion and siltation damage, if any.

The Director of Community Development or other administrative official as designated by the City Council shall determine the prescribed bond, as well as the adequacy and the security thereon.

**(h) Release of Bond**

At the expiration of twenty-four (24) months from the issuance of the Certificate of Occupancy, the City Engineer, Director of Public Works shall determine if the drainage design implementation of the project has:

- (1) Been performed in accordance and functions within the parameters of the design standards as set forth by the project engineer;
- (2) Received from the project engineer a Certificate of Performance which states the drainage functions have been constructed in substantial accordance with the plans, specifications, and engineering guidelines;
- (3) Had any material adverse impact on any streams, waterways or third parties; and,
- (4) Complied with all ADEM regulations in effect at the time of said completion.

Upon the Director of Community Development's receipt and evaluation of the criteria as enumerated in this Section and upon recommendation of the Planning Commission, the City shall release the developer and/or the bondholder from further obligations under said bond.

If it is determined that the requirements of this Section have not been met then the bond may be extended for one six (6) month interval to allow the developer and/or bondholder additional time to correct the deficiencies which prohibited the release of the bond. If a site contractor is unable and/or unwilling to satisfy the deficiencies as enumerated by the City Engineer/Director of Public Works, the bond shall be forfeited with the bond being payable to the City for the direction of such work and/or activities necessary for the completion of the improvements. The developer and/or bondholder of the property thereof shall be liable for any additional cost incurred.

**39-13 PARKING REQUIREMENTS FOR OVERLAY DISTRICTS**

**(a) General**

Off-street automobile storage or parking space shall be provided with vehicular access to a street or alley. Parking shall comply with the minimum requirements noted.

**PARKING SCHEDULE**

(a)	Land Use on Lot:	Parking Requirements
	Dwellings:	

	(1) Hotels/Motels: Without restaurants, lounges, and banquet facilities	One and a half (1.5) space for each bedroom
	(With in-house restaurants, convention/meeting capabilities):	One and one-half banquet facilities, or one and a half (1.5) spaces for each guest bedroom
(b)	Public Assembly:	
	(1) Theaters, Auditoriums, Coliseums, Stadiums, and Similar Places of Assembly:	One (1) space for each four (4) seats
(c)	Health Facilities:	
	(1) Hospitals, Sanitariums, Nursing Homes, Homes for the Aged and Similar uses:	One (1) space for each four (4) beds, plus one (1) space for each employee on the maximum shift.
	(2) Kennels and Animal Hospitals	A parking area equal to thirty (30) percent of the total enclosed or covered area.
	(3) Medical, Dental and Health Offices and Clinics:	One (1) space for each two hundred (200) square feet of floor area used for offices and similar purposes.
	(4) Mortuaries and Funeral Parlors	Ten (10) spaces per parlor, chapel unit or one
(d)	Business:	
	(1) Restaurants (including bars, grills, diners, cafes, taverns, night clubs, lunch counters, and all similar dining and/or drinking establishments	Ten (10) parking spaces for each one thousand (1,000) square feet of floor area.
	(2) Commercial and Shopping Centers:	One (1) space per two hundred fifty (250) square feet of floor area.
(e)	Uses Not Listed Above	Four and one-half (4.5) parking spaces per one thousand (1,000) square feet of floor area.
	<b>CALCULATION OF FLOOR AREA:</b> In the calculation of floor area to determine parking ratios, the term “floor area” shall mean enclosed areas which are heated and cooled.	Expressly excluded from this term are garden center floor areas and outdoor storage areas or outdoor sales areas.

**(b) Design Standards**

(1) Definition

An off-street parking space is an all-weather surfaced area not in a street or alley, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords unobstructed ingress and egress to each space.

(2) Parking Area Dimensions

The design and dimensions of the standard parking area shall have a minimum nominal dimension of eighteen (18) feet in depth and nine (9) feet in width.

The design and dimension of handicap parking areas shall be in accordance with the Americans with Disabilities Act.

(3) Width of Two-Way Access Driveways

The minimum width of two-way access driveways within parking areas shall be twenty-four (24) feet.

(4) Paving Standards: Parking spaces and driveways shall be paved to the standards established by the City.

