

**CITY OF DAPHNE  
CITY COUNCIL BUSINESS MEETING AGENDA  
July 5, 2005**

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

- 3. APPROVE MINUTES: June 20, 2005**

**PRESENTATION:** Tom Hess

**PRESENTATION:** Maria Nicholson / Recreation Department / Awards for Volunteers

- 4. REPORT STANDING COMMITTEES:**

- A. **FINANCE COMMITTEE** - Scott
- B. **BUILDINGS AND PROPERTY COMMITTEE**- Lake
- C. **PLANNING/ZONING/CODE ENFORCEMENT** - Barnette
- D. **PUBLIC SAFETY/ORDINANCE COMMITTEE**- Burnam
- E. **PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY** – Yelding

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

- A. **Board of Zoning Adjustments** – Eady
- B. **Downtown Redevelopment Authority** -Barnette
- C. **Industrial Development Board** – Yelding
- D. **Library Board** B Lake
- E. **Planning Commission** B Barnette  
Set Public Hearing: Amending Land Use Ordinance – Overlay District  
**AUGUST 1, 2005**
- F. **Recreation Board** - Burnam
- G. **Utility Board** Scott

- 6. REPORTS OF THE OFFICERS:**

- A. *Mayors Report*
  - a. ) *Special Events Permit / Kingsway Ministries*

*B. City Attorney=s Report*

*C. Department Head Comments*

David Cohen – City Clerk – Set Public Hearing / Recreational Trails or LWCF Grant for August 1, 2005

- 7. PUBLIC PARTICIPATION:**

**8. RESOLUTIONS:**

- a.) **Acceptance of Streets & Drainage / Sehoj  
Subdivision, Phase Five. .... /Resolution 2005-45**
- b.) **Acceptance of Roadway Located at County Road 64 – From  
Pollard Road East to a Point Feet East of the Center Line of  
Baldwin County Highway 13. .... /Resolution 2005-52**
- c.) **Acceptance of Roadway Located at County Road 13 – From  
North Right-of-Way Line of County Road 64 to Daphne City Limits. .... /Resolution 2005-53**

**ORDINANCES:**

**NO ORDINANCES**

**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\_\_ \_

COUNCILWOMAN LANDRY

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

**1. CALL TO ORDER**

Council President Burnam called the meeting to order at 6:30 p.m.

**2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE**

Mr. Lake gave the invocation.

COUNCIL MEMBERS PRESENT: Cathy Barnette; John Lake; Greg Burnam; Ron Scott; Regina Landry; August Palumbo.

Absent: Bailey Yelding.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Bill Eady, Planning Department Director; Ken Eslava, Public Works Director; David McKelroy, Recreation Director; Kim Briley, Finance Director; Mund Hanson, Fire Chief; Capt. Randy Bishop, Jail Administrator/Support Services; Sandra Morse, Civic Center Director; Ronnie Phillips, Building Inspection Director; Dale Foster, Librarian; Sandy Carden, Human Resource Administrative Assistant; Maria Nicholson, Recreation Department; Nancy Anderson, GIS Technician; Scott Hutchinson, City Engineer; Willie Robison, BZA; Lon Johnston, Utility Board.

Absent: Sharon Cureton, Human Resource Director;

**3. APPROVE MINUTES:**

**MOTION BY Mrs. Barnette to approve the minutes meeting held June 6, 2005.  
Seconded by Mrs Landry .**

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

**PRESENTATION:** Acceptance of Streets& Drainage for Bellaton Subdivision  
Phase One

Mr. Eady gave a presentation assisted by Ms. Nancy Anderson showing slides of the subdivision.

**PRESENTATION:** Report on Belrose Avenue Residents / Bayside Academy by  
Ernie Berger

*Mr. Berger* reported that Bayside Academy has assured the residents that the stream is not in jeopardy and that the residents will be involved with aesthetically improving the stream. Bayside has taken steps to slow down and control the traffic from delivery and pickup of students and sporting events. He said detailed mapping of traffic examination is warranted when Bayside comes back into session. He said that Bayside and residents are working jointly in trying to control traffic. He stated that on behalf of the small group of residents that they are pleased with what Bayside has done and considers them a partner in the process going forward. He said that Bayside Academy joined the Olde Towne Daphne West Association, and as such became part of an organization that let's them

take future building plans and future ideas to a forum to inform citizens without having to burden the City Council.

*Mrs. Barnette* asked if the Mayor could look into a traffic study with the Police Department when school comes back into session.

**4. REPORT OF STANDING COMMITTEES:**

**A. FINANCE COMMITTEE – Scott**

*Mr. Scott* reported that the Committee met last Monday. He asked the Council members to make sure they look at the Lodging Tax report, and the Community Contributions Policy. The Committee has been talking for sometime about requests of funds from non-profit organizations, and he had asked *Mrs. Briley* to find another city that has approached this and come up with some type of policy, and she found one from the City of Auburn. He said this might not fit Daphne exactly, but it is a guideline.

**Treasurers Report**

Balance ending May 31, 2005 is \$11,565,959.39

**MOTION BY Mr. Lake to accept the Treasures Report ending May 31, 2005 with a balance of \$11,565,969.39. Seconded by Mrs. Landry.**

<b>AYE</b>	<b>ALL IN FAVOR</b>	<b>NAY</b>	<b>NONE OPPOSED</b>	<b>MOTION CARRIED</b>
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**Sales and Use Tax – April, 2005**

*Mr. Scott* said that \$863,144.81 was collected and \$797,162 was budgeted, so there was almost \$66,000 increase over what was budgeted, this was after the adjustment.

**Lodging Tax – April, 2005**

These continue to run ahead of where it was a year ago. The tax collected was \$40,666.33 verses \$21,626 a year ago.

**Motions**

**1.) *Authorize Restructuring of Public Works and Building Maintenance Departments***

*Mr. Ken Eslava* explained they will delete one Public Works Supervisor position and replace it with two Crew Leader positions. The salary from that position will be used to promote from within two Crew Leader positions and at the same time create another slot in the Building Maintenance Department and still have money left over.

*Mr. Scott* reported that this is recommended by the Finance Committee.

**MOTION BY Mrs. Landry to approve the restructuring of the Public Works Department and Building Maintenance Department.      *Seconded by Mr. Lake.***

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

**2.) *Authorize Pay-Off of 1997 Note Payable***

This is Bayfront property and the funds come from lodging taxes, and since they are ahead the Committee recommended to pay off the balance of \$74,484 and save \$3,325 in interest.

**MOTION BY Mr. Lake to pay the balance of the 1997 Note Payable in the amount of \$74,484, with funds from the Lading Tax proceeds.      *Seconded by Mrs. Landry.***

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

**3.) *Authorize Application: SAFER Act Grant***

The Finance Committee recommended this unanimously.

**MOTION BY Mr. Scott to authorize the Fire Chief to apply for funding of twelve (12) Firefighter positions through the SAFER Act Grant.      *Seconded by Mrs. Landry.***

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

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

The minutes are in the packet from the June 3<sup>rd</sup> meeting with no Council action needed.

**C. PLANNING/ZONING/CODE ENFORCEMENT – Barnette**

No report.

