

**CITY COUNCIL BUSINESS MEETING AGENDA**  
**1705 MAIN STREET, DAPHNE, AL**  
**JULY 7, 2008**  
**6:30 P.M.**

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

**3.APPROVE MINUTES:** Council Meeting minutes meeting held June 16, 2008  
Council Work Session minutes meeting held June 12, 2008

**SWEARING IN:** Officer Todd Gresham / Police Department / Judge Doyle

**PUBLIC HEARING:** Recreational Trail Grant / Sidewalk along Lake Forest Lake on the Shopping Center side

**DISCUSSION:** Paving in Lake Forest

**PUBLIC HEARINGS:**

- 1.) Rezoning: Big Sandy / US Hwy 98 & Johnson Road / R-4, High Density Single and Multi-Family Residential District to B-2, General Business District / ***Six Members Present / Unanimous Favorable Recommendation***
- 2.) Amend Land Use & Development Ordinance / Sign Provisions / ***Six Members Present / Unanimous Favorable Recommendation***
- 3.) Annexation: Paul Powers Real Estate Venture / East Side of AL Hwy 181 / Requested Zoning: B-1, Local Business District - 28.52 Acres / R-4, High Density Multi-Family Family Residential District – 12.23 Acres / R-4, High Density Single Family Residential District – 9.14 Acres / R-3, High Density Single Family Residential District – 9.72 Acres / ***Six Members Present / Unanimous Favorable Recommendation***
- 4.) Rezoning: Elite Development Company / NE Corner of Parker Lane and Avery Lane / From R-3, High Density Single Family Residential District to R-4, High Density Single Family Residential District / ***Six Members Present / Unanimous Favorable Recommendation***

**4. REPORT STANDING COMMITTEES:**

**A. FINANCE COMMITTEE - Scott**

Review minutes of Special meeting held June 23<sup>rd</sup>

- a.) Fiscal Year ended September 30, 2007 Audit Report

**B. BUILDINGS & PROPERTY - Lake**

**C. PUBLIC SAFETY - Burnam**

Review minutes meeting held June 4<sup>th</sup>

- a.) Lower Speed Limit to 25 mph in Lake Forest

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

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

Review minutes meeting held May 23<sup>rd</sup>

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

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

Review minutes meeting held June 5<sup>th</sup>

**B. Downtown Redevelopment Authority – Barnette**

**C. Industrial Development Board – Yelding**

**D. Library Board - Lake**

**MOTION:** Authorize the letting of bids for the Library Expansion Project

**E. Planning Commission – Barnette**

Review minutes meeting held May 22<sup>nd</sup>

**F. Recreation Board - Palumbo**

Review minutes meeting held June 11<sup>th</sup>

**G. Utility Board - Scott**

Review minutes meeting held March 26<sup>th</sup>

Review minutes meeting held April 30<sup>th</sup>

Review minutes meeting held May 28<sup>th</sup>

**6. REPORTS OF OFFICERS:**

**A. Mayors Report**

a.) *ABC License / Don Carlos / 020 Restaurant Retail Liquor*

b.) **MOTION:** *Appoint City Clerk as Election Manager to Handle Election Supplies, and provide qualified voters list*

c.) **MOTION:** *Reject bid for the Justice Center Air Conditioning System*

d.) **MOTION:** *Approve Boy Scout Project at Village Point Park Preserve*

**B. City Attorney’s Report**

**C. Department Head Comments**

**7. PUBLIC PARTICIPATION:**

**8. RESOLUTIONS & ORDINANCES:**

**RESOLUTIONS:**

a.) **Recreational Trails Grant / Lake Forest Lake Sidewalk. . . . . /Resolution 2008-30**

**ORDINANCES:**

**2<sup>ND</sup> READ**

a.) **Amend 2006-65 / Wrecker Service/ Increase Fees . . . . . /Ordinance 2008-42**

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

- b.) **Repealing Ordinance 2004-08 to Reestablish Rules For Fee Waivers and Communications Requirements For Schools Use of the Daphne Civic Center and Bay Front Park. . . . /Ordinance 2008-43**
- c.) **Rezone: Property Located on the Southeast Corner of US Highway 98 and Johnson Road / Big Sandy / R-4 to B-2. . . . /Ordinance 2008-44**
- d.) **Amending the Land Use and Development Ordinance / Sign Provisions. . . . . /Ordinance 2008-45**
- e.) **Annexations: Powers Real Estate Venture “Central Park” / Property Located on East Side of AL Highway 181. . . . . /Ordinance 2008-46**
- f.) **Rezone: Property Located on the Northeast Corner of Parker Lane and Avery Lane / Elite Development Company / R-3 to R-4. . . . . /Ordinance 2008-47**
- g.) **Compensation for the Absentee Election Manager. . . . . /Ordinance 2008-48**

**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 NAGER

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

**JUNE 16, 2008  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.**

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**1. CALL TO ORDER**

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

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

Councilman Lake gave the invocation.

**COUNCIL MEMBERS PRESENT:** Bailey Yelding; Cathy Barnette; John Lake, Greg Burnam; Ron Scott; Eric Nager; August Palumbo.

Also present: Mayor Fred Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Sharon Cureton, Human Resource Director; David McKelroy, Recreation Director; Tonja Young, Library Director; James White, Fire Chief; Richard Merchant, Building Official; Bill Eady, Planning Department Director; David Carpenter, Police Chief; Sandra Morse, Civic Center Director; Cornell Smith, Revenue Officer; Jane Robbins, Mayor's Assistant; Capt. Danny Bell, Police Department; Officer Jeff Sulzman, K-9 Handler, Police Department; Sgt. Ron Gibney, Police Department; Detective Joe Sullivan, Police Department; Tracy Bishop, Admin Tech, Police Department; Jago, Police Dog; Erick Bussey, Attorney; Scott Hutchinson, City Engineer; Ron Allen, Library Board; Willie Robison, BZA; Al Guarisco, Village Point; Selena Vaughn, Beautification; Mickey Boykin, Museum; Tomasina Werner, Beautification; Dorothy Morrison, Beautification; Representative Randy Davis.

Absent: Kim Briley, Finance Director; Melvin McCarley, Interim Public Works Director.

**3. APPROVE MINUTES:**

**MOTION BY Councilwoman Barnette to adopt the Council meeting minutes meeting held June 2, 2008. *Seconded by Councilman Yelding.***

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

**PRESENTATION:** Retire K-9 Police Dog – Jago

Mayor Small read Resolution 2008-28 retiring Jago, Police K-9 drug dog, as Chief Carpenter, Captain Danny Bell, Detective Joe Sullivan, and Officer Sulzman looked on. Captain Bell presented Jago with his favorite toy. Jago will be retired as of July 1, 2008.

Councilwoman Barnette stated that since the Mayor read Resolution 2008-28 she would make a motion to adopt.

**MOTION BY Councilwoman Barnette to adopt Resolution 2008-28. Seconded by Councilman Lake.**

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

**PRESENTATION :** Incentive Program Grant to Library / Representative Randy Davis

Representative Davis presented the \$50,000 grant check to the Library Director, Tonja Young, on behalf of himself, Senator Trip Pittman, Representative Joe Faust, Representative Harry Shiver. He also presented Ms. Young with an additional \$3,000. Representative Davis said that the Eastern Shore delegation has made assisting the Daphne Public Library their next project.

Councilman Palumbo stated: Representative Davis made it possible last year to expand library hours because of some funds he was able to get from the state. This is not a one time thing, and it is not the first time. He is a big supporter of the library. We owe a debt of gratitude to Representative Davis for all the ancillary work that he does for the city state wide, and the funding that he helps us attain to keep the library what it is.

Representative Davis said that he is lobbying very hard for the \$500,000 block grant, and it looks like we are in good shape for that also. He said to let him know what we need and he will help in any way that he can.

**4.REPORT OF STANDING COMMITTEES:**

**A. FINANCE COMMITTEE / Scott**

The minutes for the special meeting held June 2<sup>nd</sup> and the minutes for the meeting held June 9<sup>th</sup> are in the packet.

**a.) Treasurers Report / Ending May 31, 2008**

**MOTION BY Councilman Scott to accept the Treasurers report ending May 31, 2008 with a balance of \$21,455,718.18. Seconded by Councilwoman Barnette.**

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

**b.) Sales and Use Tax Collection / April 30, 2008**

Approximately \$8,000 more was collected for the month of April than was collected last year. This is the first month in a long time that there has been a month-to-month increase over year-to-date. Collections were \$1,100 short of what was budgeted.

**c.) Lodging Tax / April 30, 2008**

Approximately \$1,000 less was collected than was collected a year ago. This amount is budgeted for informational purposes, approximately \$620,000, but this does not go to any general fund items. Five percent of the funds go to the Industrial Development Board, and the balance goes to the acquisition, repair and maintenance of beach front property. So the fact that the collections are not up to the budgeted amount has no financial impact of the city itself.

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

The minutes of the June 6<sup>th</sup> meeting are in the packet. Bids have gone out for the air conditioning maintenance, the chiller system at the Civic Center. A lower bid has come in than in years past. The company that was looking after it was not doing as good a job that they felt that they should be doing, and they tried to find a company that would take care of the equipment better. They will be offering the contract to Johnson Control, and this will be a savings to the city.

**C. PUBLIC SAFETY COMMITTEE – Burnam**

No report.

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

No report. There may be an item for next month, but it may be that it can be handled through Public Safety.

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

The Beautification Committee minutes are in the packet for the May 2<sup>nd</sup> and June 2<sup>nd</sup> meetings. It has been established that they need to correlate this committee better with the Public Works Committee, and they will have someone from that committee attend the Public Works Committee meetings, and they are going to work together. They need members from District #1 and District #6. There is a formal letter coming from the Beautification Committee with those announcements. The next meeting will be June 27<sup>th</sup> at 8:00 a.m. at City Hall.

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

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

**a.) Reappoint Barry Taylor term ending 2011**

**MOTION BY Councilwoman Barnette to reappoint Barry Taylor to the Board of Zoning Adjustments term ending 2011. *Seconded by Councilman Scott.***

**AYE ALL IN FAVOR**

**NAY NONE OPPOSED**

**MOTION CARRIED**

The next meeting will be rescheduled from July 3<sup>rd</sup> to July 10<sup>th</sup> due to the holiday. They will consider four appeals.

**B. Downtown Redevelopment Authority – Barnette**

The minutes for the June 9<sup>th</sup> meeting are in the packet. The members attended the Finance Committee meeting, and was given a list of items to prepare, and the Finance Committee will ask that Council call a work session to discuss only the lodging tax with Downtown Redevelopment and Village Point Foundation members.

**C. Industrial Development Board – Yelding**

The next meeting will be June 26<sup>th</sup> 6:00 p.m. at the library.

**D. Library Board – Lake**

The minutes for the May 8<sup>th</sup> meeting are in the packet. There was a 9.33% increase in circulation in March, for the month of April there was 11.51% increase, and the “Spring Into Reading” program had 3,000 attendees there using the library.

**E. Planning Commission – Barnette**

The Site review meeting will be Wednesday at 8:00 a.m., and the Planning Commission meeting will be June 26<sup>th</sup> at 6:00 p.m.

**F. Recreation Board – Palumbo**

The minutes for the last meeting will be in the next packet. They received two bids for the playground equipment for May Day Park, and the board’s recommendation will be sent to Council. Scott Hutchinson presented the design plans and cost estimates for the entrance of the new sports complex, and the board recommended that these plans be forwarded to the City Council. They want Mr. Hutchinson to present the phases for the plans to Council. The next meeting will be June 16<sup>th</sup> at 6:00 p.m. at the Recreation Center.

**G. Utility Board – Scott**

The minutes for the November 28, 2007, January 2, 2008, January 30, 2008 and February 27, 2008 meetings are in the packet. The next meeting will be the last Wednesday of the month. At 5:00 p.m.

**6. REPORTS OF THE OFFICERS:**

**A. *Mayor’s Report***

- a.) *Authorize the Mayor to sign certificate for the Bayside Educational Authority / Resolution 2008-29.***

This will be handled under resolutions.

- b.) *Motion to authorize the Mayor to enter into a contract with Church of His Presence for the purchase and maintenance of additional lighting at the Civic Center.***

**MOTION BY Councilman Lake to authorize the Mayor to enter into a contract with Church of His Presence for the purchase and maintenance of additional lighting at the Civic Center. *Seconded by Councilwoman Barnette.***

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

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

There is threatened litigation to discuss with Council, and Mr. Ross asked Council to enter into Executive Session at the end of the meeting which will take approximately 30-45 minutes.

***C. Department Head Comments***

***David McKelroy – Recreation Director*** – announced that for the next two Wednesday's they will have Wet and Wild Wednesdays at Lott Park which will be June 11<sup>th</sup>, 18<sup>th</sup>, and 25<sup>th</sup>. On July 7<sup>th</sup> the city will be hosting the Coach Pitch Peanut Dixie Youth District Tournament.

**Tonja Young – Library Director** – reported that the Summer Reading Program will be until the end of the month, and they are planning some nice literary events for adults in the months of August and September.

David Cohen – City Clerk – mentioned to Council that they needed to suspend the rules for Ordinance 2008-41 regarding the voting machines, because he has to send it off to the Justice Department for preclearance.

**7. PUBLIC PARTICIPATION**

***NO ONE SPOKE.***

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

**RESOLUTIONS:**

- a.) **Declaring Certain Personal Property  
Surplus and Authorizing Disposition / Jago PD Dog. . . . . /Resolution 2008-28**
- b.) **Authorizing Mayor to Sign the Certificate with  
Respect to Approval of Bonds Issued by the Bayside Academy  
Educational Building Authority . . . . . /Resolution 2008-29**

***RESOLUTION 2008-28 WAS ADOPTED EARLIER IN THE MEETING***

MOTION BY Councilwoman Barnette to waive the reading of Resolutions 2008-29. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-29. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

**ORDINANCES:**

**1ST READ**

- a.) **Wooster Settlement: FEMA Hazardous Mitigation Grant / Proposed Alternative Action...../Ordinance 2008-40**
- b.) **Establishing the Use of Electronic Vote Counting Devices...../Ordinance 2008-41**
- c.) **Amend 2008-65 / Wrecker Service/ Increase Fees...../Ordinance 2008-42**

MOTION BY Councilman Scott to suspend the rules to consider Ordinance 2008-40. *Seconded by Councilman Lake.*

**ROLL CALL VOTE**

Yelding	Aye	Palumbo	Aye
Barnette	Aye	Nager	Aye
Lake	Aye	Burnam	Aye
Scott	Aye		

AYE ALL IN FAVOR                      NAY NONE OPPOSED                      MOTION CARRIED

Council discussed the ordinance at length because some council members did not understand exactly what the ordinance was saying regarding the extra money for the alternate plan of raising the house. They were questioning whether it was another \$20,000 on top of the money already appropriated for the demolition of the house. Council President Burnam delayed further voting on this ordinance until the city attorney phoned Mr. Andy Rutens regarding how much it will cost.