(5) Drainage

Off-street parking facilities shall be drained to prevent damage to abutting property and streets, and to prevent pollutants from draining onto such streets and the adjacent lots. Landscape and perimeter areas shall be so graded as to direct runoff to the storm drainage system. The storm drainage system shall be designed to include water quality measures for the first one (1) inch of rainfall.

(6) Off-Street Loading and Unloading Space

Off-street loading/unloading spaces shall be provided as hereinafter required by these District Regulations.

(a) Size of Spaces

Each off-street loading/unloading space shall have minimum dimensions of fourteen (14) feet in height, twelve (12) feet in width, and fifty-five (55) feet in length.

However, upon sufficient demonstration a particular loading space will be used exclusively by shorter trucks, the Planning Commission may, upon

request, reduce the minimum length accordingly to as much as thirty-five (35) feet.

(b) Connection to Street or Alley

Each required off-street loading and unloading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks.

(c) Floor Area More Than Ten Thousand (10,000) Square Feet

There shall be provided for each commercial building, or similar use requiring the receipt or distribution of materials or merchandise and having a floor area of more than ten thousand (10,000) square feet, at least one (1) off-street loading and unloading space. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street, or alley.

(d) Location

All required off-street loading and unloading spaces shall be located on the same lot as the building which they are intended to serve or on an adjacent lot when shared with the user occupying said adjacent lot.

**39-14 LANDSCAPE AND TREE PROTECTION**

**(a) Purpose**

The intent of this Section is to establish minimum standards for the provision, installation, and maintenance of landscape plantings and trees in order to achieve a healthy, beautiful, and safe community.

**(b) Applicability and Use**

(1) Applicability:

The provisions of this Article apply to all projects within the District involving the construction of business and commercial structures, all existing structures which increases the gross floor area by thirty (30) percent or more and other projects as required by the Planning Commission.

(2) Use or Ownership Provision:

In the event of a change in: (a) use of property, (b) occupancy, or (c) ownership regardless of name change to any business, commercial, or industrial development, it shall be the responsibility of the owner to comply with the provisions of this Article within one hundred and eighty (180) days from the date in which the change occurs.

**(c) Buffer Zone Requirements**

Where a business district in the District abuts, without any intervening public road right-of-way, any part of an adjoining residential area, a buffer zone twenty (20) feet wide shall be required.

The buffer shall run the entire length of the abutting lot line(s). Under no circumstances shall this buffer impair vehicular flow and shall be part of the yard requirements. Said protection buffer shall be maintained in such a manner to accomplish its purpose continuously. This District shall comply with the following minimum standards and said buffer zone shall be constructed of at least one of the following three (3) designs or a combination thereof, as determined by the Director of Community Development and approved by the Planning Commission:

(1) Wall or Fence

If a wall or fence of solid appearance is provided as a protection buffer, it shall be at least six (6) feet in height and of a construction and a design recommended and approved by the Planning Commission.

(2) Screen Planting Strip

A staggered double row of evergreen plantings at least ten (10) feet in width which will grow to at least ten (10) feet in height and spaced in a manner in which after three years it will provide an impervious visual barrier.

(3) Natural Forest

A natural forest is in its undisturbed forest which provides a nearly impervious visual barrier due to the dense nature of the plants and/or trees. If this option is chosen, the width of the buffer zone shall be twenty-five (25) feet and shall be shown on the landscape plan. The Director of Community Development shall determine whether the barrier is satisfactory via site inspection prior to final approval.

**(d) Landscape Standards**

(1) Site Plan Review

A site plan shall not be approved by the Planning Commission without an acceptable landscape and irrigation plan. A Certificate of Occupancy shall not be issued for any development project unless a certification of compliance letter has been submitted from the design engineer and the design landscape architect. Said certification shall include the following:

inspection date; signature and seal of said engineer and landscape architect; list of deficiencies and/or deviations from plans approved by the Planning Commission; and a statement regarding compliance with plans submitted.

(2) Subdivision Review

A subdivision shall not be approved by the Planning Commission without an acceptable landscape and irrigation plan, as the same is defined pursuant to the provisions of this Section of the District Regulations.

All subdivisions shall require a landscape plan for the common areas of the subdivision: the entrance, detention pond, and other areas which are deemed appropriate by the Planning Commission.