**D. PUBLIC SAFETY/ORDINANCE COMMITTEE – Burnam**

**1.) *Recommend to Change Street Name from Cummings Lane to Captain's Lane***

The Committee recommended the name be changed from Cummings Lane to Captain's Lane.

**MOTION BY Mrs. Landry to change the name of Cummings Lane to Captain's Lane.      *Seconded by Mr. Lake.***

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

**2.) *Recommend that Community Development work on the standardized addressing for all of Highway 98.***

*Mr. Burnam* said he spoke with Mr. Eady before the meeting and he agreed to take this task on. He said that the numbers go from three (3) digits then to five (5) digits then to four (4) digits and this makes it confusing for not only citizens but for safety personnel.

**MOTION BY Mr. Lake to authorize Community Development to work on the standardized addressing for all of Highway 98. Secoded by Mrs. Landry.**

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

**3.) *Recommend commercial Subcontractor Ordinance***

Mr. Burnam said that the Committee recommended this Ordinance. This will be covered under Ordinances

**4.) *Recommend Separation of the Public Safety Committee and the Ordinance Committee***

The committees will still meet on the same day one following the other.

**MOTION BY Mr. Lake to separate the Public Safety Committee and the Ordinance Committee. Secoded by Mr. Scott.**

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

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

*Mrs. Barnette* stated the minutes for the last meeting is in the packet. The main topic discussed was the restructuring for Public Works, which was endorsed by the Committee. She reported that they also discussed the creation of a Storm Water Authority discussing the legalities and she suggested that Mr. Cohen call the League of Municipalities for an opinion but they did not take action on this, so they will discuss this their next meeting Friday at 8:00 which is when their next meeting will be, and report back to the Council.

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

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

No meeting in June or July. The Council needs to appoint another alternate member.

Mr. Burnam handed out a resume of Mr. Barry L. Taylor for nomination to serve as an alternate on the BZA.

**MOTION BY Mr. Scott to appoint Mr. Barry L. Taylor to serve as second alternate on the BZA - term June 20, 2005 to June 19, 2008. Secoded by Mr. Lake.**

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

Council discussed setting a policy on resumes when nominating someone to serve on a board or committee and Council President Burnam mentioned that one was set by the previous Council.

*Council President Burnam* asked the City Clerk to make a copies of the motion setting the policy by the previous Council and put one in the Council's mailboxes.

**B. Downtown Redevelopment Authority – Barnette**

No Report. No meeting in June.

**C. Industrial Development Board – Yelding**

*Mr. Cohen*, the City Clerk, reported that the minutes from the May 25<sup>th</sup> meeting are in the packet. The next meeting will be Monday.

**D. Library Board – Lake**

No report.

**E. Planning Commission – Barnette**

The minutes for the May 26<sup>th</sup> meeting are in the packet. The next meeting will be Thursday June 24<sup>th</sup> at 6:00 p.m. There will be a meeting at 4:00 p.m. by the Planning Commission to discuss the Overlay District.

**F. Recreation Board – Burnam**

No report.

**G. Utility Board – Scott**

*Mr. Scott* announced they have a General Manager in place, Mr. Rob McElroy. He will start July 5<sup>th</sup>, and Mr. Clayton will be Director of Operations.

*Mrs. Barnette* asked to go back to the Recreation report and said according to their retreat it might be helpful if the City Clerk would provide a list of the former members of the Recreation Board so that they can be contacted to see if they still want to serve. She said she wants to know how they can help Mr. Burnam to revive that committee.

*Mr. Burnam* suggested that the City Council inform the Mayor of what they would like to see happen with the recreational facilities, and what they would like to see from the Recreation Department. Once they have a guide to go buy, then he will be all for reviving it. He said the Board stopped meeting because the previous Council instructed them to submit a list of what the needs are, and the Board submitted a list, but nothing ever happened, and that went on for a couple of years which brought about much frustration, so the Board came to the conclusion, why should they meet. He thinks it would help for the Council to determine what the needs are, and this can be done at a work session or at a retreat. That would be the biggest help.

*Mr. Scott* said maybe they could limit the work session at the next retreat, and if they had just one topic the Recreation that would be good. Mr. Scott said that he feels this Council has got more will to do something than previous Councils.

**6. REPORTS OF THE OFFICERS:**

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

*a.)Parade Permit / Shriner's*

**MOTION BY Mr. Lake to approve the Parade Permit for the Shriner's to parade on October 29, 2005. *Seconded by Mrs. Landry.***

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

*Mayor Small* discussed the money received from Cypress Equities, for the de-annexation of property, saying that he would like something done with the interest instead of it going into the general fund and make sure to note where that interest goes.

*Council President Burnam* asked that this be put on the next Finance agenda.

*Mayor Small* said he would like to have an Executive Session to discuss an employee matter to retain the good character of an employee name.

**B. *City Attorney's Report***

No report.

**C. *Department Head Comments***

*Maria Nicholson – Recreation Department* –. Reported that Wet & Wild will be going on for the next two (2) Wednesdays.

*Ken Eslava – Public Works Director* – reported that the McMillan Bluff project had been completed. He thanked Maria Bueche for her landscape design. He reported that the 4<sup>th</sup> of July fireworks display will be at the Trione Sports Complex at 9:00 p.m.

**7. PUBLIC PARTICIPATION**

*Mr. Tom Fouts* – Haley's Lane - spoke regarding discriminations and prejudice in the Daphne Court.

*Mrs. Annette Lay* – 6490 Haley's Lane - requested and exemption for sewer hookup.

*Mr. Lon Johnston* – 316 Whiting Court – commented on the McMillan Bluff Bay Access and on the four (4) way stop at Santa Rosa and Main.

*Mr. Mike Dubose* – 194 Country Club Drive – spoke regarding the teen club at the end of Country Club Drive.

*Mr. Ken Walls* – 102 Kentwood Drive – spoke regarding flooding of his property by the creek behind him.

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

**RESOLUTIONS**

**a.) *Accepting Streets & Drainage /***

**Bellaton Subdv., Phase One.....<sup>10</sup>..... /Resolution 2005-44**

**VOID - ALREADY ADOPTED AS 2005-38**

- b.) Prepaid Travel / Kim Briley / Suzanne Henson. . . . . **VOID**. . . . . /Resolution 2005-45
- c.) Bid Award: Linen Services / American Linen Service Co. . . . . /Resolution 2005-46
- d.) Bid Award: Automated Side-Loading Garbage Collection Truck. . . . . /Resolution 2005-47
- e.) Prepaid Travel / David Cohen . . . . . /Resolution 2005-48
- f.) Declaring Certain Personal Property Surplus and Authorizing  
the Mayor to Dispose of Such Property. . . . . /Resolution 2005-49
- g.) Amending the Agreement with Utility Board – Sewer Projects. . . . . /Resolution 2005-50
- h.) Contract for City Hall Renovations & Additions / Gatlin & Hudson  
Architects, Inc. . . . . /Resolution 2005-51

**MOTION BY Mr. Lake to wave the reading of Resolutions 2005-44, 2005-46, 2005-47, 2005-48, 2005-49, 2005-50, 2005-51. *Seconded by Mrs. Landry .***