MOTION BY Councilman Palumbo to suspend the rules to consider Ordinance 2008-41. *Seconded by Councilwoman Barnette.*

ROLL CALL VOTE

Yelding	Aye	Nager	Aye
Barnette	Aye	Palumbo	Aye
Lake	Aye	Burnam	Aye
Scott	Aye		

AYE ALL IN FAVOR          NAY NONE OPPOSED          MOTION CARRIED

MOTION BY Councilwoman Barnette to waive the reading of Ordinance 2008-41. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR          NAY NONE OPPOSED          MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Ordinance 2008-41. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR          NAY NONE OPPOSED          MOTION CARRIED

BACK TO ORDINANCE 2008-40 / Wooster Settlement: FEMA Hazardous Mitigation Grant / PROPOSED ALTERNATIVE ACTION

MOTION BY Councilman Scott to waive the reading of Ordinance 2008-40. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR          NAY NONE OPPOSED          MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinance 2008-40 with the amendment to omit the second paragraph of the ordinance that reads: "Whereas, subsequent to the adoption of the Fiscal Year 2008 budget, the City Council has determined that certain additional appropriations are required and should be approved and made a part of the Fiscal Year 2008 budget; and. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR          NAY NONE OPPOSED          MOTION CARRIED

ORDINANCE 2008-42 WAS MADE A 1<sup>ST</sup> READ.

**9. COUNCIL COMMENTS**

***Councilman Yelding*** stated: I just want to echo Mr. Scott's statement regarding to our recreation in the City of Daphne. I feel like we have done well in the past eight years since I have been aboard in regards to our financial stability, however, we are behind our sister cities in recreation. We need to do something about recreation, and do it quickly. We don't have tennis courts, we don't have a swimming pool, and I agree with Mr. Scott that we need to get aboard quickly.

***Councilwoman Barnette*** stated: I want to thank Representative Davis, and congratulate the library for their grant. It is always nice to see \$50,000 come into the city, and an additional \$3,000. Great work to the Library Board, and the staff, we appreciate all your efforts.

***Councilman Lake*** stated: Mr. Scott a lot of people have said to me that they were hoping that you would run again, so I am glad that you did decide to run again. I have enjoyed serving on the Council with you, and I am hoping that I can get re-elected too and serve again. Since the price of gas has been going up so high the last few months, and is expected to go even higher, and people are using alternative methods of travel, we are talking about motorcycles, bicycles, etc., I would like for the city to research in the departments as to looking at options that we could use to advertise and communicate with people that they are sharing the road with other vehicles. Bicycles have just as much right on the road as a car, and I don't think that drivers realize that. I think that we need to look at putting signs out letting people know that there are bikes on the road.

***Councilman Scott*** stated: In the next 12 month period we are going to add an additional 6 hotels in the Daphne area. They are going to want these rooms filled some way, and I think that if we had the right kind of recreational facilities that Mr. McKelroy could have big softball tournaments or baseball tournaments, because these travel teams come a long way to play. I know that Mrs. Morse has a great opportunity with the Civic Center to attract larger groups, so I hope that we are all working with the hotels. I know that the Downtown Redevelopment and Village Point are going to be in communication very shortly talking about the lodging tax. I saw in the paper yesterday that Mobile had a hundred million dollars spent at hotels in Mobile County, and about \$15,000,000 has been spent in Daphne, and about \$600,000 was collected in lodging tax last year. Having the six new hotels on board we could be talking about some serious dollars to be able to do some improvement in the downtown Daphne area, and at the bay front properties. Let's keep that in mind and get the city to work to help the hotels fill up so that we can collect those dollars that can help do some things for the city that we need to have done.

***Councilman Nager*** stated: I would like to commend the Recreation Department for the Wet and Wild Wednesdays at Lott Park. My family is participating in that, and I wish it could go longer into the summer.

***Councilman Palumbo*** stated: I want to congratulate our police dog Jago on his retirement, and particularly Detective Sullivan for adopting him. He is not the officer that worked with the animal on duty, as I understand it, but I think it is commendable that he would adopt this animal after service to the city. Jago is a drug dog, he does not apprehend absconding criminals, and that sort of thing. There are a number of K-9 dogs that are killed in the line of duty every year in the United States, and their service is often overlooked. We have our officer training right now with the new

**JUNE 16, 2008  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.**

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dog, and Chief Carpenter explained at Public Safety that it is quite interesting, because these dogs come from Belgium, and when they arrive here for training in Louisiana the dogs already know the commands in German, so our officer has to learn the commands in German for this dog to function, and I find it quite interesting. The Daphne Animal Shelter is hosting an animal adoption at the parking lot of Hancock Bank by TimberCreek this Saturday.

*Mayor Small* stated: To bring the Council up to speed we have been talking about ways to conserve fuel with employees traveling back and forth to work, and we are trying to come up with a four day work week, ten hours a day which will give longer coverage at City Hall in which we can assist citizens. Each department head has been working on proposals, and as soon as the information has been compiled, hopefully, by the next work session I will be bringing it to Council.

**MOTION BY Councilman Lake to enter into Executive Session to discuss threatened legal matters. *Seconded by Councilman Scott.***

The City Attorney, Jay Ross, certified that this was an appropriate reason to enter into Executive Session according to the Alabama Open Meetings Act, and stated that the session will take 30 minutes.

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

*Council entered into Executive Session at 7:45 p.m.*

*Council returned from Executive Session at 8:15 p.m.*

**10. ADJOURN**

**MOTION BY Councilwoman Barnette to adjourn. *Seconded by Councilman Yelding.***

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

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:15 P.M.**

Respectfully submitted by,

\_\_\_\_\_

**JUNE 16, 2008**  
**CITY COUNCIL MEETING**  
**1705 MAIN STREET**  
**DAPHNE, AL**  
**6:30 P.M.**

David L. Cohen,  
City Clerk, MMC

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**Certification of Presiding Officer:**

\_\_\_\_\_  
Greg Burnam, Council President

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

**JUNE 12, 2008**  
**CITY COUNCIL WORK SESSION**  
**1705 MAIN STREET**  
**DAPHNE, AL**  
**6:30 P.M.**

**COUNCIL MEMBERS PRESENT:** Cathy Barnette; John Lake; Greg Burnam arrived at 7:25 p.m.; Ron Scott Eric Nager, August Palumbo

**ABSENT:** Bailey Yelding.

Also present: David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Erick Bussey, Attorney; Tonja Young, Library Director; Ron Allen, Library Board; Dee Gambill, Library Board; Gale Robinson, Library Board; Jan Blankenhorn, Library Board; Cassandra Day, Library Board.

Absent: Mayor Fred Small

Vice Council President John Lake called the meeting to order at 6:30 p.m.

**1. LIBRARY EXPANSION**

Presentation given by Ron Allen, Dee Gambill, and Jan Blankenhorn on how the Library is doing, fund raising efforts and where the Library want to go with expansion. They want to add a two story addition to the sloped area toward old Hwy 98. The board is putting in automatic doors with the \$50,000 grant that they received. They asked Council to release the rest of the money that was set aside for the expansion from the bond issue done for the new city hall, which is \$935,000.

Consensus of Council was to release the funds. Council asked that an ordinance be on the next Council agenda appropriating the funds.

**2. MSR STORM WATER PERMIT / ASHLEY CAMPBELL**

Mrs. Campbell explained the permit will allow the city to monitor storm water that flows into Mobile Bay from contributing creeks etc. She said that the last permit the city had was from 2001 and expired in 2006. ADEM is currently working on a new permit. The city was originally in with 12 other cities, but the city has the option to:

1. Stay with the 12 cities
2. Join the cities on the Eastern Shore  
(Daphne, Spanish Fort, Fairhope, Baldwin County and ALDOT)
3. Go it alone

The state requires implementing a Storm Water Management Program where you have to have a staff and money to run the program which is unfunded by the state. Mrs. Campbell stated that they have to turn in the plan by June 27<sup>th</sup>.

**NOTE:** Council President Burnam arrived at 7:25.

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Council asked the City Attorney if the state has the right to mandate an unfunded program. They also asked if one of the cities were fined will all the other parties be required to pay part of the fine. Council also asked the City Attorney to look at the agreement.

Consensus of the Council was to apply for the permit as a group. They mentioned that this could go through the Public Works Committee, and Council also asked Councilwoman Barnette to help with this since it is her expertise. Council wanted this to come back to a work session.

**3. WRECKER SERVICE**

Daniel Wade presented a request from the wrecker services that are used by the city to raise the hourly rate due to the increase in fuel prices, the cost of the required equipment that they must have on their trucks they are on call 24 hours a day, in essence they have to be ready all the time, and they have to clean the streets of debris after a wreck.

Council discussed this, and the consensus of the Council was to raise the hourly rates from \$85.00 per hour to \$105.00 per hour. Council President Burnam instructed the City Clerk to prepare the Ordinance, and have in on the agenda for Monday night.

**5. IMPACT FEE ORDINANCE**

Council discussed the ordinance, and the consensus was that Councilman Nager would work up a proposal for impact fees and present it to Council at the next work session. Some of Council is in favor of the ordinance, some are on the fence, and some are not in favor.

**6. ADJOURN**

There being no further business to discuss the meeting adjourned at 8:35 p.m.

Respectfully submitted by,

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

Certification of Presiding Officer:

\_\_\_\_\_  
Greg Burnam,  
Council President  
Date & Time Signed: \_\_\_\_\_

**PUBLIC HEARING LIST**  
**FOR COUNCIL MEETING**

**JULY 7, 2008**

**TO CONSIDER:**

- 1.) Rezoning: Big Sandy / US Hwy 98 & Johnson Road / R-4, High Density Single and Multi-Family Residential District to B-2, General Business District
- 2.) Amend Land Use & Development Ordinance / Sign Provisions
- 3.) Annexation: Paul Powers Real Estate Venture / East Side of AL Hwy 181 / Requested Zoning: B-1, Local Business District - 28.52 Acres / R-4, High Density Multi-Family Family Residential District – 12.23 Acres / R-4, High Density Single Family Residential District – 9.14 Acres / R-3, High Density Single Family Residential District – 9.72 Acres
- 4.) Rezoning: Elite Development Company / NE Corner of Parker Lane and Avery Lane / From R-3, High Density Single Family Residential District to R-4, High Density Single Family Residential District

To: Office of the City Clerk  
From: William H. Eady, Sr., Director of  
Community Development  
Subj: Big Sandy, L.L.C. - Zoning  
Amendment Review  
Date: May 23, 2008

## MEMORANDUM

At the regular meeting of the City of Daphne Planning Commission, May 22, 2008, six members were present and the vote carried unanimously for the affirmative recommendation of the above-mentioned request.

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

The present zoning is R-4, high density single and multi-family residential. The proposed zoning is B-2, General Business. The property is located Southeast of the intersection of U. S. Highway 98 and Johnson Road.

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

Thank you,

WHE/jd

cc: file

attachment(s)

**THE CITY OF DAPHNE**  
**PLANNING DEPARTMENT**  
**APPLICATION FOR ZONING AMENDMENT**

Application Number: 208-02 Date Plat Submitted: April 22, 2008  
Date Presented: May 22, 2008

Name of Owner: BIG SANDY, LLC.

Address: P. O. BOX 1040 MAGNOLIA SPRINGS, AL 36555 Telephone #251-988-1997  
(Street or P.O. Box) (City) (State) (Zip Code)

Name of Authorized Agent, if other than owner ENGINEERING DEVELOPMENT SERVICES, LLC.

Address: 9 DAUPHIN STREET MOBILE, AL 36602 Telephone #251-415-3136  
(Street or P.O. Box) (City) (State) (Zip Code)

Subdivision: BIG SANDY

Lot(s): N/A Unit N/A

- Two (2) copies of legal description of the subject property.
- Two (2) copies of subdivision plat or site plan drawn to scale, (28" x 36").
- List of the names and mailing addresses for the adjacent property owners (Date Submitted: 04/22/08).

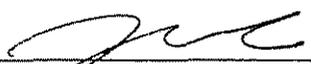
Meeting Dates:

Planning Commission: may 22, 2008

City Council: \_\_\_\_\_

Reason(s) for requesting the Zoning Amendment:

TO INCLUDE THIS NEWLY ACQUIRED PARCEL WITH  
PREVIOUSLY APPROVED B-2 ZONING

  
\_\_\_\_\_  
**SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE**

(Application for a Zoning Amendment information shall be that of the owner of the subject property)

Revised: March 18, 2004

APPLICATION FOR ZONING AMENDMENT

STATE OF ALABAMA)  
COUNTY OF BALDWIN)  
CITY OF DAPHNE)

This is to certify that I (we) the undersigned am the owner(s) of said property and do hereby request the City of Daphne to grant a Zoning Amendment for said property for the reasons outlined herein:

1) Description of property for which amendment is requested:

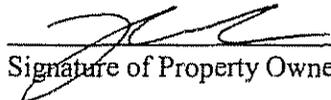
- a) Address SEE ATTACHED
- b) Name of Subdivision TO BE PART OF BIG SANDY
- c) Lot numbers involved in change N/A
- d) Total acreage of change 0.72 AC
- e) Recorded in Map Book INST #1098695 Page \_\_\_\_\_
- f) Owned in whole by the undersigned? WHOLE
- g) If owned in part, name(s) of co-owner(s) :  
\_\_\_\_\_  
\_\_\_\_\_

2) Zoning change requested:

- a) Present classification of property R-4
- b) Reclassification desired B-2
- c) Character of neighborhood MIX OF B-2, R-4, R-2 & R-1

3) Certifications:

- a) Owner's Name BIG SANDY, LLC
- b) Address P.O. BOX 1040 MAGNOLIA SPRINGS, AL 36555
- c) Telephone Number 251-988-1997
- d) Date 4-21-2008

  
\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Signature of Property Owner

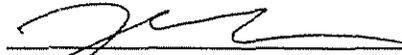
AGREEMENT

**...ALLOWING THE CITY OF DAPHNE TO POST PUBLIC NOTICE SIGNS ON THE PROPERTY FOR WHICH AN APPLICATION FOR A ZONING AMENDMENT HAS BEEN SUBMITTED TO THE CITY COUNCIL.**

I hereby agree to allow the City of Daphne to post on my property, for which an application for a zoning amendment has been submitted to the City Council, a sign or sign(s) notifying the general public of said request. I understand the City of Daphne shall erect and maintain said sign(s) for the prescribed period of time and remove the same.