(3) Jubilee Square Mall or West Highway 90 Retail Shopping District Landscaping Retrofit

Jubilee Square Mall or The District shall be developed as a Low Impact Development (LID) wherein the Planning Commission shall consider innovative low impact development landscape design, techniques and methods as a means to decrease stormwater runoff, pollution, erosion and to recharge groundwater. Bio-retention areas, porous asphalt, permeable pavers, pervious walkways, elevated landscape beds, bio-retention cells, vegetated swales, infiltration trenches, and dry wells to increase storage volume and facilitate infiltration are encouraged.

(4) Interstate 10 Landscaping

To the extent the City has authority to do so, it authorizes the developer/owner to remove some trees in that portion of Interstate 10 which abuts the northern boundary of the District. Such removal is conditioned upon the following:

- (a) Submission to and approval by the Planning Commission of a landscaping plan prepared by the developer/owner;
- (b) Obtaining any necessary permits from the Alabama Department of Transportation for the installation of landscaping improvements within the area from which trees are removed; and,
- (c) The developer/owner's installation of the landscaping improvements according to the approved landscaping plan.

(e) **Revisions to Landscape Plan**

If proposed construction shall cause changes in the landscape or irrigation plan, a revised plan shall be submitted to the Director of Community Development for re-evaluation.

**(f) Issuance of Site Disturbance Permit**

A landscape and irrigation plan shall be submitted for review by and the recommendation or other comments of the Director of Community Development and shall be subject to the approval of the Planning Commission prior to the issuance of a Site Disturbance Permit.

**(g) Compliance with Landscape Provisions**

All subject properties, as well as those owned by the City, shall comply with the provisions of this Article.

**(h) Certification and Plan Requirements**

Landscape plans shall be drawn and stamped by a licensed landscape architect registered in the State of Alabama.

The landscape plan shall be of professional quality and include the following:

- (1) Date, scale, north arrow, title, and names and contact information for property owner(s), developer, and the landscape architect.
- (2) Location of existing boundary line dimensions of the building site, existing water sources, significant drainage features, existing and proposed streets or alleys, existing or proposed utility easements on or adjacent to the building site, rights-of-way, setbacks, locations of proposed parking spaces, and location of existing and/or proposed sidewalks.
- (3) The location(s) and dimension(s) of the proposed landscaped areas within the parking area.
- (4) Locations, type, and design of the proposed irrigation system.
- (5) Location and species of buffer zone vegetation.

**(i) Certification by Alabama Licensed Landscape Architect**

Any and all landscape plans as required in this Section shall, in addition to any other requirements, be reviewed and approved by an Alabama licensed and registered landscape architect to be designated by the Planning Commission with the professional costs for such services to be reimbursed to the City by the party submitting the plans for approval. Such landscape architect's review shall include the design, irrigation, location and type of planting, and any and all other criteria necessary so as to ensure that the planting and design is consistent with local standards.

If the landscape architect's review fee is known at the time of the plan's submission, the submitting party shall pay the fee upon submission. Otherwise,

the fee shall be paid by the submitting party within ten (10) days of receipt of a statement of the amount of the fee.

### **39-15 OFF-STREET PARKING FACILITIES**

The design and appearance of parking areas are intended to be compatible with the character of the community. Toward this objective, the following landscaping standards shall be observed in the construction of off-street parking areas which accommodate six (6) or more parking spaces:

- (a) At least fifteen percent (15%) of the total lot area intended for off-street parking shall be suitably landscaped.
- (b) Interior portions of the parking area at intervals of twelve (12) parking spaces shall be broken by provision of landscaped islands. Such landscape islands shall include the placement of shade or flowering trees at least two and one-half (2-1/2) inches or greater in caliper and ten (10) feet in height at planting.
- (c) Each separate landscaped area must be a minimum of two hundred eighty (280) square feet if it is to be counted toward the minimum landscaped area requirements.
- (d) Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops.
- (e) The owner, tenant and/or agent, if any, shall be jointly and severally responsible for watering and maintaining all landscaping in a healthy, neat and orderly condition, replacing it when necessary, and keeping it free of refuse and debris.
- (f) A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities.

If required, such areas shall be planted with a combination of trees, shrubs, and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Director of Community Development.

- (g) Innovative landscape designs using “natural cluster of trees” rather than the required one (1) tree at intervals of twelve (12) parking spaces may be used if approved by the Planning Commission.