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

**MOTION BY Mr. Lake to adopt Resolutions 2005-44, 2005-46, 2005-47, 2005-48, 2005-49, 2005-50. *Seconded by Mr. Palumbo.***

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

**MOTION BY Mr. Lake to adopt Resolution 2005-51 with the stipulation that the architect correct the spelling of Mr. Burnam’s name on the plaque at the Civic Center. *Seconded by Mr. Scott.***

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

**ORDINANCES**

- a.) Authorizing Overtime Compensation for Salaried  
Employees and Setting Forth Administrative Pay Policy  
During Declared Emergencies. . . . . /Ordinance 2005-04

- b.) Appropriating Funds: City Hall Site Preparation, Survey & Engineering. .... /Ordinance 2005-26
- c.) Appropriating Funds: Yancey Branch Permitting. .... /Ordinance 2005-27
- d.) Appropriating Funds: Buena Vista Drive. .... /Ordinance 2005-28
- e.) Amending Ordinance 2004-10 / Permitting Fees for All Commercial Subcontractors Doing Business in the City of Daphne. .... 1<sup>st</sup> READ /Ordinance 2005-29

MOTION BY Mr. Lake to waive the reading of Ordinance 2005-04. *Seconded by Mrs. Landry.*

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

MOTION BY Mr. Lake to adopt Ordinance 2005-04. *Seconded by Mrs. Landry.*

AYE Lake, Scott, Landry, Palumbo, Burnam                      NAY Barnette                      MOTION CARRIED

MOTION BY Mr. Lake to suspend the rules to consider Ordinance 2005-26. *Seconded by Mr. Palumbo.*

ROLL CALL VOTE

Barnette	Aye	Landry	Aye
Lake	Aye	Palumbo	Aye
Scott	Aye	Burnam	Aye

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

MOTION BY Mr. Lake to waive the reading of Ordinance 2005-26. *Seconded by Mrs. Landry.*

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

MOTION BY Mr. Lake to adopt Ordinance 2005-26. *Seconded by Mrs. Barnette.*

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

MOTION BY Mr. Lake to suspend the rules to consider Ordinance 2005-27. *Seconded by Mrs. Landry.*

**ROLL CALL VOTE**

Barnette	Aye	Landry	Aye
Lake	Aye	Palumbo	Aye
Scott	Aye	Burnam	Aye

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

MOTION BY Mr. Lake to waive the reading of Ordinance 2005-27. *Seconded by Mrs. Landry.*

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

MOTION BY Mr. Lake to adopt Ordinance 200527. *Seconded by Mrs. Landry.*

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

MOTION BY Mr. Lake to suspend the rules to consider Ordinance 2005-28. *Seconded by Mr. Scott.*

**ROLL CALL VOTE**

Barnette	Aye	Landry	Aye
Lake	Aye	Palumbo	Aye
Scott	Aye	Burnam	Aye

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

MOTION BY Mr. Lake to waive the reading of Ordinance 2005-28. *Seconded by Mr. Scott.*

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

MOTION BY Mr. Lake to adopt Ordinance 2005-28. *Seconded by Mrs. Landry.*

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

**MOTION BY Mr. Lake to suspend the rules to consider Ordinance 2005-29. *Seconded by Mrs. Landry.***

**ROLL CALL VOTE**

<b>Barnette</b>	<b>Nay</b>	<b>Landry</b>	<b>Aye</b>
<b>Lake</b>	<b>Nay</b>	<b>Palumbo</b>	<b>Aye</b>
<b>Scott</b>	<b>Nay</b>	<b>Burnam</b>	<b>Aye</b>

**AYE Landry, Palumbo, Burnam      NAY Barnette, Lake, Scott      MOTION FAILED**

**Ordinance 2005-29 was made a 1<sup>st</sup> Read.**

*Mr. Scott* said that this should have come through the Finance Committee, and ask that this be put on the next Finance Committee agenda.

**9. COUNCIL COMMENTS**

*Mrs. Barnette* commented on the community meeting being held for District #2 saying that to her knowledge this is the first town meeting held in Daphne.

*Mr. Lake* stated that he thinks the Council should work with the Lay's because they are not saying they are not going to hookup to the sewer, but they are trying to protect their home.

*Mr. Scott* said he is not against the teens having a club in Lake Forest , he thinks Lake Forest should come up with an alternate solution for the kids, he is not sure where the best location would be.

*Mrs. Landry* said that if the Recreation Board is revived she has some nominations.

*Mr. Palumbo* said that before they shut the teen club down they should think about changing the management and selecting better bands. He thinks the concept is good and that this could be turned into a positive thing.

**MOTION BY Mrs. Barnette to enter into Executive Session to discuss the good name and character of an employee. *Seconded by Mr. Lake.***

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

*The Council entered into Executive Session at 8:20 p.m.*

*The Council returned from Executive Session at 8:56 p.m.*

**8. ADJOURN**

**MOTION BY Mrs. Barnette to adjourn. *Seconded by Mr. Lake.***

**AYE ALL IN FAVOR**

**NAY NONE OPPOSED**

**MOTION CARRIED**

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:57 P.M.**

Respectfully submitted by,

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

**Certification of Presiding Officer:**

\_\_\_\_\_  
Greg Burnam

Date & Time Signed: \_\_\_\_\_

**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**

**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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PLEASE PUBLISH in the Bulletin Legal Section on **Saturday, July 2, 2005.**

**FIRST NOTICE OF PUBLIC HEARING**

Notice is hereby give the first time that the City Council of the City of Daphne will hold a Public Hearing on August 1, 2005 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring a proposed Ordinance amending the Land Use and Development Ordinance as presented below. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2005-  
Ordinance to Amend the City of Daphne  
Land Use and Development Ordinance 2002-22**

**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 June 23, 2005, 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 August 1, 2005; 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: EASTERN SHORE PARK OVERLAY DISTRICT**

**ARTICLE XXXVII**

**GENERAL PROVISIONS**

**37-1. CREATION OF OVERLAY DISTRICT**

The City of Daphne, Alabama, a municipal corporation (the “City”) hereby adopts the following provisions for the establishment of the Eastern Shore Park Overlay District (the “District”), said provisions to constitute Article XXXVII (the “District Regulations”) of the Land Use and Development Ordinance of the City (the “Land Use Ordinance”). No building, other improvements or land shall hereafter be used or occupied, and no building or other improvements shall be erected, constructed, moved, or altered in the District, except in conformity with the District Regulations as the same may be amended from time to time.

The land constituting the District is described in Schedule A attached hereto. In the event Malbis Properties, L.L.C. (the “owner/developer”) acquires any portion of that land adjacent to the District and described in Exhibit B attached hereto, on or before January 1, 2006, then any such additional acquired land described in Exhibit B shall become part of the District and subject to the District Regulations without further action by the City or the owner/developer.