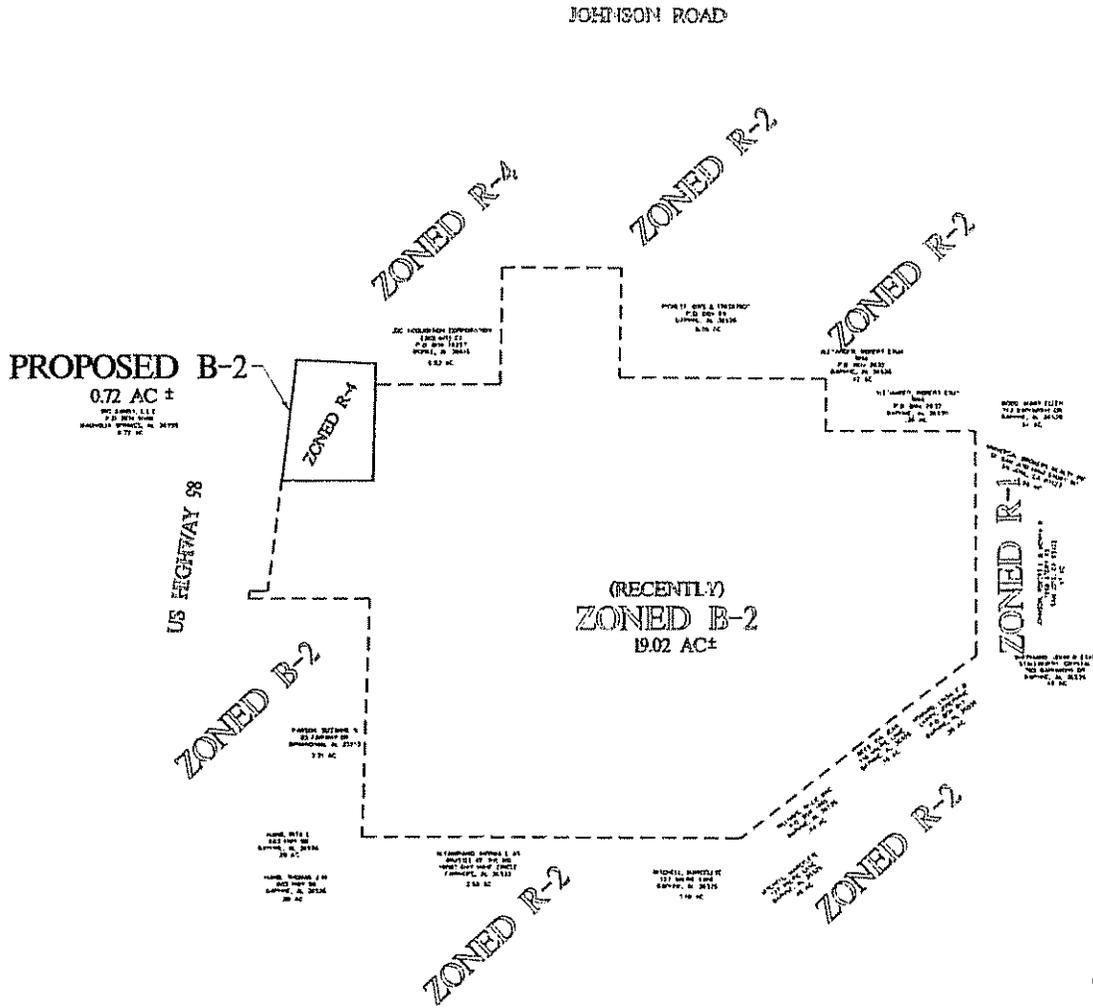
4/21/08

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature of Property Owner

**BIG SANDY, L.L.C.**  
**ZONING AMENDMENT**  
**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
(PROPERTY 0.72 AC)

COMMENCE AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN, AND RUN THENCE SOUTH 627.0 FEET; THENCE RUN NORTH 89 DEGREES 31 MINUTES EAST, A DISTANCE OF 1510.4 FEET TO A POINT ON THE EAST MARGIN OF U.S. HIGHWAY NO. 98, (ALSO KNOWN AS STATE HIGHWAY PROJECT S-635 (2)), SAID POINT BEING MARKED BY AN 3/4" IRON PIPE CORNER MARKER SITUATED SOUTH 05 DEGREES 36 MINUTES 59 SECONDS WEST, A DISTANCE OF 88.6 FEET FROM RIGHT-OF-WAY MONUMENT STATION 265+00 FOR THE POINT OF BEGINING: THENCE RUN NORTH 89 DEGREES 52 MINUTES 16 SECONDS EAST, A DISTANCE OF 140.33 FEET TO A 5/8" CAPPED IRON PIN MARKER; THENCE RUN SOUTH 00 DEGREES 25 MINUTES 00 SECONDS WEST, A DISTANCE OF 208.76 FEET TO A 1/2" CAPPED IRON PIN MARKER; THENCE RUN NORTH 89 DEGREES 32 MINUTES 54" WEST, A DISTANCE OF 160.46 FEET TO A CRIMPED TOP IRON PIPE MARKER ON THE EAST MARGIN OF SAID HIGHWAY NO. 98; THENCE RUN NORTH 05 DEGREES 57 MINUTES 45 SECONDS EAST ALONG THE EAST MARGIN OF SAID HIGHWAY NO. 98, A DISTANCE OF 208.30 FEET TO THE POINT OF BEGINING. TRACT CONTAINS 0.72 ACRES MORE OR LESS AND LIES IN THE NORTHWEST QUARTER OF SECTION 29 TOWNSHIP-5-SOUTH, RANGE-3-EAST, IN BALDWIN COUNTY, ALABAMA



**BIG SANDY PROPERTY**  
 REZONING SKETCH  
 TO  
 ACCOMPANY DESCRIPTION  
 EXHIBIT "B"



BIG SANDY, L.L.C.  
ZONING AMENDMENT  
ADJACENT PROPERTY OWNERS  
(PROPERTY 0.72 AC)

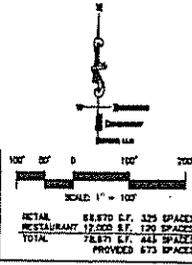
BIG SANDY L L C  
P O BOX 1040  
MAGNOLIA SPRINGS, AL 36555

JDC ACQUISITION CORPORATION (30% INT) ET  
3201 DAUPHIN STREET  
MOBILE, AL 36606

PARSONS, SUZANNE D  
85 FAIRWAY DR  
BIRMINGHAM, AL 35213

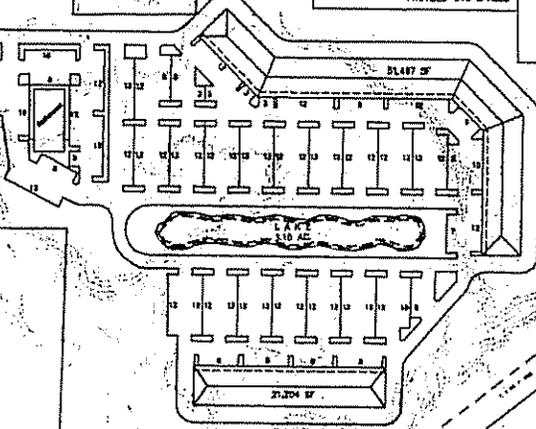
JOHNSON ROAD

U. S. HWY 98



GOLF SHOP

PROVIDE MECHANICAL ACCESS TO THE TRAILER



SHOE REPAIR

PAINT SHOP

**SKETCH PLAN  
FOR  
BIG SANDY, LLC**

ORDINANCE NO. 2008 - \_\_\_\_\_

**Ordinance to Rezone Property Located on the Southeast Corner of  
U.S. Highway 98 and Johnson Road ( 0.72 Acres)  
Big Sandy L.L.C.**

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-4, High Density Single and Multi-Family Residential District to B-2, General Business District, to said property is located on the Southeast Corner of U.S. Highway 98 and Johnson Road, being more particularly described as follows:

**Legal Description:**

COMMENCE AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN, AND RUN THENCE SOUTH 627.0 FEET; THENCE RUN NORTH 89 DEGREES 31 MINUTES EAST, A DISTANCE OF 1510.4 FEET TO A POINT ON THE EAST MARGIN OF U.S. HIGHWAY NO. 98, (ALSO KNOWN AS STATE HIGHWAY PROJECT S-635 (2)), SAID POINT BEING MARKED BY AN 3/4" IRON PIPE CORNER MARKER SITUATED SOUTH 05 DEGREES 36 MINUTES 59 SECONDS WEST, A DISTANCE OF 88.6 FEET FROM RIGHT-OF-WAY MONUMENT STATION 265+00 FOR THE POINT OF BEGINING: THENCE RUN NORTH 89 DEGREES 52 MINUTES 16 SECONDS EAST, A DISTANCE OF 140.33 FEET TO A 5/8" CAPPED IRON PIN MARKER; THENCE RUN SOUTH 00 DEGREES 25 MINUTES 00 SECONDS WEST, A DISTANCE OF 208.76 FEET TO A 1/2" CAPPED IRON PIN MARKER; THENCE RUN NORTH 89 DEGREES 32 MINUTES 54" WEST, A DISTANCE OF 160.46 FEET TO A CRIMPED TOP IRON PIPE MARKER ON THE EAST MARGIN OF SAID HIGHWAY NO. 98; THENCE RUN NORTH 05 DEGREES 57 MINUTES 45 SECONDS EAST ALONG THE EAST MARGIN OF SAID HIGHWAY NO. 98, A DISTANCE OF 208.30 FEET TO THE POINT OF BEGINING. TRACT CONTAINS 0.72 ACRES MORE OR LESS AND LIES IN THE NORTHWEST QUARTER OF SECTION 29 TOWNSHIP-5-SOUTH, RANGE-3-EAST, IN BALDWIN COUNTY, ALABAMA

WHEREAS, the Planning Commission of the City of Daphne on May 22, 2008 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, July 7, 2008 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-4, High Density Single and Multi-Family Residential District to B-2, General Business District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
**Greg Burnam, Council President**  
Date & Time Signed: \_\_\_\_\_

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

ATTEST:

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

**Bulletin Legals**

**FIRST NOTICE OF PUBLIC HEARING**

Notice is hereby given the first time that the City Council of the City of Daphne will hold a Public Hearing on July 7, 2008 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 rezoning certain property from R-4, High Density Single and Multi-Family Residential District to B-2, General Business District 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.

David L. Cohen, City Clerk, MMC  
**PROPOSED ORDINANCE:**  
**ORDINANCE NO. 2008 -**

**Ordinance to Rezone Property Located on the Southeast Corner of U.S. Highway 98 and Johnson Road (0.72 Acres) Big Sandy L.L.C.**

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-4, High Density Single and Multi-Family Residential District to B-2, General Business District, to said property is located on the Southeast Corner of U.S. Highway 98 and Johnson Road, being more particularly described as follows:

Legal Description:  
COMMENCE AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN, AND RUN THENCE SOUTH 627.0 FEET; THENCE RUN NORTH 89 DEGREES 31 MINUTES EAST, A DISTANCE OF 1510.4 FEET TO A POINT ON THE EAST MARGIN OF U.S. HIGHWAY NO. 98, (ALSO KNOWN AS STATE HIGHWAY PROJECT S-635 (2)), SAID POINT BEING MARKED BY AN 3/4" IRON PIPE CORNER MARKER SITUATED SOUTH 05 DEGREES 36 MINUTES 59 SECONDS WEST, A DISTANCE OF 88.6 FEET FROM RIGHT-OF-WAY MONUMENT STATION 265+00 FOR THE POINT OF BEGINING; THENCE RUN NORTH 89 DEGREES 52 MINUTES 16 SECONDS EAST, A DISTANCE OF 140.33 FEET TO A 5/8" CAPPED IRON PIN MARKER; THENCE RUN SOUTH 00 DEGREES 25 MINUTES 00 SECONDS WEST, A DISTANCE OF 208.76 FEET TO A 1/2" CAPPED IRON PIN MARKER; THENCE RUN NORTH 89 DEGREES 32 MINUTES 54" WEST, A DISTANCE OF 160.46 FEET TO A CRIMPED TOP IRON PIPE MARKER ON THE EAST MARGIN OF SAID HIGHWAY NO. 98; THENCE RUN NORTH 05 DEGREES 57 MINUTES 45 SECONDS EAST ALONG THE EAST MARGIN OF SAID HIGHWAY NO. 98, A DISTANCE OF 208.30 FEET TO THE POINT OF BEGINING. TRACT CONTAINS 0.72 ACRES MORE OR LESS AND LIES IN THE NORTHWEST QUARTER OF SECTION 29 TOWNSHIP-5-SOUTH, RANGE-3-EAST, IN BALDWIN COUNTY, ALABAMA

WHEREAS, the Planning Commission of the City of Daphne on May 22, 2008 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, July 7, 2008 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-4, High Density Single and Multi-Family Residential District to B-2, General Business District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS day of , 2008.