### **39-16 SIGN PROVISIONS**

#### **(a) Signs Prohibited in the West Highway 90 Retail Shopping District**

The following signs are prohibited:

(1) Prohibited Placement

Any sign erected or painted upon a sloped roof, fence, tree, stand pipe, fire escape, or utility pole is prohibited, except that a manufacturer's or installer's identification (ID) plate shall be permitted, provided that such plate does not exceed 5 x 8 inches in size.

(2) Prohibited Wording

Any sign which is not a traffic control sign and uses the word "Stop" or "Danger" prominently displayed and/or which is a copy or imitation of official traffic control signs is prohibited.

(3) Flashing Signs Prohibited

(a) General Prohibition:

Except as otherwise provided in subsection (b) (1) below, flashing signs, signs which contain intermittent illuminations and digital LED signs/reader boards are prohibited.

(b) Exceptions:

This subsection does not prohibit the following:

- (1) Signs required for traffic control; and,
- (2) Signs which exhibit time, date, temperature, and other customary public information.

(4) Prohibited Sign Types

Portable signs, bench signs, snipe signs, sandwich signs, except as allowed in Section 33-5, Subsection (d)(e) of Article 33 of the Land Use Ordinance, ladder-type signs, billboard signs or off-premises signs. "Billboard" is defined as "an off-premises or off-site sign advertising an establishment, merchandise, product, service, or entertainment which is not sold, provided, manufactured, or furnished on the property on which said sign is located." "Off-premises sign" is defined as "a billboard or other sign on which any portion thereof relates to a premises (or activities thereon) other than the property on which said sign is located."

(5) Prohibited Sign Effects

Signs which produce sound, noise, cause interference with radio, telephone, television or other communication transmission, produce or reflect motion pictures; emit visible smoke, vapor, particles, odor, are animated, or produce any rotation, motion, or movement.

(6) Illuminated Tubing

(a) General Prohibition:

Illuminated tubing or strings of lights that outline property lines, sales area, roof lines, doors, windows, wall edges, similar areas or other architectural features of a building are prohibited.

(b) Exception:

This prohibition shall not apply to temporary displays erected in connection with holiday decorations and community decorations.

**(b) Permitted Signs**

The following signs are permitted, subject to review by the Planning Commission to determine compliance with the sign criteria provided below in this and further subject to the requirement that permitted signs shall have internal illumination only.

The maximum allowable square footage established in each zoning designation and/or overlay district shall apply as provided in each district. Said allowable area shall not be exceeded. In the event that channel letters, as defined in Article 8, Definitions, are proposed, then the maximum allowable square footage shall be calculated at a rate of eighty percent (80%) in lieu of the standard rate of one hundred percent (100%).

(1) Monument and Pylon Signs:

Except as otherwise provided in these District Regulations, the following monument and pylon signs are permitted in the District.

(2) West Highway 90 Retail Shopping District Pylon Sign:

(a) The developer/owner or their designee is permitted to install and maintain one (1) on-premise pylon sign on their development as a location to be approved by the Planning Commission. This sign is permitted to have panels for multiple businesses in the District, provided that the panel space on each side of the West Highway 90 Retail Shopping District Pylon Sign shall not exceed nine hundred (900) square feet in the aggregate and no individual panel shall have more than two hundred and fifty (250) square feet or less than one hundred and fifty (150) square feet per side.

(b) The height of the West Highway 90 Retail Shopping Pylon Sign shall not exceed ninety (90) feet and shall be determined based on a sight line study obtained by the developer/owner and approved by the Planning Commission as justification for the proposed height and to insure that the top panel on the sign is visible while traveling in any direction on Interstate 10.

The sight line study shall consider the following:

- a. The topographical elevation of the location of the West Highway 90 Retail Shopping District Interstate Pylon Sign;
  - b. Any obstruction to the sign panels by trees, other signs, structures or items along Interstate 10.
- (c) Any lot in the District which abuts Interstate 10 and either has at least two hundred (200) feet along the right-of-way of Interstate 10, or is located at the intersection of the Interstate 10 ramp/right-of-way and Highway 90, shall be permitted one (1) individual lot interstate pylon sign at or near said lot's common boundary with Interstate 10.
- (d) Permitted individual lot interstate signs shall not exceed fifteen (15) feet in width, nor forty-five (45) feet in height, and shall have a maximum area of three hundred (300) square feet per face. Lots in the West Highway 90 Retail Shopping District which border Interstate 10, other than those described immediately above may not have an individual lot interstate pylon sign unless approved as a variance by the Board of Zoning Adjustment.
- (3) Shopping Center or Development Signs
- One (1) sign is permitted on U.S. Highway 90 identifying the development. Each side may also have panels beneath the development identification not exceeding one hundred and fifty (150) square feet each for multiple businesses within the District. No sign shall exceed twenty-one (21) feet in height or fifteen (15) feet in width.
- (4) Monument Signs
- Each lot having frontage on U.S. Highway 90, or any other public road or right-of-way within or abutting the District shall be permitted to have one (1) monument sign for each public road right of way which the lot abuts. The sign shall be placed perpendicular to the said highways and/or right of way. If the lot's road frontage is three hundred (300) feet or less, then the permitted sign area shall not exceed fifty (50) square feet per face. If the lot's road frontage exceeds three hundred (300) feet then the permitted sign area shall not exceed one hundred (100) square foot per face. All monument signs shall have a pedestal. The sign shall not exceed fifteen (15) feet in height, pedestal included.
- (5) Directional Signs
- Directional Signs shall be permitted at the intersection of all roads in the West Highway 90 Retail Shopping District. Directional Signs shall not exceed sixteen (16) square feet per face.
- (6) Wall-Mounted Signs

Each establishment/business premises under 65,000 square feet of building area in B-1, Local Business and B-2, General Business districts may acquire an additional permit for a wall-mounted sign of a size not to exceed the lesser of three hundred fifty (350) square feet or thirty (30) percent of the surface frontal area of the building. Each establishment 65,000 square feet of building area or larger may acquire a permit for wall mounted signage of a size not to exceed six and one half percent (6.5%) of the surface frontal area of the building. Signs mounted on mansards, marquees, and awnings are deemed to be wall signs.

(a) Side Surface Area Wall-Mounted Signage

A business establishment sixty five thousand (65,000) square feet of building area or more may have two (2) additional wall-mounted signs of a size not to exceed five percent (5%) of the surface area of the side of the building. Said signage shall be limited to one side of the building, either the left or right side or the rear of the building.

(b) Accessory Use Advertisement Wall-Mounted Sign

A business establishment between forty thousand (40,000) square feet of building area to one hundred thousand (100,000) square feet of building area may have one (1) additional wall-mounted sign of a size not to exceed one hundred (100) square feet for the purpose of advertising an accessory use.

A business with over one hundred thousand (100,000) square feet of building area may have two (2) additional wall-mounted signs of a size not to exceed one hundred (100) square feet each for the purpose of advertising accessory uses. No business establishment may have more than three (3) wall-mounted signs.

(7) Menu Type Signs

One menu type sign per drive-thru window service shall not exceed forty (40) square feet in area or eight (8) feet in height.

(8) Gasoline and Fuel Signs

Gasoline or other motor vehicle fuel pricing signs, in addition to permitted name or identification signs, are permitted in any business or industrial district. Such signs shall not exceed twelve (12) square feet in area and must comply with the other applicable sign requirements for the West Highway 90 Retail Shopping District.

(9) New Construction Signs

(a) General Provision

Temporary non-illuminated signs not more than thirty-two (32) square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress may be permitted. One (1) such sign, no greater than ten (10) feet in height, is allowed for each street frontage. Such signs shall be removed upon completion of the project.

(b) Temporary Advertising Sign

A temporary advertising sign will be permitted to the owner for the development for each individual business premises, shopping center premises provided the area of each sign shall not exceed thirty-two (32) square feet, is non-illuminated, and is within the confines of the development. These signs shall be the height no greater than ten (10) feet mounted from the ground, for no more than one (1) sign, either single or double faced, per street frontage.

(c) Temporary Promotional Banners

Two (2) temporary signs or banners not exceeding fifty (50) square feet each in area and temporary decorative flags, bunting, pennants and streamers for recognizing grand openings are permitted. Said temporary banners shall be kept in good condition and shall be permitted no more than fourteen (14) days. Furthermore, decorative seasonal banners are permitted on light standards at all times, provided that the same are maintained in good condition.

### **39-17 DISTRICT MAP**

The West Highway 90 Retail Shopping Overlay District Map Exhibit is hereby adopted as a part of this Ordinance, (See Appendix).