**37-2. MINIMUM STREET REQUIREMENTS**

<u>Major Street</u>	<u>Collector Street</u> <u>Alley</u>	<u>Local Street</u>	<u>Cul-de-Sac (Turnaround)</u>
<u>Minimum Right-of-Way:</u>			
100'	60' 30'	50'	50'  (100' diam.)
<u>Minimum Pavement:</u>			
As Req'd 20'	36'	27'	28'  (80' diam.)
<u>Maximum Grade:</u>			
3%	5% 5%	5%	5%

<u>Major Street</u>	<u>Collector Street</u> <u>Alley</u>	<u>Local Street</u>	<u>Cul-de-Sac (Turnaround)</u>
<u>Minimum Angle of Intersection:</u>			
80°	60°	60°	60°
	60°		
<u>Minimum Curb Radius at Intersection:</u>			
40'	30'	15'	15'
	15'		
<u>Minimum Horizontal Curve Radius:</u>			
300'	250'	100'	100'
	100'		
<u>Minimum Reverse Curve Tangent:</u>			
100'	100'	100'	100'
	100'		

Cul-de-sacs shall not be longer than 600 feet measured from the centerline of the intersecting street to the center of the turnaround. Minimum pavement width is measured from outside edge to outside edge of curb and gutter. Maximum grade may vary with topography subject to Planning Commission approval based on recommendation of Director of Planning/Zoning.

### **37-3. IMPROVEMENT STANDARDS**

All streets in the District, whether private or dedicated for public use, shall be paved and adequately drained.

The full width of any public road improvements in the District shall be graded, including the subgrade 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 subgrade. A prime coat shall be sprayed uniformly over the base course. An approved type wearing surface in conformance 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 be in conformity with approved State and County Highway Department standards.

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.

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.

**37-4. 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 Planning Department prior to commencement of such activities pursuant to the provisions of this Article and no such activity shall commence prior to the approval of a preliminary plat by the Planning Commission. Fees for said permit shall be as more specifically enumerated in Article XXXIV of the Land Use, entitled "Schedule of Fees."

**37-5. INSPECTION OF IMPROVEMENTS**

When all required improvements are installed, the developer/owner shall call for a final inspection. The Public Work Director or his duly authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications.

To determine if the streets are installed to minimum design standards, the City shall select an independent testing laboratory to make the necessary tests. These tests shall be conducted at the expense of the developer/owner.

**37-6. SIDEWALKS**

It is the intent of this section to require sidewalks be installed on both sides as a part of the improvement of all streets prior to the issuance of Certificate of Occupancy.

Construction of sidewalks shall comply with the following standard:

Sidewalk width        5 feet

**37-7.            WATER AND SEWER CONNECTIONS**

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

**37-8.            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 approved 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 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 consistent with safety and other community needs is deemed necessary, the Director of Planning/Zoning 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

which will be in keeping with the theme of the development, subject to approval of the Director of Planning/Zoning.

**37-9. DISTRICT REQUIREMENTS**

The following limitations and requirements are hereby placed on uses in the District.

**(a). TABLE OF PERMITTED USES, COMPLIANCE WITH DISTRICT REQUIREMENTS AND SETBACKS**

The permitted uses in the District are as provided in Section 13-2, 13-3, and 13-6 of Article XIII of the Land Use Ordinance. 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 outdoors sales for special events shall require a special permit issued by the City.

**(b). MAXIMUM BUILDING HEIGHT**

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

**(c). 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 operation 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.

**37-10. 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 Planning/Zoning 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 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 Planning/Zoning or his duly 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 plan which may be modified at the discretion of the Director of Planning/Zoning when applicable.

**(d). WAIVER**

The Director of Planning/Zoning may waive certain requirements contained in this Article if, in his opinion, the requirements are not essential to a proper decision on the proposed development; or, he may supplement the list with other requirements deemed necessary to clarify the nature of the proposed development.

**(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 Planning Department 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 more specifically enumerated in Article XXXIV of the Land Use Ordinance, entitled the Schedule of Fees.

**(f). REQUIREMENT OF BOND**

Whenever a person, firm, corporation, developer or other entity proposes to develop a commercial site that, in the opinion of the Director of Planning/Zoning, 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 Planning/Zoning or other administrative official as designated by the City Council shall determine the prescribed bond, as well as the adequacy and the security thereon.

**(g). RELEASE OF BOND**

At the expiration of two (2) years from the issuance of the Certificate of Occupancy, the Director of Planning/Zoning 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 Planning/Zoning's receipt and evaluation thereof of the criteria as enumerated in this Section 10G above of these District Regulations 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 10F 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 bond. If a site contractor is unable and/or unwilling to satisfy the deficiencies as enumerated by the Director of Planning/Zoning, 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.

**(h). 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.

**37-11. 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.

**(b). PARKING SCHEDULE**

(1) Dwellings:

<u>Land Use on Lot:</u>	<u>Parking Requirements</u>
(a) <u>Hotels/Motels:</u> (Without restaurants, lounges, each and banquet facilities):	One (1) space for bedroom
(With in-house restaurants, (1.5) spaces banquet facilities, or bedroom convention/meeting capabilities):	One and one-half for each guest
(b) <u>Public Assembly:</u>	
(i) Theaters, Auditoriums, each Coliseums, Stadiums, and Similar Places of Assembly:	One (1) space for four (4) seats
(c) <u>Health Facilities:</u>	
(i) Hospitals, Sanitariums, each four (4) Nursing Homes, Homes space for For the Aged and Similar Institutional Uses:	One (1) space for beds, plus one (1) each employee on the maximum shift.
(ii) Kennels and Animal to thirty Hospitals: total area.	A parking area equal (30) percent of the enclosed or covered
(iii) Medical, Dental and each 200 Health Offices and area used	One (1) space for square feet of floor

	Clinics:	for offices and similar purposes.
(iv)	Mortuaries and Funeral parlors:	Ten (10) spaces per chapel unit, or one (1) per two (2) seats, is greater.
space	Parlors:	
whichever		
(d)	<u>Business:</u> Restaurants (including bars, grills, diners, cafes, taverns, night clubs, lunch counters, and all similar dining and/or drinking establishments):	10 parking spaces for 1,000 square feet of area
each		
floor		
(e)	<u>Commercial and Shopping Centers:</u>	One (1) space per two hundred fifty (250) square feet of floor area.
(f)	<u>Uses Not Listed Above</u>	4.5 parking spaces per 1,000 square feet of floor area
(g)	<u>Calculation of floor area:</u> 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.	

**(c). 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:

- (a) The design and dimensions of the standard parking area shall have a minimum nominal dimension of 18 feet in depth and 9 feet in width.
- (b) 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 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 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 10,000 Square Feet:

There shall be provided for each commercial building, or similar use requiring the receipt of 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.

**37-12. SUBDIVISION REGULATIONS**

Article XVII of the Land Use Ordinance is incorporated herein by reference.

**37-13. DRAINAGE AND EROSION CONTROL REQUIREMENTS**

Article XVIII of the Land Use Ordinance is incorporated herein by reference.

**37-14. 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). DEFINITIONS**

- (1) Caliper: Diameter of a tree trunk. Caliper determines the minimum size of trees planted to comply with these District

Regulations. Trees less than four (4) inches in diameter are measured six (6) inches above the ground. Trees from four (4) to twelve (12) inches in diameter are measured twelve (12) inches above the ground.

(2) Landscape Plan A component of a development plan on which depicts or otherwise contains the following: proposed landscape species, such as number, spacing, size at time of planting, and planting details; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order for an informed decision to be made by the approving authority.