Greg Burnam, Council President  
Date & Time Signed:  
Fred Small, Mayor  
Date & Time Signed:

ATTEST:  
David L. Cohen  
City Clerk, MMC

The Daphne Bulletin  
June 7, 2008

## Bulletin Legals

### SECOND NOTICE OF PUBLIC HEARING

Notice is hereby given the second time, the first notice was published on June 7, 2008 that the City Council of the City of Daphne will hold a Public Hearing on July 7, 2008 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 an Ordinance rezoning certain property from R-4, High Density Single and Multi-Family Residential District to B-2, General Business District 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.

David L. Cohen, City Clerk, MMC

### PROPOSED ORDINANCE:

#### ORDINANCE NO. 2008 -

Ordinance to Rezone Property Located on the Southeast Corner of U.S. Highway 98 and Johnson Road (0.72 Acres)  
Big Sandy L.L.C.

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-4, High Density Single and Multi-Family Residential District to B-2, General Business District, to said property is located on the Southeast Corner of U.S. Highway 98 and Johnson Road, being more particularly described as follows:

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WHEREAS, the Planning Commission of the City of Daphne on May 22, 2008 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

END SYNOPSIS

The Daphne Bulletin  
June 14, 2008

To: Office of the City Clerk  
From: William H. Eady, Sr., Director of  
Community Development  
Subj: Land Use and Development Ordinance  
Amendment to Sign Provisions  
Date: May 23, 2008

# MEMORANDUM

At the regular meeting of the City of Daphne Planning Commission, May 22, 2008, six members were present and the vote carried unanimously for the affirmative recommendation of the above-mentioned amendment.

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

Thank you,

WHE/jd

cc: file

attachment(s)

**CITY OF DAPHNE  
ORDINANCE NO.: 2008-**

---

**AN ORDINANCE ADDING/AMENDING THE CITY OF DAPHNE,  
ALABAMA LAND USE AND DEVELOPMENT ORDINANCE 2002-22, as  
ADOPTED by the CITY COUNCIL ON SEPTEMBER 3, 2002**

---

**WHEREAS**, the City Council of the City of Daphne, after due consideration believes that certain revisions to the City of Daphne Land Use & Development Ordinance are necessary for the proper administration of said Ordinance; and

**WHEREAS**, The City of Daphne Planning Commission reviewed such changes at its regularly scheduled Commission meeting on the \_\_\_\_ day of May, 2008 and has made a favorable recommendation for adoption to the City Council;

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

**SECTION I: GENERAL PROVISIONS**

That Article XXXIII entitled "*Sign Provisions*", denoted as section 33-2 (a) (1) be and is hereby deleted in its entirety and is replaced as follows:

**33-2 (a) (1) the following apply**

(1) Signs Prohibited:

No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, until a permit has been issued by the Code Enforcement Officer. Before any permit shall be issued an application prescribed forms, which shall indemnify and hold harmless the City of Daphne of all damages, all demands or expenses of every character which may in any manner be caused by the erection and use of said sign or sign structure, shall be filed together with drawings and

specifications maybe necessary to fully advise and acquaint the Code Enforcement Officer with location, size, construction, materials, manner of illuminating, and securing or fastening, and number of size applied for in the wording of the sign or advertisement to be carried on the sign. A decision by the Code Enforcement Officer shall be made within thirty (30) calendar days from the date of when the application is received. Further an application for a business license shall be a prerequisite for applying for a sign permit.

**SECTION II:** That Article XXXVII, entitled "*Eastern Shore Park Overlay District-General Provisions*", denoted as section 37 (15) entitled "Permitted Signs" shall include a new subsection (k) which shall provide as follows:

No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, until a permit has been issued by the Code Enforcement Officer. Before any permit shall be issued an application prescribed forms, which shall indemnify and hold harmless the City of Daphne of all damages, all demands or expenses of every character which may in any manner be caused by the erection and use of said sign or sign structure, shall be filed together with drawings and specifications maybe necessary to fully advise and acquaint the Code Enforcement Officer with location, size, construction, materials, manner of illuminating, and securing or fastening, and number of size applied for in the wording of the sign or advertisement to be carried on the sign. A decision by the Code Enforcement Officer shall be made within thirty (30) calendar days from the date of when the application is received. Further an application for a business license shall be a prerequisite for applying for a sign permit.

### **SECTION III: CONFLICT WITH OTHER ORDINANCES.**

That any Ordinance heretofore adopted by the City Council of Daphne, Alabama, which is in conflict with this Ordinance, be and is hereby placed to the extent of such conflict.

**SECTION IV. SEVERABILITY**

That the provision 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 hereof.

**SECTION IV: EFFECTIVE DATE.**

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008.**

\_\_\_\_\_  
**FRED SMALL , MAYOR**  
CITY OF DAPHNE

\_\_\_\_\_  
**GREG BURNAM,**  
CITY COUNCIL PRESIDENT

ATTEST:

\_\_\_\_\_  
**DAVID COHEN, CITY CLERK, CMC**

**CITY OF DAPHNE  
ORDINANCE NO.: 2008-**

---

**AN ORDINANCE ADDING/AMENDING THE CITY OF DAPHNE,  
ALABAMA LAND USE AND DEVELOPMENT ORDINANCE 2002-22, as  
ADOPTED by the CITY COUNCIL ON SEPTEMBER 3, 2002**

---

**WHEREAS**, the City Council of the City of Daphne, after due consideration believes that certain revisions to the City of Daphne Land Use & Development Ordinance are necessary for the proper administration of said Ordinance; and

**WHEREAS**, The City of Daphne Planning Commission reviewed such changes at its regularly scheduled Commission meeting on the \_\_\_\_ day of May, 2008 and has made a favorable recommendation for adoption to the City Council;

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

**SECTION I: GENERAL PROVISIONS**

That Article XXXIII entitled "*Sign Provisions*", denoted as section 33-2 (a) (1) be and is hereby deleted in its entirety and is replaced as follows:

**33-2 (a) (1) the following apply**

(1) Signs Prohibited:

No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, until a permit has been issued by the Code Enforcement Officer. Before any permit shall be issued an application prescribed forms, which shall indemnify and hold harmless the City of Daphne of all damages, all demands or expenses of every character which may in any manner be caused by the erection and use of said sign or sign structure, shall be filed together with drawings and

specifications maybe necessary to fully advise and acquaint the Code Enforcement Officer with location, size, construction, materials, manner of illuminating, and securing or fastening, and number of size applied for in the wording of the sign or advertisement to be carried on the sign. A decision by the Code Enforcement Officer shall be made within thirty (30) calendar days from the date of when the application is received. Further an application for a business license shall be a prerequisite for applying for a sign permit.

**SECTION II:** That Article XXXVII, entitled "*Eastern Shore Park Overlay District-General Provisions*", denoted as section 37 (15) entitled "Permitted Signs" shall include a new subsection (k) which shall provide as follows:

No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, until a permit has been issued by the Code Enforcement Officer. Before any permit shall be issued an application prescribed forms, which shall indemnify and hold harmless the City of Daphne of all damages, all demands or expenses of every character which may in any manner be caused by the erection and use of said sign or sign structure, shall be filed together with drawings and specifications maybe necessary to fully advise and acquaint the Code Enforcement Officer with location, size, construction, materials, manner of illuminating, and securing or fastening, and number of size applied for in the wording of the sign or advertisement to be carried on the sign. A decision by the Code Enforcement Officer shall be made within thirty (30) calendar days from the date of when the application is received. Further an application for a business license shall be a prerequisite for applying for a sign permit.

**SECTION III: CONFLICT WITH OTHER ORDINANCES.**

That any Ordinance heretofore adopted by the City Council of Daphne, Alabama, which is in conflict with this Ordinance, be and is hereby placed to the extent of such conflict.

**SECTION IV. SEVERABILITY**

That the provision 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 hereof.

**SECTION IV: EFFECTIVE DATE.**

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008.**

\_\_\_\_\_  
**FRED SMALL , MAYOR**  
CITY OF DAPHNE

\_\_\_\_\_  
**GREG BURNAM,**  
CITY COUNCIL PRESIDENT

ATTEST:

\_\_\_\_\_  
**DAVID COHEN, CITY CLERK, CMC**

**Bulletin Legals**

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City Council of the City of Daphne will hold a Public Hearing on July 7, 2008 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.

David L. Cohen, City Clerk, MMC

**PROPOSED ORDINANCE:**

**CITY OF DAPHNE  
ORDINANCE NO.: 2008-**

**AN ORDINANCE ADDING/AMENDING  
THE CITY OF DAPHNE, ALABAMA  
LAND USE AND DEVELOPMENT  
ORDINANCE 2002-22, AS ADOPTED  
by the CITY COUNCIL ON  
SEPTEMBER 3, 2002**

WHEREAS, the City Council of the City of Daphne, after due consideration believes that certain revisions to the City of Daphne Land Use & Development Ordinance are necessary for the proper administration of said Ordinance; and

WHEREAS, The City of Daphne Planning Commission reviewed such changes at its regularly scheduled Commission meeting on the 22nd day of May, 2008 and has made a favorable recommendation for adoption to the City Council;

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

**SECTION I: GENERAL PROVISIONS**

That Article XXXIII entitled "Sign Provisions", denoted as section 33-2 (a) (1) be and is hereby deleted in its entirety and is replaced as follows:

33-2 (a) (1) the following apply

**(1) Signs Prohibited:**

No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, until a permit has been issued by the Code Enforcement Officer. Before any permit shall be issued an application prescribed forms, which shall indemnify and hold harmless the City of Daphne of all damages, all demands or expenses of every character which may in any manner be caused by the erection and use of said sign or sign structure, shall be filed together with drawings and specifications maybe necessary to fully advise and acquaint the Code Enforcement Officer with location, size, construction, materials, manner of illuminating, and securing or fastening, and number of size applied for in the wording of the sign or advertisement to be carried on the sign. A decision by the Code Enforcement Officer shall be made within thirty (30) calendar days from the date of when the application is received. Further an application for a business license shall be a prerequisite for applying for a sign permit.

**SECTION II:** That Article XXXVII, entitled "Eastern Shore Park Overlay District- General Provisions", denoted as section 37 (15) entitled "Permitted Signs" shall include a new subsection (k) which shall provide as follows:

No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, until a permit has been issued by the Code Enforcement Officer. Before any permit shall be issued an application prescribed forms, which shall indemnify and hold harmless the City of Daphne of all damages, all demands or expenses of every character which may in any manner be caused by the erection and use of said sign or sign structure, shall be filed together with drawings and specifications maybe necessary to fully advise and acquaint the Code Enforcement Officer with location, size, construction, materials, manner of illuminating, and securing or fastening, and number of size applied for in the wording of the sign or advertisement to be carried on the sign. A decision by the Code Enforcement Officer shall be made within thirty (30) calendar days from the date of when the application is received. Further an application for a business license shall be a prerequisite for applying for a sign permit.

**SECTION III:  
CONFLICT WITH  
OTHER ORDINANCES.**

That any Ordinance heretofore adopted by the City Council of Daphne, Alabama, which is in conflict with this Ordinance, be and is hereby placed to the extent of such conflict.

**SECTION IV. SEVERABILITY**

That the provision 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 hereof.

**SECTION IV: EFFECTIVE DATE.**

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

**ADOPTED AND APPROVED BY THE  
CITY COUNCIL OF THE CITY OF  
DAPHNE, ALABAMA, THIS DAY OF  
, 2008.**

Greg Burnam,  
Council President  
Date & Time Signed:  
Fred Small,  
Mayor  
Date & Time Signed:

**ATTEST:  
DAVID COHEN,  
CITY CLERK, MMC**

The Daphne Bulletin  
June 7, 2008

**SECOND NOTICE OF PUBLIC HEARING**

Notice is hereby given the second time, the first notice was published on June 7, 2008, that the City Council of the City of Daphne will hold a Public Hearing on July 7, 2008 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 an 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.

David L. Cohen, City Clerk, MMC

**PROPOSED ORDINANCE:**

**CITY OF DAPHNE**

**ORDINANCE NO.: 2008-**

**AN ORDINANCE ADDING/AMENDING  
THE CITY OF DAPHNE, ALABAMA  
LAND USE AND DEVELOPMENT**

**ORDINANCE 2002-22, as ADOPTED by the  
CITY COUNCIL ON SEPTEMBER 3, 2002**

WHEREAS, the City Council of the City of Daphne, after due consideration believes that certain revisions to the City of Daphne Land Use & Development Ordinance are necessary for the proper administration of said Ordinance; and

WHEREAS, The City of Daphne Planning Commission reviewed such changes at its regularly scheduled Commission meeting on the 22nd day of May, 2008 and has made a favorable recommendation for adoption to the City Council;

**/END SYNOPSIS**

The Daphne Bulletin  
June 14, 2008

To: Office of the City Clerk  
From: William H. Eady, Sr., Director of  
Community Development  
Subj: Paul Powers Real Estate Joint  
Venture - Annexation Review  
Date: May 23, 2008

## MEMORANDUM

At the regular meeting of the City of Daphne Planning Commission, May 22, 2008, six members were present and the vote carried unanimously for the affirmative recommendation of the above-mentioned request. The recommendation was for annexation of the property with the zoning classifications outlined in the attached petition and map for annexation.

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

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

Thank you,

WHE/jd

cc: file

attachment(s)

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**

( \_\_\_\_\_ )

The undersigned, **POWERS REAL ESTATE JOINT VENTURE**, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as **CENTRAL PARK** 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, POWERS REALS ESTATE JOINT VENTURE 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:

**B-1 FOR 28.52 ACRES**  
**R-4 MULTI FAMILY FOR 12.23 ACRES**  
**R-4 SINGLE FAMILY FOR 9.14 ACRES**  
**R-3 FOR 9.72 ACRES**

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 25<sup>th</sup> day of January, 2008.

Respectfully submitted,

POWERS REAL ESTATE JOINT VENTURE

By:  
Its:   
member

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that PAUL S. POWERS whose name as Member of Powers Real Estate Joint Venture 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 day of 21<sup>st</sup>, April, 2008.