### **SECTION 3: REPEALER.**

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

### **SECTION 4: SEVERABILITY.**

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

### **SECTION 5: EFFECTIVE DATE.**

This Ordinance shall be in full force and effect upon its adoption and publication as required by law.

**APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS**  
\_\_\_\_ day of \_\_\_\_\_, 2010.

**THE CITY OF DAPHNE,**

**AN ALABAMA MUNICIPAL CORPORATION**

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**AUGUST A. PALUMBO,**  
**COUNCIL PRESIDENT**

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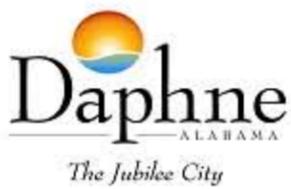
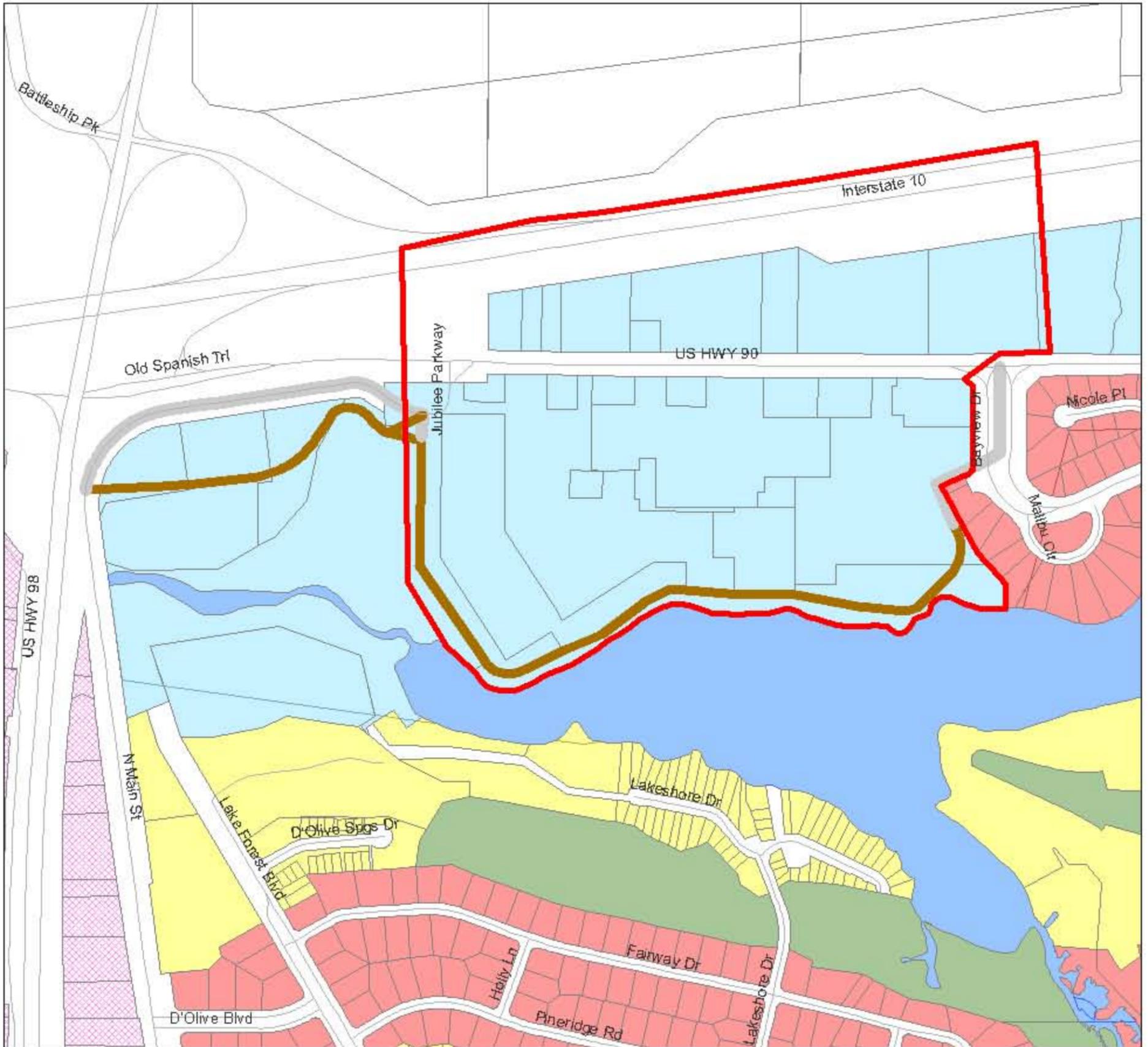
**FRED SMALL,**  
**MAYOR**