(3) Site Plan The development plan for one or more lots on which the following is shown: the existing and proposed conditions of the lot including topography, drainage, flood plains, wetlands, and waterways; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms and buffers; surrounding development; and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

(c). **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.

**(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.

(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 14 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) Interstate I-10 North Landscaping

To the extent the City has authority to do so, it authorizes the developer/owner to remove all trees in that portion of Interstate I-10 which is north of the northern boundary of the District. Such removal is conditioned upon the following: (i) the prior submission to, and approval by, the Planning Commission of a landscaping plan prepared by the developer/owner; (ii) the obtaining of any necessary permits from the Alabama Department of Transportation for the installation of landscaping improvements within the area from which trees are removed; and (iii) developer/owner's installation of the landscaping improvements according to the approved landscaping plan. Upon developer/owner's installation of the landscaping improvements according to the approved landscaping plan, the City shall assume the maintenance of said landscaping improvements in accordance with the approved landscaping plan and in compliance with any maintenance requirements of the Alabama Department of Transportation and any other applicable governmental entity. Each owner of real property, its successors and or assigns in the district abutting any portion of Interstate 10 having landscaping installed pursuant to this Section, shall be obligated to reimburse the City on a semi-annual basis for the City's Public Works Department cost of

maintaining that portion of the owner's real property fronting the Interstate. The City shall remit invoice to each such owner with payment due within forty five (45) days of invoice. Should each owner not pay said invoice within the time frame herein, the City shall have the right to charge interest at the State of Alabama statutory post judgment interest rate and the City shall further have the right to initiate appropriate civil action in such Court having competent jurisdiction to recover said costs, plus reimbursement of reasonable attorney fees and cost associated herewith. The obtaining of any necessary permits from the Alabama Department of Transportation for the installation of landscaping improvements shall be the responsibility of the developer/owner.

(4) 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 Planning/Zoning for re-evaluation.

(5) 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 Planning/Zoning and shall be subject to the approval of the Planning Commission prior to the issuance of a Site Disturbance Permit.

(6) Compliance with Landscape Provisions:

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

(7) Certification and Plan Requirements:

Landscape plans shall be drawn and stamped by a licensed landscape architect. The landscape plan shall be of professional quality and include the following:

- (a) Date, scale, north arrow, title, and names and contact information for property owner(s), developer, and the landscape architect.
- (b) 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.

(c) The location(s) and dimension(s) of the proposed landscaped areas within the parking area(s) including a description of new trees and plant materials to be placed within landscaped area(s). Both common and botanical names shall be included.

(d) Locations, type, and design of the proposed irrigation system.

(e) Location and species of buffer zone vegetation.

(8) Certification by Local Landscape Architect

Any and all landscape plans as required in this Section 15 shall, in addition to any other requirements, be reviewed and approved by a local 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 local 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 local landscape architect's review fee is known at the time of the plans' 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.

(e). **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 Planning/Zoning 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 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:

Natural, 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 Planning/Zoning shall determine whether the barrier is satisfactory via site inspection prior to approval.

**(f). 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:

- (1) At least fifteen percent (15%) of the total lot area intended for off-street parking shall be suitably landscaped.
- (2) 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.
- (3) 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.
- (4) Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops.
- (5) 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.

- (6) 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 Planning/Zoning.

- (7) 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.

**37-15. SIGN PROVISIONS**

**(a). SIGNS PROHIBITED IN THIS 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 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 Section 15(a)(3)(b) 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:

- (i) Signs required for traffic control; and,
- (iii) (ii) 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 XXXIII 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 Section 15(B) and further subject to the requirement that permitted signs shall have internal illumination only.

(1) Monument and Pylon Signs:

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

(i) District Interstate Pylon Sign: The developer/owner is permitted to install and maintain one (1) pylon sign at or near the northeastern boundary of the District. This sign is permitted to have panels for multiple businesses in the District, provided that the panel space on each side of the District Interstate Pylon Sign shall not exceed 1,200 square feet in the aggregate and no individual panel shall have more than 350 square feet or less than 150 square feet per side. The height of the Interstate Pylon Sign shall not exceed 120 feet and shall be determined based on a sight line study obtained by the developer/owner and approved by the Planning Commission. The sight line study shall consider the topographical elevation of the location of the District Interstate Pylon Sign, the obstruction to the sign panels by trees and the Interstate 10 overpass at the northeast corner of the District, so as to insure that the top panel on the sign is visible traveling in both directions on Interstate 10.

(ii) Each lot in the District which borders Interstate 10 and either (A) has at least 500 front feet on Interstate 10, or (B) is located at the intersection of Interstate 10 and Alabama Highway 181, shall be permitted one (1) pylon sign at or near said lot's common boundary with Interstate 10. Permitted individual lot interstate signs are not to exceed 15 feet in width, or 45 feet in height, and shall have a maximum area of 300 square feet per face. Lots in the District which border Interstate 10, other than those described immediately above, may not have such an individual lot pylon sign without a variance from the Board of Zoning Adjustments.

(iii) Development Signs: One (1) sign is permitted on Alabama Highway 181 and one (1) sign on U.S. Highway 90 identifying the development. Each side may also have panels beneath the development identification not exceeding 150 square feet each for multiple businesses within the District. Each sign shall not exceed 30 feet in height.

(iv) Monument Signs: Each lot having frontage on Alabama Highway 181 and 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 such highways and/or boulevards. The permitted sign shall not exceed 50 square feet per face if the lot's frontage on the public road right of way is 300 feet or less, and shall not exceed 100 square foot per face if the lot's frontage on the public road right of way the sign exceeds 300 feet. All monument signs shall have a pedestal and shall not exceed 21 feet in height (including the pedestal).

(v) Directional Signs: Directional Signs shall be permitted at the intersection of all roads in the District. Directional Signs shall not exceed 16 square feet per face.

(2) Wall-Mounted Signs:

Each establishment in a shopping center or each business premises in B-1, Local Business, B-2, General Business, B-3, Professional, and C/I, Commercial/Industrial 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. Signs mounted on mansards, marquees, and awnings are deemed to be wall signs.

A business establishment with over 40,000 square feet of building area may have on (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 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 can have more than three (3) wall-mounted signs.

(3) Menu Type Signs:

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

(4) Automobile Dealerships:

Automobile dealerships in the sale of the new vehicles shall be subject to the following:

(a) Numeric Limitation:

Each lot on which an automobile dealership operates shall be permitted the following:

(i) One (1) monument sign for each new automobile manufacturer line of cars offered on the lot, together with one (1) monument sign for used cars, if the same are for sale on the lot; and,

(ii) Lots operated as automobile dealerships and have a common boundary with Interstate 10 are permitted to have one (1) pylon sign as provided in Section 15B(1) (ii) above of these District Regulations.

(b) Height Limitation:

(i) The monument signs shall not exceed twenty-one (21) feet in height; and,

(ii) Any pylon sign for lots adjoining Interstate 10 North shall not exceed 45 feet in height.

(5) 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 District.

(6) 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. One (1) such sign, which shall not exceed 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, commercial/industrial business, subdivision, planned unit development, mobile home park and mobile home subdivision, provided the area

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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.