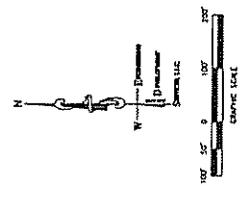
 (NOTARY SEAL)  
NOTARY PUBLIC  
My commission expires: 11-5-08

# EXHIBIT "A"

## CENTRAL PARK COMPOSITE DESCRIPTION

COMMENCE AT A RAILROAD SPIKE MARKER AT THE "LOCALLY ACCEPTED" SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, ST. STEPHENS MERIDIAN AND RUN THENCE NORTH 89 DEGREES 49 MINUTES 30 SECONDS EAST, FOR A DISTANCE OF 40.06 FEET TO AN IRON PIN MARKER ON THE EAST RIGHT-OF-WAY OF ALABAMA STATE HIGHWAY NUMBER 181 FOR A POINT OF BEGINNING: THENCE CONTINUE NORTH 89 DEGREES 49 MINUTES 30 SECONDS EAST, FOR A DISTANCE OF 1964.36 FEET TO AN IRON PIN MARKER; THENCE RUN NORTH 00 DEGREES 13 MINUTES 17 SECONDS EAST, FOR A DISTANCE OF 1321.20 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89 DEGREES 38 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 1333.96 FEET TO AN IRON PIN MARKER; THENCE RUN NORTH 00 DEGREES 19 MINUTES 25 SECONDS EAST, FOR A DISTANCE OF 15.0 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89 DEGREES 38 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 626.91 FEET TO AN IRON PIN MARKER ON THE EAST RIGHT-OF-WAY OF SAID HIGHWAY 181; THENCE RUN SOUTH 00 DEGREES 22 MINUTES 30 SECONDS WEST, ALONG SAID HIGHWAY, FOR A DISTANCE OF 1330.04 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 59.60 ACRES, MORE OR LESS, AND LIES IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

PROPERTY IS LOCATED IN THE CITY OF MOBILE, ALABAMA. THE CITY OF MOBILE IS A PART OF BALDWIN COUNTY, ALABAMA.



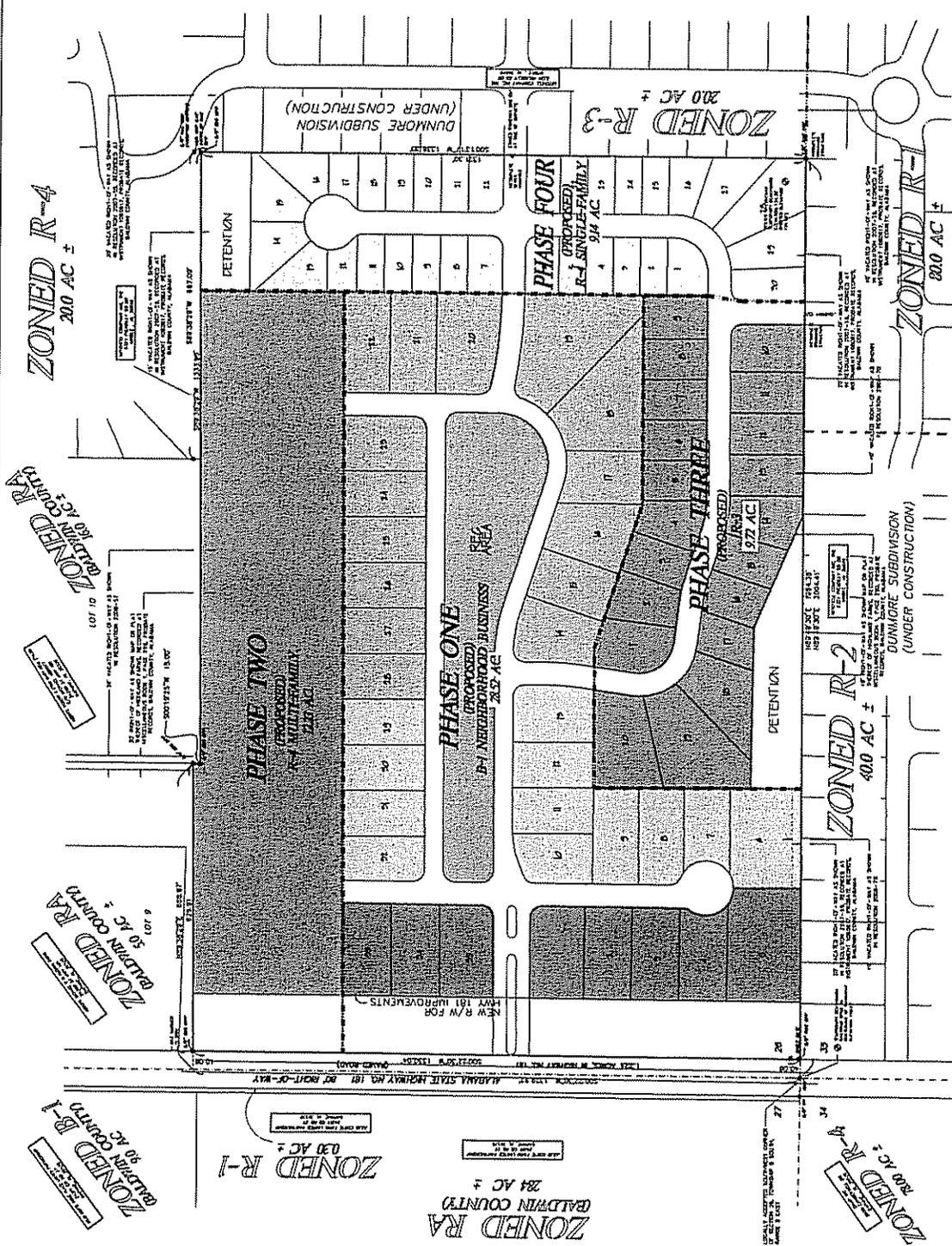
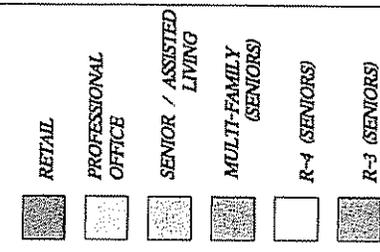
**SITE DATA**

PHASE ONE  
ZONE B-1:  
28.52 AC.  
35 LOTS

PHASE TWO  
ZONE R-4 MULTI-FAMILY:  
12.23 AC  
140 UNITS

PHASE THREE  
ZONE R-3:  
9.72 AC.  
22 LOTS

PHASE FOUR  
ZONE R-4 SINGLE-FAMILY:  
9.14 AC  
30 LOTS



**CENTRAL PARK  
EXHIBIT "B"**

**ENGINEERING DEVELOPMENT SERVICES, LLC**  
 Engineering • Surveying • Construction Management  
 2715 North Blvd., Mobile, Alabama 36688  
 (205) 833-1111 • Fax: (205) 833-1112

APRIL 17, 2008

**ORDINANCE NO. 2008-**

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

**Powers Real Estate Venture "Central Park"  
(Property located on East Side of Alabama 181 Highway)**

**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 May 22, 2008 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 – 28.52 Acres, R-4 High Density Multi-Family Residential District – 12.23 Acres, R-4, High Density Single Family Residential District – 9.14 Acres, R-3 High Density Single Family District – 9.72 Acres**; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on July 7, 2008 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"**

**LEGAL DESCRIPTION:**

COMMENCE AT A RAILROAD SPIKE MARKER AT THE "LOCALLY ACCEPTED" SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, ST. STEPHENS MERIDIAN AND RUN THENCE NORTH 89 DEGREES 49 MINUTES 30 SECONDS EAST, FOR A DISTANCE OF 40.06 FEET TO AN IRON PIN MARKER ON THE EAST RIGHT-OF-WAY OF ALABAMA STATE HIGHWAY NUMBER 181 FOR A POINT OF BEGINNING; THENCE CONTINUE NORTH 89 DEGREES 49 MINUTES 30 SECONDS EAST, FOR A DISTANCE OF 1964.36 FEET TO AN IRON PIN MARKER; THENCE RUN NORTH 00 DEGREES 13 MINUTES 17 SECONDS EAST, FOR A DISTANCE OF 1321.20 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89 DEGREES 38 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 1333.96 FEET TO AN IRON PIN MARKER; THENCE RUN NORTH 00 DEGREES 19 MINUTES 25 SECONDS EAST, FOR A DISTANCE OF 15.0 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89 DEGREES 38 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 626.91 FEET TO AN IRON PIN MARKER ON THE EAST RIGHT-OF-WAY OF SAID HIGHWAY 181; THENCE RUN SOUTH 00 DEGREES 22 MINUTES 30 SECONDS WEST, ALONG SAID HIGHWAY, FOR A DISTANCE OF 1330.04 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 59.60 ACRES, MORE OR LESS, AND LIES IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
**Greg Burnam**  
**Council President**  
Date & Time Signed: \_\_\_\_\_

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

**ATTEST:**

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

**4, High Density Single Family Residential District – 9.14 Acres, R-3 High Density Single Family District – 9.72 Acres; and,**

**WHEREAS,** after proper publication, a public hearing was held by the City Council on July 7, 2008 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.

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**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this      day of      ,2008.

**Greg Burnam**  
**Council President**  
Date & Time Signed:

**Fred Small**  
**Mayor**  
Date & Time Signed:

**ATTEST:**

**David L. Cohen**  
**City Clerk, MMC**

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City Council of the City of Daphne will hold a Public Hearing on July 7, 2008 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 annexing certain property 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.

David L. Cohen, City Clerk, MMC

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2008-**

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE MUNICIPALITY OF THE**

**CITY OF DAPHNE, ALABAMA**

Powers Real Estate Venture "Central Park"

(Property located on East Side of

Alabama 181 Highway)

**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 corpo-

rate 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 May 22, 2008 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 - 28.52 Acres, R-4 High Density Multi-Family Residential District - 12.23 Acres, R-4, High Density Single Family Residential District - 9.14 Acres, R-3 High Density Single Family District - 9.72 Acres; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on July 7, 2008 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 ANNEXTION.** 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.

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"Exhibit A"

**LEGAL DESCRIPTION:**

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ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this \_\_\_\_\_ day of 2008.

Greg Burnam  
Council President  
Date & Time Signed:  
Fred Small  
Mayor  
Date & Time Signed:

ATTEST:  
David L. Cohen  
City Clerk, MMC

The Daphne Bulletin  
June 7, 2008

## Bulletin Legals

### SECOND NOTICE OF PUBLIC HEARING

Notice is hereby given the second time, the first notice was published on June 7, 2008 that the City Council of the City of Daphne will hold a Public Hearing on July 7, 2008 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 an Ordinance annexing certain property 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.

David L. Cohen, City Clerk, MMC

PROPOSED ORDINANCE:

ORDINANCE NO. 2008-

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

Powers Real Estate Venture "Central Park"

(Property located on East Side of

Alabama 181 Highway)

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 May 22, 2008 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 - 28.52 Acres, R-4 High Density Multi-Family Residential District - 12.23 Acres, R-4, High Density Single Family Residential District - 9.14 Acres, R-3 High Density Single Family District - 9.72 Acres; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on July 7, 2008 concerning the petition for annexation; and,

/END SYNOPSIS

The Daphne Bulletin

June 14, 2008

To: Office of the City Clerk  
From: William H. Eady, Sr., Director of  
Community Development  
Subj: Elite Development Company - Zoning  
Amendment  
Date: May 23, 2008

# MEMORANDUM

At the regular meeting of the City of Daphne Planning Commission, May 22, 2008, six members were present and the vote carried unanimously for the affirmative recommendation of the above-mentioned request.

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

The present zoning is R-3, high density single family residential. The proposed zoning is R-4, high density single family residential. The property is located Northeast of the intersection of Parker Lane and Avery Drive.

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

Thank you,

WHE/jd

cc: file

attachment(s)



**APPLICATION FOR ZONING AMENDMENT**

STATE OF ALABAMA)  
COUNTY OF BALDWIN)  
CITY OF DAPHNE)

This is to certify that I (we) the undersigned am (are) the owner(s) of said property and do hereby request the City of Daphne to grant a Zoning Amendment for said property for the reasons outlined herein:

1) Description of property for which amendment is requested:

- a) Address N/A
- b) Name of Subdivision MADISON PLACE PHASE THREE, (PORTION) AND PHASE FOUR (PORTION)
- c) Lot numbers involved in change \_\_\_\_\_
- d) Total acreage of change 10.01
- e) Instrument # 850706
- f) Owned in whole by the undersigned WHOLE
- g) If owned in part, name(s) of co-owner(s) WHOLE

2) Zoning change requested:

- a) Present classification of property R3
- b) Reclassification desired R-4 SINGLE FAMILY
- c) Character of neighborhood R-3 & R-4 SINGLE FAMILY

3) Certifications:

- a) Owner's Name ELITE DEVELOPMENT COMPANY, LLC
- b) Address P O BOX 1629 FOLEY, AL 36536
- c) Telephone Number 251-988-1230
- c) Date 4/22/2008
- d) Signature of Property Owner



\_\_\_\_\_  
Signature of Property Owner

**AGREEMENT**

**...ALLOWING THE CITY OF DAPHNE TO POST PUBLIC NOTICE SIGNS ON THE PROPERTY FOR WHICH AN APPLICATION FOR A ZONING AMENDMENT HAS BEEN SUBMITTED TO THE CITY COUNCIL.**

I hereby agree to allow the City of Daphne to post on my property, for which an application for a zoning amendment has been submitted to the City Council, a sign or sign(s) notifying the general public of said request. I understand the City of Daphne shall erect and maintain said sign(s) for the prescribed period of time and remove the same.

4/21/08  
Date

  
Signature of Property Owner

**“EXHIBIT A”**  
**MADISON PLACE,**  
**PHASE THREE (PORTION) AND PHASE FOUR (PORTION)**  
**REZONE**  
**LEGAL DESCRIPTION**

COMMENCE AT THE NORTHEAST CORNER OF COMMON AREA 4 OF MADISON PLACE SUBDIVISION, PHASE TWO, AMENDED, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2258F, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING: THENCE RUN SOUTH 89 DEGREES 54 MINUTES 03 SECONDS WEST, A DISTANCE OF 746.60 FEET; THENCE RUN NORTH 00 DEGREES 12 MINUTES 17 SECONDS EAST, A DISTANCE OF 494.33 FEET; THENCE RUN NORTH 00 DEGREES 07 MINUTES 50 SECONDS EAST, A DISTANCE OF 85.68 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 741.26 FEET; THENCE RUN SOUTH 13 DEGREES 06 MINUTES 30 SECONDS EAST, A DISTANCE OF 170.66 FEET; THENCE RUN SOUTH 24 DEGREES 29 MINUTES 50 SECONDS WEST, A DISTANCE OF 86.58 FEET; THENCE RUN SOUTH 00 DEGREES 05 MINUTES 57 SECONDS EAST, A DISTANCE OF 335.00 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 10.01 ACRES, MORE OR LESS, AND LIES IN FRACTIONAL SECTION 8, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.