**ATTEST:**

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**DAVID L. COHEN,**  
**CITY CLERK, MMC**

**DRAFT** Highway 90 West Retail District Overlay **DRAFT**



**ADOPTED BY THE CITY OF DAPHNE  
PLANNING COMMISSION**

**DATE:**

**PLANNING COMMISSION CHAIRMAN**

**ADOPTED BY THE DAPHNE CITY COUNCIL  
DATE:**

**MAYOR  
FRED SMALL**

**CITY CLERK  
DAVID COHEN**

**Legend**

- Hwy 90 West Retail Overlay
- Streets
- Proposed Sidewalk & Trail
- sidewalk
- trail
- R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
- R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
- R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
- R-4 HIGH DENSITY SINGLE & MULTI-FAMILY RESIDENTIAL
- R-5 MOBILE HOME RESIDENTIAL
- B-1 LOCAL BUSINESS
- B-2 GENERAL BUSINESS
- B-3 PROFESSIONAL BUSINESS
- C1 COMMERCIAL/INDUSTRIAL
- MU/MU MULTI-USE
- WLDERNESS AREA
- GOLF COURSE
- ET JURISDICTION



This information contained in the data distributed by the City of Daphne is derived from a variety of public and private sources considered to be dependable, but the accuracy, completeness and currency thereof are not guaranteed. The City of Daphne makes no warranties, expressed or implied, as to the accuracy, completeness, currency, reliability or suitability for any particular purpose of the information data contained in or generated from the City Geographic Information System. Additionally, the City of Daphne or any agent, servant, or employee shall assume no liability associated with the use of the data, and assume no responsibility to maintain any names or firm. Any questions regarding zoning or any data should be directed to the City of Daphne Planning Department, Tel. #251-621-3384.

**ORDINANCE NO. 2010-07**

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE  
LIMITS  
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA**

**AJD Family Limited Partnership  
(Property located on the Southeast of intersection of County Road 64 and  
Friendship Road)**

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

**WHEREAS**, the owners of the property described in Section 2 of this Ordinance have signed and filed a written petition with the City Clerk of the City of Daphne, Alabama, requesting that such property be annexed to the corporate limits of the City of Daphne, Alabama; and,

**WHEREAS**, all of such property is located and contained within an area contiguous to the corporate limits of the City of Daphne, Alabama and does not lie within the corporate limits or police jurisdiction of any other municipality; and,

**WHEREAS**, said petition contains an accurate description of the property or territory proposed to be annexed together with a map of said property showing its relationship to the corporate limits of the City of Daphne; and,

**WHEREAS**, said petition has been presented to the Planning Commission of the City of Daphne on August 27, 2009 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned B-1, Local Business District**; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on January 4, 2010 concerning the petition for annexation; and,

**WHEREAS**, the City Council of the City of Daphne, Alabama has determined that it is in the best interest of said City that the property described in Section 2 hereof be annexed to the corporate limits of the City of Daphne, and that all the requirements of Sections 11-42-21 through 11-42-24, Code of Alabama, 1975, as amended have been complied with by said Petitioner.

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

**SECTION 1: CONSENT TO ANNEXATION.** The City Council of the City of Daphne, Alabama does by this Ordinance assent to the annexation of the property described in Section 2 of this Ordinance to the corporate limits of the City of Daphne, Alabama, and does by the adoption of this Ordinance, extend and rearrange said corporate limits to embrace and include such property.

**SECTION 2: THE PROPERTY.** That property requested to be annexed into the City of Daphne is described in Exhibit "A", attached hereto and made a part of this Ordinance as if fully set out herein.

**SECTION 3: MAP OF PROPERTY.** The property hereby annexed to the City of Daphne, Alabama, is set forth and described in Exhibit "B" and attached hereto a map of the property showing its relationship to the corporate limits of the municipality of the City of Daphne and made a part of this Ordinance.