(7) 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.

**SECTION 2: DISTRICT MAP**

The Eastern Shore Park Overlay District Map, Exhibit C, is hereby adopted and as a part of this Ordinance. (See Appendix K, Table of Contents).

**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 \_\_\_\_\_, 2005.**

**THE CITY OF DAPHNE,**

**AN ALABAMA MUNICIPAL CORPORATION**

**GREG BURNAM  
COUNCIL PRESIDENT**

Date & Time Signed: \_\_\_\_\_

**FRED SMALL  
MAYOR**

Date & Time Signed: \_\_\_\_\_

**ATTEST:**

**DAVID L. COHEN  
CITY**

**CLERK,**

**MMC**

## **EXHIBIT A**

### **Parcel 1**

Commence at the northeast corner of Section 34, Township 4 South, Range 2 East, St. Stephen's Meridian and run thence south 00 degrees 25 minutes 38 seconds west, 865.30 feet; thence run north 89 degrees 49 minutes 14 seconds west, 98.85 feet to an iron pin marker on the west right-of-way of Alabama Highway No. 181; thence run north 29 degrees 47 minutes 28 seconds west, along said right-of-way, 106.64 feet to an iron pin marker at the northeast corner of lands heretofore conveyed to Hoven Oil Company, as described by that Statutory Warranty Deed recorded at Instrument 714451, Probate Records, Baldwin County, Alabama, for a point of beginning; thence run north 89 degrees 49 minutes 34 seconds west, 158.19 feet to an iron pin marker at the northwest corner of the heretofore said lands of Hoven Oil Company; thence run south 00 degrees 03 minutes 16 seconds west, 217.92 feet to an iron pin marker at the southwest corner of the said lands of Hoven Oil Company; thence run south 89 degrees 45 minutes 26 seconds east, 210.99 feet to an iron pin marker at the southeast corner of the said lands of Hoven Oil Company and on the west right-of-way of Alabama Highway No. 181; thence run south 00 degrees 12 minutes 57 seconds west, along said highway, 1267.87 feet to a P&K nail marker on the north right-of-way of U.S. Highway No. 90; thence run south 89 degrees 05 minutes 17 seconds west, along said right-of-way, 988.00 feet to an iron pin marker; thence run north 00 degrees 13 minutes 54 seconds east, 1528.42 feet to an iron pin marker; thence run south 89 degrees 49 minutes 34 seconds east, 920.31 feet to an iron pin marker on the west right-of-way of Alabama Highway No. 181; thence run south 29 degrees 47 minutes 28 seconds east, along said right-of-way, 27.30 feet to the point of beginning. Tract contains 33.35 acres, more or less and lies in the Northeast Quarter of Section 34, Township 4 South, Range 2 East, St. Stephen's Meridian, Baldwin County, Alabama.

### **Parcel 2**

A parcel of land situated in the NE 1/4 of Section 34 and the SE 1/4 of Section 27, all in Township 4 South, Range 2 East, Baldwin County, Alabama, more particularly described as follows:

Commence at the northeast corner of said Section 34, said point being reproduced from a survey by Rester and Coleman Engineers, Inc., dated April 10, 1997; thence, run South 89°56'56" West along the north boundary of the NE 1/4 of said Section 34, as calculated from said survey, a calculated distance of 533.77 feet to a point on the south right-of-way of U.S. Interstate Highway 10 (variable right-of-way), said point being the POINT OF BEGINNING; thence, run South 67°57'44" East along said right-of-way a distance of 273.02 feet to a concrete right-of-way monument found; thence, run South 33°51'04" East along said right-of-way distance of 165.52 feet to a concrete right-of-way monument found at the intersection of said Interstate right-of-way and the west right-of-way of Alabama Highway No. 181 (said right-of-way being 320 feet in width at this point); thence, run South 00°10'57" West along the west right-of-way of said Alabama Highway No. 181 a distance of 479.73 feet to a 1/2" rebar and cap set at a point of right-of-way change; thence, run South 29°50'31" East along the west right-of-way of said Alabama

Highway No. 181, and along said right-of-way change, a distance of 36.15 feet to a rebar found; thence, depart said right-of-way and run North  $89^{\circ}48'42''$  West a distance of 920.02 feet to a rebar found; thence, run South  $00^{\circ}14'19''$  West a distance of 1528.36 feet to a rebar found on the north right-of-way of U.S. Highway 90 (80-foot right-of-way); thence, run South  $89^{\circ}05'34''$  West along said right-of-way a distance of 225.48 feet to a rebar found on the west boundary of the East 1/2 of the NE 1/4 of said Section 34; thence, depart said right-of-way and run North  $00^{\circ}17'08''$  East along the west boundary of the East 1/2 of the NE 1/4 of said Section 34 a distance of 1532.68 feet to a 1/2" rebar and cap set; thence, run North  $89^{\circ}48'42''$  West a distance of 314.90 feet to a 1/2" rebar and cap set; thence, run North  $00^{\circ}14'19''$  East a distance of 754.02 feet to a 1/2" rebar and cap set on the south right-of-way of said U.S. Interstate Highway 10; thence, run North  $83^{\circ}29'29''$  East along said right-of-way a distance of 549.89 feet to a concrete right-of-way monument; thence, run South  $85^{\circ}55'34''$  East along said right-of-way a distance of 455.68 feet to a concrete right-of-way monument; thence, run South  $67^{\circ}57'44''$  East along said right-of-way a distance of 100.70 feet (as shown on the above-referenced survey) to the POINT OF BEGINNING.

Said parcel contains 1,441,524 square feet (33.093 acres), more or less.

## EXHIBIT B

A parcel of land situated in the W 1/2 of the NE 1/4 and the E 1/2 of the NW 1/4 of Section 34 and the SW 1/4 of the SE 1/4 of Section 27, all in Township 4 South, Range 2 East, Baldwin County, Alabama, more particularly described as follows:

Commence at the northeast corner of said Section 34, said point being reproduced from a survey by Rester and Coleman Engineers, Inc., dated April 10, 1997; thence, run South 89°56'56" West along the north boundary of the NE 1/4 of said Section 34, as calculated from said survey, a calculated distance of 533.77 feet to a point on the south right-of-way of U.S. Interstate Highway 10 (variable right-of-way); thence, run North 67°57'44" West along the south right-of-way of said Interstate Highway 10 a distance of 100.70 feet to a concrete right-of-way monument; thence, run North 85°55'34" West along the south right-of-way of said Interstate Highway a distance of 455.68 feet to a concrete right-of-way monument; thence, run South 83°29'29" West along the south right-of-way of said Interstate Highway a distance of 549.89 feet to a 1/2" rebar and cap set at the POINT OF BEGINNING; thence, depart said right-of-way and run South 00°14'19" West a distance of 754.02 feet to a 1/2" rebar and cap set; thence, run South 89°48'42" East a distance of 314.90 feet to a 1/2" rebar and cap set on the accepted east boundary of the W 1/2 of the NE 1/4 of said Section 34; thence, run South 00°17'08" West along the accepted east boundary of the W 1/2 of the NE 1/4 of said Section 34 a distance of 1532.68 feet to a rebar found on the north right-of-way of U.S. Highway 90 (80-foot right-of-way); thence, run South 89°05'34" West along the north right-of-way of said U.S. Highway 90 a distance of 1683.42 feet to a rebar found; thence, depart said right-of-way and run North 00°54'18" West a distance of 2129.42 feet to a rebar found on the south right-of-way of said U.S. Interstate Highway 10; thence, run North 81°48'54" East along the south right-of-way of said Interstate Highway a distance of 815.98 feet to a concrete right-of-way monument; thence, run North 83°29'29" East along the south right-of-way of said Interstate Highway a distance of 608.98 feet to the POINT OF BEGINNING.