ADJACENT PROPOERTY OWNERS  
REZONING APPLICATION  
MADISON PLACE  
PHASE THREE (PORTION) AND PHASE FOUR (PORTION)

BEEMAN, JEANETTE L  
7633 AVERY LANE  
DAPHNE, AL 36526

JERNIGAN, MICHAEL D  
7601 AVERY LANE  
DAPHNE, AL 36526

BENCHMARK HOMES INC  
2936 MCVAY DRIVE NORTH  
MOBILE, AL 36606

ROBERTSON, NONA KRISTA  
7625 AVERY LANE  
DAPHNE, AL 36526

BLISS HOLDINGS L L C  
P O BOX 714  
DAPHNE, AL 36526

SCOTT, SUSAN E  
7687 AVERY LN  
DAPHNE, AL 36526

BROWN, JAMES SMITH ETAL BROWN,  
CLARA JEA  
7679 AVERY LANE  
DAPHNE, AL 36526

STANLEY, LYDIA M  
7743 AVERY LANE  
DAPHNE, AL 36526

CHILTON, LYNN L  
7665 AVERY LANE  
DAPHNE, AL 36526

STRAHLEY, ROBERT T ETAL STRAHLEY,  
DEBORA  
P O BOX 503  
MONTROSE, AL 36559

DAPHNE CITY OF  
P O BOX 400  
DAPHNE, AL 36526

WEBB, CHARLES B ETAL WEBB, EUNICE  
L  
7731 AVERY LANE  
DAPHNE, AL 36526

EARTH INC  
P O BOX 220  
DAPHNE, AL 36526

YATES, SHIRLEY O  
7593 AVERY LANE  
DAPHNE, AL 36526

ELITE DEVELOPMENT L L C  
P O BOX 1629  
FOLEY, AL 36536

PINYAN, PAULINE  
7701 AVERY LANE  
DAPHNE, AL 36526

FAHERTY, THOMAS M JR  
7613 AVERY LANE  
DAPHNE, AL 36526

**ORDINANCE NO. 2008 - \_\_\_\_\_**

**Ordinance to Rezone Property Located on the Northeast Corner of  
Parker Lane and Avery Lane (10.01 Acres)  
Elite Development Company**

**WHEREAS**, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-3, High Density Single Family Residential District, to R-4, High Density Single Family District, to said property is located on the Northeast Corner of Parker Lane and Avery Drive, being more particularly described as follows:

**Legal Description:**

COMMENCE AT THE NORTHEAST CORNER OF COMMON AREA 4 OF MADISON PLACE SUBDIVISION, PHASE TWO, AMENDED, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2258F, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING: THENCE RUN SOUTH 89 DEGREES 54 MINUTES 03 SECONDS WEST, A DISTANCE OF 746.60 FEET; THENCE RUN NORTH 00 DEGREES 12 MINUTES 17 SECONDS EAST, A DISTANCE OF 494.33 FEET; THENCE RUN NORTH 00 DEGREES 07 MINUTES 50 SECONDS EAST, A DISTANCE OF 85.68 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 741.26 FEET; THENCE RUN SOUTH 13 DEGREES 06 MINUTES 30 SECONDS EAST, A DISTANCE OF 170.66 FEET; THENCE RUN SOUTH 24 DEGREES 29 MINUTES 50 SECONDS WEST, A DISTANCE OF 86.58 FEET; THENCE RUN SOUTH 00 DEGREES 05 MINUTES 57 SECONDS EAST, A DISTANCE OF 335.00 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 10.01 ACRES, MORE OR LESS, AND LIES IN FRACTIONAL SECTION 8, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**WHEREAS**, the Planning Commission of the City of Daphne on May 22, 2008 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on Monday, July 7, 2008 concerning the requested rezoning.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, that said property described above is hereby rezoned from R-3, High Density Single Family Residential District, to R-4, High Density Single Family District and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ day of \_\_\_\_\_, 2008.**

\_\_\_\_\_  
**Greg Burnam, Council President**  
Date & Time Signed: \_\_\_\_\_

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

**ATTEST:**

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

## Bulletin Legals

### FIRST NOTICE OF PUBLIC HEARING

Notice is hereby given the first time that the City Council of the City of Daphne will hold a Public Hearing on July 7, 2008 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 rezoning certain property from R-3, High Density Single Family Residential District to R-4, High Density Single Family Residential District 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.

David L. Cohen, City Clerk, MMC

### PROPOSED ORDINANCE:

#### ORDINANCE NO. 2008

Ordinance to Rezone Property Located on the Northeast Corner of Parker Lane and Avery Lane (10.01 Acres) Elite Development Company

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-3, High Density Single Family Residential District, to R-4, High Density Single Family District, to said property is located on the Northeast Corner of Parker Lane and Avery Drive, being more particularly described as follows:

#### Legal Description:

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WHEREAS, the Planning Commission of the City of Daphne on May 22, 2008 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, July 7, 2008 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-3, High Density Single Family Residential District, to R-4, High Density Single Family District and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS day of , 2008.

Greg Burnam, Council President

Date & Time Signed:

Fred Small, Mayor

Date & Time Signed:

David L. Cohen  
City Clerk, MMC

The Daphne Bulletin  
June 7, 2008

**SECOND NOTICE OF PUBLIC HEARING**

Notice is hereby given the second time, the first notice was published on June 7, 2008 that the City Council of the City of Daphne will hold a Public Hearing on July 7, 2008 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 an Ordinance rezoning certain property from R-3, High Density Single Family Residential District to R-4, High Density Single Family Residential District 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.

David L. Cohen, City Clerk, MMC

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2008 -**

**Ordinance to Rezone Property Located on the Northeast Corner of Parker Lane and Avery Lane (10.01 Acres)**

Elite Development Company

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-3, High Density Single Family Residential District, to R-4, High Density Single Family District, to said property is located on the Northeast Corner of Parker Lane and Avery Drive, being more particularly described as follows:

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WHEREAS, the Planning Commission of the City of Daphne on May 22, 2008 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, July 7, 2008 concerning the requested rezoning.

/END SYNOPSIS

The Daphne Bulletin  
June 14, 2008

**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 OF DAPHNE**  
**SPECIAL FINANCE COMMITTEE MINUTES**  
**June 23, 2008**  
**5:00 P.M.**

**I. CALL TO ORDER/ROLL CALL**

The meeting was called to order at 5:05 pm. Present were Chairman Ron Scott, Councilman Eric Nager, Finance Director Kim Briley, and Senior Accountant Suzâne Henson.

Councilman Bailey Yelding was absent.

Also in attendance were Mayor Fred Small, and auditors Mark Chapman and Kelly Kichler.

**II. PUBLIC PARTICIPATION**

**City's Annual Audit – Smith, Dukes, and Buckalew LLP**

Mr. Chapman spoke concerning the City's audit, noting that the audit did not have any material misstatements. Discussion continued on ad valorem collections and the change on the accrual period since these collections are made in arrears.

The following items from the draft audit report were discussed:

- A. It was noted that the annual report of sales and use taxes received totaling \$14,024,339 includes the limited obligation amounts, whereas the reports filed monthly reflect only the monies going into the general fund.
- B. The City's long-term debt totals \$48,068,053.
- C. The requirements for reporting infrastructure.
- D. It was noted that the overall FY 2008 sales tax budget/actual shortfall is estimated at \$760,000.
- E. Comparison of budgeted line items versus actual showed majority was under budget.
- F. The budgetary basis of reporting encumbrances versus the GAAP basis.
- G. Special Revenues – reviewed road projects completed.

Mr. Chapman commented that Ms. Briley did an excellent job.

**III. ADJOURN**

The meeting was adjourned at 5:50 p.m.

**Public Safety Committee**  
*Wednesday, June 4, 2008*

Councilman Greg Burnam, Chairman  
Councilman Gus Palumbo  
Councilman Eric Nager  
Fire Chief James White  
PW Sup. Melvin McCarley

Police Chief David Carpenter  
Captain Scott Taylor  
Captain Daniel Bell  
Tracy Bishop - Secretary

**Committee Members Attending:**

Councilman Greg Burnam, Councilman Eric Nager, Councilman Gus Palumbo, Chief Carpenter, Fire Chief James White, Capt. Daniel Bell, PW Sup. Melvin McCarley.

**CALL TO ORDER**

Councilman Nager **convened** the meeting at 4:40 p.m.

**PUBLIC PARTICIPATION –**

Victoria Phelps from Lake Forest Subdivision thanked Public Works for cutting down the diseased trees in the median. She asked Public Works to continue to mark diseased and cut them down as needed. Melvin added that he is swamped right now, it may be a month or two but he will get back on that project as soon as he can

Ms. Phelps went before the LFPOA and they are onboard with the speed limit reduction. She wants the Council to put that speed limit reduction in place as soon as possible. Victoria expressed her concerns for the walkers and runners in Lake Forest. Lowering the speed limit gives an extra element of safety.

Councilwoman Cathy Barnette also addressed the speed limit in old Daphne. The smaller residential side streets should have their speed limit lowered also. She asked the committee to post the lower speed limits on those residential side streets in Old Daphne.

The ordinance must be revised. Councilman Palumbo made the motion that all streets currently unposted in the City of Daphne will be 25 mph. Cathy Barnette asked for bushes to be trimmed at Sixth St. and McAdams Av., stop signs to be erected, or maybe a mirror put up at this intersection. Melvin stated the stop signs would cause more problems. Melvin said he would see about mounting a mirror if there is a pole available to mount it on.

**APPROVAL OF MINUTES FROM PREVIOUS MEETING**

**Minutes from May 2008 Meeting**

***Motion by Mr. Palumbo*** to adopt the minutes. ***Seconded by Mr. Nager.*** The minutes were adopted.  
**Motion carried.**

## **FIRE DEPARTMENT**

### **A. New Business**

#### **1. Statistics for April 2008**

Chief White went over his department stats. He advised members present that they had issued 194 burn permits over the past year. The Fire Chief said to correct the complaint from last month from Larry Cook on smoke could be corrected if residents would place their rubbish out by the road for Public Works to pick up instead of burning it. Chief also gave Councilwoman Barnette the mutual aid totals for April and YTD that she questioned the previous month.

### **B. Old Business**

## **POLICE DEPARTMENT**

### **A. New Business**

#### **1. Statistics for April 2008**

Chief went over the stats. Chief Carpenter passed around a photo of the new drug dog “DJ” and explained that Officer Sulzmann has just returned with the new dog from a two week certification course in Louisiana. Palumbo questioned why we had 0 animals euthanized month before last and 52 euthanized last month. Chief explained to him that month before last was “no kill” month.

June 16<sup>th</sup> at the next council meeting will be the retirement of “Jago” our old drug dog. All members received a letter and pictures from the residents at 440 Ridgewood Dr. concerning accidents that are happening in their front yard. Melvin is already in the process of erecting signs, etc. to slow traffic down at this curve. Also they would like for the Jayce Holmes memorial items to be removed from the median in front of their house.

### **B. Old Business**

## **OTHER BUSINESS**

## **ADJOURN**

There being no further business to discuss, Mr. Burnam adjourned the meeting at 5:50 p.m., after a motion by Councilman Nager. The next meeting will be Wednesday, August 6, 2008 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,

Daphne Public Safety Committee





*Lake Forest*  
**Yacht and Country Club**



May 28, 2008

City of Daphne Public Safety Committee Chair, Greg Burnam  
City of Daphne Public Works Committee Chair, Bailey Yelding  
P.O. Box 400  
Daphne, AL 36526

Dear Sirs,

At the May 22<sup>nd</sup> Stated Board Meeting there was a request made to the Board that the Lake Forest Property Owners Association ask the City of Daphne for a reduction of the speed limit in our subdivision from 30 miles per hour to 25 miles per hour. This adjustment downward of the posted speed limit will enhance the safety of the citizens of Lake Forest and others as well who transit through Lake Forest. This request is also inline with similar trends and requests from other neighborhoods throughout the city of Daphne.

We encourage the Public Works Department to schedule this change as soon as possible.