**SECTION 4: PUBLICATION.** This Ordinance shall be published as required by Section 11-42-21, Code of Alabama, 1975, as amended, and the property described herein shall be annexed to the corporate limits of the City of Daphne, Alabama, upon such publication.

**SECTION 5: PROBATE COURT.** A description of the property described in this Ordinance shall be filed in the Office of the Judge of Probate of Baldwin County, Alabama, as required by Section 11-42-21, Code of Alabama, 1975, as amended.

**“Exhibit A”**

**DESCRIPTION OF ANNEXATION:**

COMMENCING AT THE NORTHEAST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE RUN N-89°39'12"-W, 1273.36 FEET TO A POINT; THENCE RUN S-00°22'22"-W, 39.50 FEET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64 AND THE POINT OF BEGINNING; THENCE CONTINUE S-00°22'22"-W, 15.00 FEET TO A POINT; THENCE RUN N-89°39'57"-W, 1149.56 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 170.00 FEET TO A POINT; THENCE RUN N-89°39'12"-W, 15.00 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 183.24 FEET TO A POINT; THENCE RUN S-89°34'56"-E, 90.22 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 409.55 FEET TO A POINT; THENCE RUN S-89°45'00"-E, 304.23 FEET TO A POINT; THENCE RUN S-00°12'13"-W, 564.17 FEET TO A POINT; THENCE RUN N-89°45'00"-W, 304.69 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 404.36 FEET TO A POINT; THENCE RUN S-89°28'24"-E, 39.78 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 200.00 FEET TO A POINT; THENCE RUN N-89°28'24"-W, 300.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF FRIENDSHIP ROAD; THENCE RUN N-00°15'00"-E, ALONG SAID EAST RIGHT-OF-WAY LINE 1775.61 FEET TO A POINT; THENCE RUN N-89°39'12"-W LEAVING SAID EAST RIGHT-OF-WAY LINE, 170.00 FEET TO A POINT; THENCE RUN N-00°15'00"-E, 170.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64; THENCE RUN S-89°39'57"-E ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1164.59 FEET TO THE POINT OF BEGINNING, CONTAINING 14.78 ACRES, MORE OR LESS.

**SECTION 6: REPEALER**  
Ordinances numbers 2009-56 is hereby repealed in its entirety.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
**August A. Palumbo,  
Council President**

\_\_\_\_\_  
**Fred Small,  
Mayor**

**ATTEST:**

\_\_\_\_\_  
**David L. Cohen,  
City Clerk, MMC**

**AJD FAMILY LIMITED PARTNERSHIP**  
**SOUTHEAST OF THE INTERSECTION OF**  
**COUNTY ROAD 64 AND FRIENDSHIP ROAD**

**ANNEXATION**

**EXHIBIT "A"**

DESCRIPTION OF ANNEXATION:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE RUN N-89°39'12"-W, 1273.36 FEET TO A POINT; THENCE RUN S-00°22'22"-W, 39.50 FEET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64 AND THE POINT OF BEGINNING; THENCE CONTINUE S-00°22'22"-W, 15.00 FEET TO A POINT; THENCE RUN N-89°39'57"-W, 1149.56 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 170.00 FEET TO A POINT; THENCE RUN N-89°39'12"-W, 15.00 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 183.24 FEET TO A POINT; THENCE RUN S-89°34'56"-E, 90.22 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 409.55 FEET TO A POINT; THENCE RUN S-89°45'00"-E, 304.23 FEET TO A POINT; THENCE RUN S-00°12'13"-W, 564.17 FEET TO A POINT; THENCE RUN N-89°45'00"-W, 304.69 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 404.36 FEET TO A POINT; THENCE RUN S-89°28'24"-E, 39.78 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 200.00 FEET TO A POINT; THENCE RUN N-89°28'24"-W, 300.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF FRIENDSHIP ROAD; THENCE RUN N-00°15'00"-E, ALONG SAID EAST RIGHT-OF-WAY LINE 1775.61 FEET TO A POINT; THENCE RUN N-89°39'12"-W LEAVING SAID EAST RIGHT-OF-WAY LINE, 170.00 FEET TO A POINT; THENCE RUN N-00°15'00"-E, 170.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64; THENCE RUN S-89°39'57"-E ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1164.59 FEET TO THE POINT OF BEGINNING, CONTAINING 14.78 ACRES, MORE OR LESS.