Said parcel contains 3,566,796 square feet (81.882 acres), more or less.

PLEASE PUBLISH in the Bulletin Legal Section on **Saturday, July 9, 2005.**

**SECOND NOTICE OF PUBLIC HEARING**

Notice is hereby give the first time that the City Council of the City of Daphne will hold a Public Hearing on August 1, 2005 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring a proposed Ordinance amending the Land Use and Development Ordinance as presented below. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2005-  
Ordinance to Amend the City of Daphne  
Land Use and Development Ordinance 2002-22**

**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 June 23, 2005, 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,

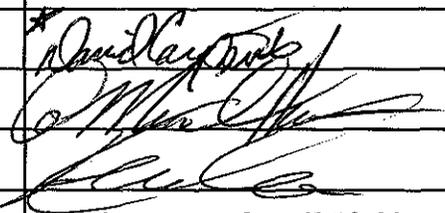
WHEREAS, a public hearing in regard to said amendment to the City of Daphne Land Use and Development Ordinance was held on August 1, 2005; and,

/END SYNOPSIS

**CITY COUNCIL MEETING  
MAYOR'S REPORT**

**NOTES:**

## CITY OF DAPHNE SPECIAL EVENTS PERMIT

<b>ORGANIZATION:</b>	<i>Kingsway Ministries</i>
<b>CONTACT PERSON:</b>	<i>Keith Pyron</i>
<b>ADDRESS:</b>	<i>P. O. Box 2478</i>
<b>PHONE NUMBER: (HOME):</b> <b>PHONE NUMBER: (BUSINESS):</b>	<i>960-1177      Cell# 709-6608</i> <i>990-9000</i>
<b>DATE OF SPECIAL EVENT:</b>	<i>July 8, 2005</i>
<b>TYPE OF SPECIAL EVENT:</b>	<i>Christian Youth Rally</i>
<b>APPROXIMATE # OF PEOPLE &amp; CARS:</b>	<i>25 with Flat Bed Truck where they will play music</i>
<b>START TIME:</b>	<i>7:00 p.m.</i>
<b>STOP TIME:</b>	<i>10:00 p.m.</i>
<b>FACILITY/PARK TO BE USED:</b>	<i>Parking lot in front of Grand Buffet</i>
<b>SPECIAL REQUESTS:</b>	<i>* Music must be turned away from LAKE.</i>
<b>APPROVAL</b>	
<b>CITY COUNCIL:</b>	
<b>POLICE: Chief David Carpenter</b>	
<b>FIRE: Chief Mund Hanson</b>	
<b>PUBLIC WORKS: Ken Eslava</b>	
<b>SPECIAL INSTRUCTIONS:</b>	<i>Music approved until 10:00 p.m. per Ord. 2003-32 Section 1-7</i>
<b>DATE ROUTED:</b>	<i>June 16, 2005</i>
<b>NOTIFICATION OF APPROVAL:</b>	

**CITY ATTORNEY'S REPORT**

**NOTES:**

**DEPARTMENT HEAD'S COMMENTS**

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

**NOTES:**

RECOMMENDATIONS

**COUNCIL COMMENTS:**

**RESOLUTION 2005-45**

**Acceptance of Streets and Drainage  
Located in Sehoj Subdivision, Phase Five**

**Whereas**, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to Sehoj Subdivision, Phase Five on June 23, 2005 and the City of Daphne hereby recommends acceptance of said street located in Sehoj Subdivision, Phase Five; and,

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

**Whereas**, the Division of Public Works has accepted said streets and storm water drainage of Sehoj Subdivision, Phase Five; and,

**Whereas**, the Utilities Board of the City of Daphne has accepted the utilities of Sehoj Subdivision, Phase Five; and,

**Whereas**, the developer has provided to the City a two-year construction warranty bond as required and requests acceptance and dedication of the same for maintenance of said improvements as outlined in Article XVII, entitled Subdivision Review of the City of Daphne Land Use and Development Ordinance.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS**, that Sehoj Subdivision, Phase Five according to the plat by Hutchinson, Moore & Rauch as recorded in the Judge of Probate, Baldwin County, Alabama and said street being named Durant’s Bend is hereby accepted by the City of Daphne, Alabama as a city street for maintenance.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this the 5<sup>th</sup> day of July, 2005.

\_\_\_\_\_  
**GREG BURNAM**  
**COUNCIL PRESIDENT**  
Date & Time Signed: \_\_\_\_\_

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

**ATTEST:**

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



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

**SUBDIVISION NAME:** Sehoy - Phase V

**LOCATION:** East side of CR 13 between Lawson Road and Pleasant Road

**THIS ACCEPTANCE OF ROADS AND RIGHTS-OF-WAY** is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by Sehoy Development, LLC, hereinafter called the Subdivider, owner of certain property located in Baldwin County, Alabama known as Sehoy - Phase V Subdivision to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

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

**WHEREAS**, the Subdivider does hereby agree to provide a Maintenance Bond, as outlined in Article XVII, entitled Subdivision Review, in an amount equal to ten (10) percent of the total street and drainage improvements (\$41,465.89) in the subdivision for a period of two (2) years after the date of their acceptance and dedication of the same to the City. Said bond shall be required by the City as a condition to the acceptance and dedication of any new roads or rights-of-way within the City; and,

**WHEREAS**, the Project Engineer acting on behalf of the Subdivider does hereby certify that all roads and rights-of-ways are complete and are in compliance with the minimum standards as outlined for construction in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled, Subdivision Review, and Article XI, Minimum Requirements and Required Improvements.

**WHEREAS**, the City of Daphne, Alabama, acting by and through the recommendation of the City of Daphne Planning Commission, has agreed to accept the responsibility for the maintenance of the roads and rights-of-way of said subdivision subject to a two (2) year maintenance period as described above; and,

**WHEREAS**, the City of Daphne has agreed to accept the property within the confines of the road right-of-way which does not include drainage or utility easements or any other improvements outside of these confines.

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

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the recommendation of the City of Daphne Planning Commission at their regular meeting of \_\_\_\_\_. That said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named \_\_\_\_\_  
Durant's Bend

are hereby accepted for maintenance by the City of Daphne, Alabama as a city street.

IN WITNESS WHEREOF, the Subdivider has caused the execution of this dedication as of the date setforth above.