Thank you for your support,

John Peterson, LFPOA President

Cc: Honorable Fred Small, Mayor of Daphne  
City of Daphne Council Members

**Lynne T. DeVault  
430 Ridgewood Drive  
Daphne, Al 36526  
May 29, 2008**

**City of Daphne  
Public Works  
Eric Nager  
Mayor Small**

**Dear Friends,**

**Between 426 Ridgewood Drive and 440 Ridgewood Drive there is a curve that slowly bends and causes drivers to speed up. However, there have been two accidents in the same location. The first accident was about a year ago and it resulted in a teen's death. The other accident occurred last week. Both accidents damaged two lawns and destroyed a telephone box.**

**There needs to yellow curve markings showing that there is a curve coming up. Actually on the opposite of Ridgewood from these addresses there are curve markings showing that the road takes a bend.**

**Also, I have another request. The wreck that occurred a year ago was tragic. But, the remains of that wreck right in front of a fire hydrant are dangerous as well as hideous looking. There's a metal pipe that has been bent into a right angle that has held an Alabama flag. This pipe is a hazard to the fire department should the hydrant be needed in an emergency. It is also very unsightly in our median. I request that this be taken down and that all the paraphernalia around it such as chewing tobacco cans, beads, hats, and the like be removed. There is a cross there and I think it should be allowed to stay – but moved away from the hydrant. It is not an appropriate place to be.**

**I am also writing Lake Forest Property Owners Board about these matters.**

**Thank you for considering my request.**

**CITY OF DAPHNE  
FIRE DEPARTMENT MONTHLY REPORT**

Report Period:      April 2008

	Current:	FY to Date:
<b>Suppression:</b>		
<b>1-Fire/Explosion:</b>		
10-Fire, Other	0	0
11-Structure Fire/Commercial	1	2
11-Structure Fire/Residential	2	11
12-Fire in Mobile Property used as fixed structure	0	0
13-Mobile Property (vehicle) Fire	0	14
14-Natural Vegetation Fire	2	11
15-Outside Rubbish Fire	0	4
16-Special Outside Fire	0	1
17-Cultivated Vegetable Crop Fire	0	0
<b>2-Overpressure Rupture:</b>	0	0
<b>3-Rescue Call and Emergency Medical Service Incidents:</b>	133	875
<b>4-Hazardous Conditions (No fire):</b>	3	42
<b>5-Service Call:</b>	14	74
<b>6-Good Intent Call:</b>	6	87
<b>7-False Alarm &amp; False Call:</b>	10	94
<b>8-Severe Weather &amp; Natural Disaster:</b>	0	1
<b>9-Other Situation:</b>	0	1
<b>Total Emergency Calls:</b>	<b>153</b>	<b>1,048</b>
<b>Monthly Total Calls:</b>	<b>171</b>	<b>1,217</b>
<b>Response Time:</b>		
<b>Highest:</b>	10	13
<b>Lowest:</b>	<1	<1
<b>Average (Minutes/Seconds) :</b>	4/14	4/11
<b>Miscellaneous Reports:</b>		
<b>Training Hours</b>	211	902.67
<b>Property Loss - \$</b>	\$50	\$1,455,655
<b>Fire Personnel Injuries by Fire/Civilian Injuries by Fire</b>	0/0	1/0
<b>Advance Life Support Rescues</b>	85	431
<b>Number of Patients Treated</b>	136	876
<b>Total Mutual Aid Given</b>	3	19
<b>Total Mutual Aid Received</b>	0	8
<b>Child Passenger Safety Seat Inspections/Installations</b>	11	77
<b>Fire Prevention Awareness/Education:</b>		
<b>Classes</b>	1	62
<b>Persons Attending</b>	3	2,068
<b>Bureau of Fire Prevention:</b>		
<b>Plan Reviews</b>	4	36
<b>Final/Certificate of Occupancy</b>	1	3
<b>General/Annual Inspections</b>	91	746
<b>General/Re-Inspections (Violation Follow-up - Annual)</b>	13	123
<b>Business Licenses</b>	8	55
<b>Consultations-</b>	0	43
<b>All Other/Misc. Activities</b>	0	7
<b>Total Activities:</b>	<b>117</b>	<b>1,013</b>

Authorized by:

*James White*

Chief James White

Daphne Police Department		Monthly Report					APRIL 2008			
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	1,017	# New Cases Received:	59	Total Arrestees Received & Processed:	143	1,041			Arson	0
# Misd. Arrests	62	# Previous Unsolved Cases:	140	Arrestees by Agency:			#Complaints	70	Burglary – Commercial	1
# Felony Arrests	12	# Cases Solved:	42	Daphne PD	117	832	#Follow-ups	113	Burglary – Residence	2
DUI Arrests	17	Resulting in Total Arrests:	20	BCSO	4	62	#Citations	12	Burglary - Vehicle	2
Alias Warrant Arrests	17	Felonies:	18	Spanish Fort PD	19	122	#Warnings	7	Criminal Mischief	8
Citations	583	Misdemeanors:	2	Troopers	0	20	#Felines Captured	38	Disorderly Conduct	2
Close Patrols	736	Houses Searched	1	Other Agencies	0	4	#Canines Captured	23	Domestic Disturbance	11
Warnings	243						#Other Captured	23	False Info to Police	4
Motorist Assists	249						#Returned to Owner	16	Felony Assault	1
Roadway Accidents	54	<b>Warrants:</b>					#Adopted Out	14	Felony Theft	13
Private Property Accidents	22	Bettner Served	40				#Euthanized	52	Harassment	3
Traffic Homicide	0	Agency Assists	21	Highest	28				Identity Theft	2
		Recalls (Pd Fines)	15	Lowest	22				Indecent Exposure	0
<b>DRUG REPORT</b>		Total Warrants Served	76						Kidnapping	0
<b>ROUTINE PATROL/SPECIAL OPS</b>				Meals Served	2,028	16,820			Menacing	0
		<b>Sex Offender:</b>		Medical Cost	2,769	\$12,086.00			Misdemeanor Assault	3
# Misd. Marijuana Arrest	3	New Registration:	0	Worker Inmate Hours	670	4,294			Misdemeanor Theft	10
# Felony Marijuana Arrest	0	Contact Verification	0						Murder	0
# Controlled Substance Arrest:	1	Total # registered in Daphne	3						Other Death Investigations	0
# Drug Paraphernalia Arrest	1	<b>DARE:</b>							Public Intoxication	0
Vehicles Searched	55	# Hours Report Writing:	7						Public Lewdness	0
		# Students Instructed SRO	100						Receiving Stolen Property	1
Drugs Seized: marijuana	4	# Students Instructed DARE	50						Reckless Endangerment	1
Money Seized	0	# Police Reports by SRO	2						Resisting Arrest	1
Vehicles Seized	0	# Arrest by SRO	2						Robbery	0
									Sex Crime Investigations	0
Commercial Vehicle Inspections	11	<b>CODE ENFORCEMENT:</b>							Suicide	0
		Warnings:	7						Suicide, attempted	1
		Citations	2						Theft of Services	0
		Warning Compliance	10						Unauthorized Use of Services	3
		Follow – Up	14						Weapon Offenses	0
									White Collar Crimes	7
<i>Approved by:</i>		<i>David Carpenter, Chief of Police</i>								

**CITY OF DAPHNE**  
**PUBLIC WORKS COMMITTEE MEETING**  
**Time: 8:00 AM on May 23, 2008**  
**Location: City Hall Council Chambers**

Councilman Bailey Yelding, District 1  
Councilwoman Cathy Barnette, District 2  
Councilman John Lake, District 3

**I. CALL TO ORDER**

The May meeting of the Public Works Committee was called to order at 8:10 a.m.

Present: Councilman John Lake, Councilman Yelding Bailey, Councilwoman Cathy Barnette, Melvin McCarley, Scott (HMR), Selena Vaughn – Beautification Committee, Jay Robinson - HMR

**II. PUBLIC PARTICIPATION & CORRESPONDENCE**

- A. Work Request Report – April 2007
- B. Correspondence – None

**III. OLD BUSINESS**

- A. Minutes – April 25, 2008 meeting  
Councilman Lake made a motion to approve minutes. Motion seconded by Councilwoman Barnette. All in favor. Minutes accepted.
- B. Yacht Club Drive – Needs a solution. Councilman Lake stated that he thought a 3-way stop would be good. Mayor Small asked if “Slow” signs would work. The Committee agreed that this item should be looked at further.

**IV. NEW BUSINESS**

- A. Garbage Pick-Up Malbis – Melvin McCarley stated that only left hand turn radius is available. They are already using the smallest truck available for that route but trucks are still hitting the edge of resident’s property. It was Melvin’s opinion that they have residents put their garbage in front of their houses rather than in the alley. The same problem exists in La Casa subdivision. Frank Barnett, Building Maintenance showed photos of the roads and damage at Malbis and explained how trucks make their turns in the neighborhood. It was discussed that it would help to cut back ROW
- B. Councilwoman Barnette would like to see a mosquito report and charts on where is being sprayed.
- C. Councilman Lake sated that they were missing out on a lot of money from not being able to rent out the bottom half of Bay Front. David Cohen is working on a grant for restrooms at Bay Front Park. Scott Hutchins stated that there was already a plan in place to place concrete on the pilings. Mayor Small questioned whether it was going to require a lot of digging. Scott indicated that it would. It would need to be crowned so that rain does not pool. Mayor Small stated that there would be opportunities to rent out just the bottom half and not the top. The restrooms would need to be placed on the north side of the building. Maria Bush drew up a design for the restrooms. Need to get Kim Briley do a resolution for council to approve. HMR would like the opportunity to bid it. Councilwoman Barnette made a motion to authorize HMR to get quotes for concrete repairs and stabilization at Bay Front. Motion seconded by Councilman Lake.

**V. DIRECTOR'S REPORT**

- A. Whispering Pines Turning Lane – Mayor Small stated that we had received a request for a right turn lane on Whispering Pines at CVS. He also stated that we need to look at intersection of Pollard and Whispering Pines. Would need to extend the drainage and add more pipe. Would like to add a push button cross walk. Mayor Small is going to call Vince Calametti. Mayor Small believes a right turn lane is needed on Whispering Pines. He has never liked the way the sidewalk ends there and would like to see it reworked to include a push button cross walk. He believes that the light box should be able to handle the addition. If worked correctly, a left turn lane could be added as well. Scott stated that Whispering Pines is in bad shape. It needs more than resurfacing. It needs patching and other repairs. Mayor Small would like to have the County overlay the asphalt. Councilman Lake said that the problem starts when you go down the hill at Trione Park. Councilwoman Barnette would like to see the drainage issues at Trione Park addressed at the same time. The road is below curb elevation. HMR to redesign plans and resubmit at next meeting, Need to get a soil boring on Whispering Pines. Motion made by Councilwoman Barnette, motion seconded by Councilman Yelding for plans to be redesigned and resubmitted.
- B. Johnson Road – Councilman Yelding stated that a truck turned over. Mayor Small was under the impression that this was resolved.

**VI. SOLID WASTE AUTHORITY**

- A. Nothing to report

**VII. MUSEUM COMMITTEE**

- A. Minutes – April 4, 2008

**VIII. BEAUTIFICATION COMMITTEE**

- A. Minutes – April 14, 2008 and April 21, 2008
- B. Selena Vaughn from the Beautification committee stated that we have three (3) Champion Trees at Village Point; one of which is a National Champion Tree.
- C. Selena stated that Frieda (Beautification Committee Treasurer) has requested that they work towards better communication with Public Works and Recreation. They have just determined what Public Works is responsible for and what the Parks Department is responsible for. They would like to have a committee member attend the monthly Public Works Committee meeting to establish a line of communications. Councilman Yelding stated that PW should be able to provide a monthly balance sheet for beautification, with copies of invoices as back up for all expenditures for that month. Selena stated that they are not always sure what is being charged to their account. He feels that better communications is needed. Selena stated that they need to know who to go to for authorization for purchases. Who needs to approve purchases? They are looking for guidance on how to get things done. Councilman Lake stated that he knew someone who was possibly interested in participating in the Beautification Committee. Selena said that they had planted some pine trees and Parks came in and mowed them down, not knowing they had been specifically planted. They had been donated. It was agreed that someone from the Beautification Committee attend the monthly Public Works Committee. Mayor Small wants to see a report and copies of invoices included in future Committee Meetings.

**IX. ENGINEER REPORT**

- A. NRCS Update – Got a letter yesterday. The request needs to come on City letterhead.
- B. Whiting Court – Ashley set up a meeting with residents. She will then get with Mayor

Small to ask the Council for access to funds as soon as they are released. Scott Hutchins stated that they still need to meet regarding the design before any work is started.

V. **FUTURE BUSINESS**

A. Next Meeting – June 27, 2008, 8:00 a.m.

XI. **ADJOURNMENT**

**Councilman Yelding motioned to adjourn. Motion seconded by Councilwoman Barnette.**

The meeting adjourned at 9:07 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 JUNE 5, 2008 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL

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DRAFT

The 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 a roll call.

**Call of Roll:**

Members Present:

Jeri Hargiss, Secretary  
Frank Lamb  
Glen Swaney  
Willie Robison, Chairman  
Jim Moss

Member Absent:

Billy Mayhand  
Barry Taylor

Staff Present:

William H. Eady, Sr., Director of Community Development  
Pat Houston, Recording Secretary

The Chairman stated the first order of business is the approval of the March 6<sup>th</sup> 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 March 6, 2008 meeting were considered for approval.

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

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

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

The Chairman stated who will be voting on the appeal tonight?

Ms. Houston stated everyone seated.

**New Business:**

Appeal #2008-01 - Kenneth & Jane Chambless

The Chairman stated next order of business is Appeal #2008-03, Ashley Waller Pettway, a special exception to allow the operation of a home daycare at 703 Pine Street. Mr. Eady, would you carry us through this?

Mr. Eady displayed color transparencies of the house and grounds located at 703 Pine Street. He stated Ms. Ashley Waller Pettway has requested a special exception to the Daphne Lane Use Ordinance to operate a home daycare at 703 Pine Street. A home daycare by the State of Alabama is defined as a child care facility which is a family home and which receives not more than 6 children for care during the day. The items on page one and two are some that we will probably discuss with you at a later time as I have explained to you prior to this meeting the items marked unknown are not applicable to what we are here for. They are regulated by the State. A little further over you have a list of the adjacent property owners that she has supplied us with. She has given us permission to go on the property to make pictures, which we have. Evidently, Ms. Pettway is a renter, and the property owners, Charles and Joyce Waller, have given her permission to operate a home daycare off of their residence. She also has provided us a copy of the deed confirming that Mr. & Mrs. Waller own the property. If we move a little further we will find a floor plan which shows a living room, den, three bedrooms, a bathroom and the hallway. It is not noted on this floor plan the sizes of any of these rooms, but I am sure that will be taken care of by the State. Then you can see the pictures we made. It is a nice looking home, and the second picture is of the backyard. In it you can see what appears to be a parked blue Chevrolet truck. Whether it is in running order they can answer that for you. The third picture is also of the backyard. The fourth picture is of an approximately ten by thirty foot fenced in area with a walk through gate. I did not measure it. I just estimated that those panels were about ten-feet. They may be longer, but it is approximately that. I am sure Mr. Pettway can clear that up for you. It shows the playground equipment in it. The State recommends three hundred feet minimum and that appears to meet the three hundred-foot requirement. However, it does not look like an acceptable place for children because they are not going to have much room to play and it is out in the sunlight. I do not know exactly what she is planning to do, but I did make note of it. A couple of pictures show the driveway and they have plenty of room to drop off the kids and turn around. We have a layout of the lot and it is kind of shaped with a point at the end of it. I did not see the old well until I looked at this layout. I do not know whether it is a pipe or an open hole, but it is something we need to clear up.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF JUNE 5, 2008 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL**

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**DRAFT**

Mr. Eady stated the lot is a sufficient size and again that is what you need to determine. Where the children will stay and play and how many, so forth and so on.