Respectfully submitted,

Sonny Nichols (Sehoy Development, LLC)  
Name of Individual or Corporation

By: Sonny Nichols

Its: Manag. Member

STATE OF ALABAMA    )  
COUNTY OF BALDWIN )

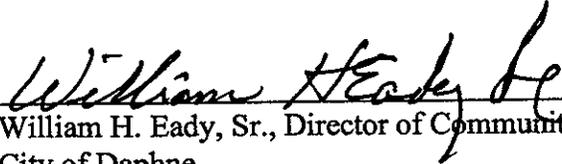
I, the undersigned Notary Public in and for said State and County, hereby certify that \_\_\_\_\_  
Sonny Nichols whose name as Managing Member of Sehoy Development, an Alabama corporation or as owner of \_\_\_\_\_ is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

Given under my hand and official seal on this the 20 day of May, 2005.

Doris A. Howard (NOTARY SEAL)  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_  
NOTARY PUBLIC STATE OF ALABAMA AT LARGE.  
MY COMMISSION EXPIRES: Oct 20, 2009  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

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

Recommendation:

  
\_\_\_\_\_  
William H. Eady, Sr., Director of Community Development  
City of Daphne

Approval:

  
\_\_\_\_\_  
Planning Commission Chairman  
City of Daphne

Revised: March 18, 2004

**CITY OF DAPHNE  
RESOLUTION 2005-52**

**Acceptance of Roadway located at County Road 64- From Pollard Road East to a point 83.2 feet East of the centerline of Baldwin County Highway 13**

**Whereas**, The Baldwin County Commission is, by Quitclaim Deed, granting to The City of Daphne that certain roadway located at County Road 64- From Pollard Road East to a point 83.2 feet East of the centerline of Baldwin County Highway 13, and

**Whereas**, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has accepted said roadway located at County Road 64- From Pollard Road East to a point 83.2 feet East of the centerline of Baldwin County Highway 13, more specifically described below by that certain Quitclaim Deed granting to The City of Daphne (Grantee) said roadway from The Baldwin County Commission (Grantor) and the City of Daphne hereby recommends acceptance of said roadway, more specifically described as follows:

Commence at the Southwest corner of Section 16, Township 5 South, Range 2 East, Baldwin County, Alabama being Centerline Station 53+11.00 as shown on Federal Aid Secondary Project S-151 (1) dated 1947 for the Point of Beginning. Thence run South 89 degrees 17 minutes 00 seconds East a distance of 5305.8 feet, more or less, to the Southeast corner of Section 16; Thence run South 89 degrees, 14 minutes east along the South line of Section 15, a distance of feet 83.2 feet to the Point of Ending. Right-of-way being 40 feet on each side of the centerline to make an 80 foot wide right-of-way. Said right-of-way lying in Sections 15, 16, 21 and 22, Township 5 South, Range 2 East Baldwin County, Alabama.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS**, that the roadway located at County Road 64- From Pollard Road East to a point 83.2 feet East of the centerline of Baldwin County Highway 13 is hereby accepted by the City of Daphne, Alabama as a city street for maintenance.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.**

**THE CITY OF DAPHNE,  
AN ALABAMA MUNICIPAL CORPORATION**

\_\_\_\_\_  
**GREG BURNAM  
COUNCIL PRESIDENT**  
Date & Time Signed: \_\_\_\_\_

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

**ATTEST:**

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

To: Office of the City Clerk

## MEMORANDUM

From: William H. Eady, Sr.,  
Director of Community  
Development

Subject: Proposed Street Acceptance of  
Roadways Quit Claimed to the  
City of Daphne from Baldwin  
County -

County Road 64 from Pollard  
Road East to Baldwin County  
Highway 13

County Road 13 from North ROW  
line of County Road 64 to  
City of Daphne corporate  
limits

Date: June 24, 2005

At the regular meeting of the City of Daphne Planning Commission, June 23, 2005, nine members were present and the vote was unanimous for the affirmative recommendation of the above-mentioned resolutions.

Upon receipt of said documentation, please place on the agenda for action by the City Council on July 5, 2005.

If you should have any questions, please do not hesitate to contact the undersigned.

Thank you,

WHE/jd

cc: Mayor Small  
file

Supporting documentation to follow via email from Jay Ross,  
City Attorney.



# **CITY OF DAPHNE**

## **RESOLUTION 2005-53**

### **Acceptance of Roadway located at County Road 13 – from North Right-of-Way line of County Road 64 to Daphne City Limits**

**Whereas,** The Baldwin County Commission is, by Quitclaim Deed, granting to The City of Daphne that certain roadway located at County Road 13 – from North Right-of-Way line of County Road 64 to Daphne City Limits, and

**Whereas,** the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has accepted said roadway located at County Road 13 – from North Right-of-Way line of County Road 64 to Daphne City Limits, more specifically described below by that certain Quitclaim Deed granting to The City of Daphne (Grantee) said roadway from The Baldwin County Commission (Grantor) and the City of Daphne hereby recommends acceptance of said roadway, more specifically described as follows:

Commence at the Southwest corner of Section 15, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run North 00 degrees, 38 minutes, 00 seconds East along the West line of Section 15 a distance of 40 feet to Centerline Station 53+50.1 for the Point of Beginning. Thence run East 30 feet; thence run North 50 feet; thence run East 10 feet; thence run North 00 degrees, 38 minutes East a distance of 1239.1 feet to a point 40 feet East of the Northwest Corner of the Southwest Quarter of the Southwest Quarter of Section 15; Said Northwest Corner of the Southwest Quarter of the Southwest Quarter being Centerline Station 66+39.2; thence continue North 00 degrees, 38 minutes East a distance of 1329.1 feet to a point 40 feet East of the Southwest corner of the Northwest Quarter of Section 15; Said Southwest Corner of the Northwest Quarter being Centerline Station 79+68.3; thence continue North a distance of 661 feet, more or less to the southwest corner of Ashley Place Subdivision Slide 1608-A; thence run West 80 feet to a point; thence run South 661 feet, more or less to a point 40 feet west of Centerline Station 79+68.3; thence continue South 00 degrees 38 minutes West a distance of 1329.1 feet to a point 40 feet west of Centerline Station 66+39.2; thence continue South a distance of 1239.1 feet to a point 40 feet West of Centerline Station 54+00.1 thence run South 45 degrees, 38 minutes West a distance of 70.1 feet to a point on the North right-of-way line of County Highway 64; thence run East 90 feet to the Point of Beginning. The intent of this Quitclaim deed is to transfer into the City of Daphne, Alabama all of the County Road 13 in Sections 15 and 16 in Township 5 South, Range 2 East not previously deed to the city.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS,** that the roadway located at County Road 13 – from North Right-of-Way line of County Road 64 to Daphne City Limits is hereby accepted by the City of Daphne, Alabama as a city street for maintenance.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.**

**THE CITY OF DAPHNE  
AN ALABAMA CORPORATION**

\_\_\_\_\_  
**GREG BURNAM**  
**COUNCIL PRESIDENT**  
Date & Time Signed: \_\_\_\_\_

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

**ATTEST:**

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

To: Office of the City Clerk

# MEMORANDUM

From: William H. Eady, Sr.,  
Director of Community  
Development

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City of Daphne from Baldwin  
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cc: Mayor Small  
file

Supporting documentation to follow via email from Jay Ross,  
City Attorney.