The Chairman stated are you the property owners? If so, would you like to address the Board? If you would state your name and address for the record. Please speak up because we do not have any power to the microphones.

Ms. Pettway stated okay. I am Ashley Pettway and I am the one renting the house at 703 Pine Street, and this is Charles Waller, he is the homeowner. I will be keeping six children, and that is all I will be licensed to keep. The only place the children are allowed to play is in the fence, and it is three hundred square feet.

Mr. Swaney stated can you address the question Mr. Eady had about the well? Does it exist and what configuration is it now? Is it capped, a pipe or what? The well behind the house.

Mr. Waller stated I think it is just the pipe there. It is just a pipe.

Mr. Lamb stated it is not a big hole in the ground.

Ms. Pettway stated no.

Mr. Waller stated when we bought the place it has been out of service for years. Since the City put water in.

Mr. Swaney stated do you happen to know the diameter of the pipe? How big is it?

Mr. Waller stated it might be three inches. Two and half. Something like that.

Ms. Pettway stated the lady with DHR came out to do her inspection of the property also and she stated that it did not look like a danger to the children. She was mostly concerned about the fenced area and making sure the children are in the fenced area at all times. She did look at it. She checked it out and said it does not look like a danger to the kids.

Mr. Waller stated the blue truck is running. See I am her daddy too. I own the place and she rents from us. I am letting her use the truck because her car is in the shop.

Mr. Moss stated have you applied for a license with the State?

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF JUNE 5, 2008 - 6:00 P.M.  
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**DRAFT**

Ms. Pettway stated yes. They said I had to come here first for approval before I can get my license from them. The Fire Department has been out and everything and my business license has already been paid for.

Mr. Moss stated so everything that is unknown on here that comes from the State or the City is awaiting a decision from this Board.

Ms. Pettway stated yes sir. They just did their inspection and they gave me the paperwork on it. They said they would send me the main copy when this is done.

Mr. Moss stated I can't tell by looking at these pictures, but what time will the children be there?

Ms. Pettway stated my hours are from 6:30 a.m. in the morning until 5:45 p.m. in the evening.

Mr. Waller stated there is shade on the playground. When they come out there will be shade.

Ms. Pettway stated it is shade in the area.

Mr. Moss stated okay, 6:30 in the morning to 5:45 in the evening. That is what I was getting at.

Ms. Pettway stated they are only allowed to come out when the weather permits anyway, but it is a shaded area. There is a lot of shade around it.

Mr. Moss stated which room in the house do you plan on using for the children?

Ms. Pettway stated the den, since it is the biggest room on the house. Plus it is on the back of the house.

Mr. Waller stated it is half as big as the house. We had it added onto the house.

Ms. Pettway stated it is enough room for twelve kids, but I am only going to keep six.

The Chairman stated are there any other questions or comments?

Mr. Moss stated are you going to limit it to six children?

Ms. Pettway stated six children.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF JUNE 5, 2008 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL**

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**DRAFT**

Mr. Moss stated so there will only be six people delivering and picking up children.

Ms. Pettway stated yes, sir. In order for me to do twelve I would have to be re-licensed over again in about two years to do that. I only want to do six.

The Chairman stated Mr. Eady, at the present time she can have no more than six.

Mr. Eady stated yes, sir that is correct.

The Chairman stated there are some areas in here that are acceptable, but my concern is the unacceptable areas.

Mr. Eady stated Mr. Chairman, would you like for me to go through this?

The Chairman stated yes.

Mr. Eady stated these items are taken from the Minimum Standards for Family Day Care Homes prescribed by the State of Alabama Department of Human Resources. It talks about the home and location. It says each home licensed after the effective date of these regulations shall be the primary residence of the applicant/license which is the case and that is acceptable. Child care shall be provided within the family home, not in a separate building and that is acceptable. If rental property is used, a written statement from the owner of the property granting permission for the applicant to operate a child care home shall be obtained by the applicant and submitted to the Department at the time of initial application, which we have, so that is acceptable. At the time of the initial application, a written statement of compliance with applicable zoning requirements shall be obtained and submitted to the Department. It is in an R-3 zone, and by special exception a home daycare is allowed in an R-3 zone, and that is acceptable. If you move down to the bottom you will see indoor area. The home and grounds shall be maintained in a clean and safe condition, and I marked this unacceptable. Injury prevention. The home shall be free from apparent hazardous conditions. I do not know what the inside of the home looks like it is not our responsibility to go in there. There were some things in the yard and you can see some of them in the pictures that could be cleaned up. I do not know about the vehicle, but there are not suppose to be any in the yard that do not run or that are wrecked. So I marked this as unacceptable because it needed to be addressed. The home shall have electricity, water and gas. It does and that is acceptable. The licensee shall have a working telephone and that is acceptable. All of the unknown items that I marked are things that the State will take up with the licensee.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
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**DRAFT**

Mr. Eady stated if you would move on over to the outdoor area. It talks about the Department of Human Resources does not inspect activities away from the home, including swimming and wading activities, which is when they may put the children in a van and take them some place, on a field trip or somewhere like that. The licensee shall assume full authority and responsibility for away from the home activities. The home and grounds shall be maintained in a clean and safe condition that goes back to the statement I made a few minutes ago. They need to address some things. The grass needs to be cut, groomed and clean. I show that as unacceptable. The children will be supervised at all times, which is an oversight on my part. I assume they will be which will be acceptable. The outdoor play area shall be free from apparent hazardous conditions. The well went into that problem and it is unacceptable. It may change if the well is not something of concern. There shall be at least one outdoor play area of at least three hundred-feet on the grounds. The play ground shall be enclosed by a fence or wall at least four-feet in height, free from sharp, protruding edges, except where prohibited by federal regulations, and that does meet State standards. However, I do not feel, personally, I do not feel that it is acceptable. As you can see in the pictures and I do not know what the ages of these children will be, but you can see that it will be out in the sunlight and not in the shade. I am sure they will be supervised, but this does not look like a good place for children to play. Anyway, that is your decision to make. Some playground equipment is available on site which you can see in the picture. If you would move on down to number six. Concrete or asphalt shall not be used under outdoor play equipment, except wheel toys which is acceptable. The outdoor play area shall be free from any stacked wood, construction materials, lumber, or firewood, which needs to be checked. Injury prevention. The home and grounds shall be from apparent hazards including, but not limited to abandoned automobiles; unused household appliances; uncovered wells and cisterns; stacked lumber with exposed nails; and explosives, which all are unacceptable if they are on the site and that is the end of the list.

The Chairman stated anyone else have any questions or comments?

Mr. Lamb stated the playground area seems awfully crowded. I am trying to envision six children in there playing with some of these things.

Ms. Pettway stated I took some of them out. It is just that when DHR comes to do there inspection they want to see that you have certain things. You do not have to have them all out at the same time, but they do want to see that you have them for the different age groups. They do make sure that you have them, and it is not all out there right now. The playground is the perfect square footage for the children. I just got it put up and DHR came and approved it. The yard was not cut at the time you came to make the pictures, but it is now.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
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**DRAFT**

Mr. Waller stated actually there had been a storm and some limbs had been knocked down out of the trees.

Ms. Pettway stated the yard man did not come out after the rain, but it is cut now and it will be kept up, especially, if I want my business to be successful.

Mr. Waller stated the size of the yard is about a half of an acre, and if you can imagine, talking about too sunny. It has four full grown Pecan trees back there and it is shaded. I had to grow some Saint Augustine grass back there because it would not grow back there because it is so shaded. Plus they have certain times of the day to go out and play. You cannot just take them out. There may be some that are two years old that go out, and some four years old, but the most of them will be five years old. They do not all go out at the same time, but it has been approved by the State of Alabama.

Mr. Swaney stated Mr. Eady indicated that he thought the playground area was too sunny, but you are indicating that it is shaded. What changed that?

Mr. Waller stated it is shaded. The sun may come over the playground an hour and a half a day. I have four Pine trees in there.

Ms. Pettway stated all of the children will not be out there at the same time. Some will be playing in the little houses in the playground area.

Mr. Eady stated if you will look at the truck with the pickup truck on it. The yard does have a lot of trees on it, but the fenced playground is not under those trees.

Mr. Waller stated it will be dangerous to put it directly under them.

Ms. Pettway stated it cannot be directly under the trees.

The Chairman stated if you would, please address the Board. I have a question on the picture of the playground. If you would look to the left of it you will see a swing. Is that a working swing or not?

Ms. Pettway stated that is a swing set, but it is not on the playground. It is not for the children. It is a family swing.

The Chairman stated is it in working condition?

Ms. Pettway stated yes.

The Chairman stated what is that to the right of that?

**CITY OF DAPHNE  
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**DRAFT**

Ms. Pettway stated it is the blue truck.

The Chairman stated is that the blue truck we have been talking about?

Ms. Pettway stated yes, sir.

Mr. Waller stated I can understand what Mr. Eady is saying, but the kids will not be out there when it is not shaded, and they have to be inside the fence.

Ms. Pettway stated they cannot play outside the fence.

Mr. Waller stated they walk from there to the fence and then back into the house.

Mr. Moss stated that is what I was going to ask you. Access from the house to the fence is open, but from there it is shaded. Are there some stepping stones or a walkway?

Mr. Waller stated yes.

Mr. Lamb stated is the daycare across the street from you open?

Ms. Waller stated yes, sir.

Mr. Lamb stated it has nothing to do with you. I saw it and I could not tell whether it was or not.

Ms. Pettway stated okay. Yes, it is open.

Mr. Eady stated if you look at the picture with the truck in it. The playground sits right in here, and you can see that is not a very long distance from the playground to the back door.

Ms. Pettway stated if a daycare does not have any shade or trees at all, then they have to go and buy those umbrellas to be put up. Only when weather permits can we take them out there. We have a schedule to take them out early in the morning or late in the afternoon. We cannot take them out in the heat of the day when it is hot.

Mr. Eady stated this driveway comes in from the street and goes around this area right here.

The Chairman stated are there any other questions or comments? If not, the Chair will entertain a motion. The motion must be made in the positive and you will need four votes in the affirmative to approve to grant this appeal tonight.

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF JUNE 5, 2008 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL

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DRAFT

A Motion was made by Mr. Swaney and Seconded by Mr. Lamb to approve Appeal #2008-04, for a special exception to allow the operation of a home daycare at 703 Pine Street.

Mr. Lamb stated we did have one objection.

The Chairman stated correct. We had one objection from Mr. Jim Banks, who owns property on Pine Street, because the property is zoned single family residential.

Mr. Eady stated it appears he lives in Los Angeles, California.

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

Ms. Hargiss	Aye
Mr. Lamb	Aye
Mr. Swaney	Aye
Mr. Robison	Aye
Mr. Moss	Aye

The Chairman stated when can they pick that up, Pat?

Ms. Houston stated first thing in the morning.

The Chairman stated do you know where the Planning Department is?

Ms. Pettway stated yes, sir. Thank you.

The Chairman stated if there is no other business the Chair will entertain a motion to adjourn.

Ms. Houston stated one moment please. Due to our next meeting being on the 3<sup>rd</sup> of July some of the Board may have plans to be out of town so would you like to schedule our next meeting for the 10<sup>th</sup> of July.

A motion was made by Mr. Swaney and Seconded by Mr. Lamb to change our regular meeting date from the first Thursday of the month which would be July 3<sup>rd</sup>, 2008 to the following Thursday, July 10<sup>th</sup> at 6:00 p.m. in the Council chambers due to the July 4<sup>th</sup> holiday.

The Motion carried unanimously.

Adjournment:

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF JUNE 5, 2008 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL

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DRAFT

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

The Motion carried unanimously.

There being no further business the meeting was adjourned at 6:25 p.m.

Respectfully submitted by:

\_\_\_\_\_  
Pat Houston, Recording Secretary

**APPROVED:** July 10, 2008

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

/ph

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF MAY 22, 2008  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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**SUMMARIZATION OF MINUTES:**

THIS DOCUMENT IS A SUMMARIZATION OF THE MINUTES OF CITY OF DAPHNE PLANNING COMMISSION MEETING AND IS TO BE USED FOR REVIEW PURPOSES ONLY. THE OFFICIAL MINUTES OF THIS MEETING MAY BE OBTAINED IN THE CITY CLERK'S OFFICE UPON APPROVAL.

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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  
Victoria Phelps, Secretary  
Don Terry  
Jeff Carrico, Chairman  
Cathy Barnette, Councilwoman  
Ed Kirby

**Members Absent:**

Larry Chason, Vice Chairman

**Staff Present:**

William H. Eady, Sr., Director of Community Development  
Jan Dickson, Planning Coordinator  
Nancy Anderson, GIS Technician  
Adrienne Jones, Planner  
\*Erick Bussey, Associate Attorney  
Ashley Campbell, Site Containment Officer  
Lonnie Jones, Code Enforcement Officer

**Staff Absent:**

Missty Gray, Attorney  
Jay Ross, Attorney

\* Arrived at 6:15 p.m.

The first order of business is the call to order. Please let the record reflect that Mr. Chason is present. The next order of business is approval of the minutes.

**APPROVAL OF MINUTES:**

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF MAY 22, 2008  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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**SUMMARIZATION OF MINUTES:**

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~~The minutes of April 24, 2008 regular meeting were considered for approval. A copy of the minutes was furnished to us previously. Do any of the Commissioners have any questions or comments?~~

Chairman: If there are no further additions, deletions, or corrections at this time, the Chair will entertain a motion.

A **Motion** was made by Ms. Phelps and **Seconded** by Ms. Barnette **to approve the minutes of the regular meeting. The Motion carried unanimously.**

The first order of business under old business is site plan review for First Community Bank, revised site plan-sign location.

**OLD BUSINESS:**

**SITE PLAN REVIEW:**

**File S07-07: (Revised Site Plan - Sign Location)**

**Site: First Community Bank**

Location: On Main Street, Lot 8, the North division of Jackson Oaks Subdivision

Area: 1.09 Acres +

Owner: First Community Bank - Robert Plunkett

Engineer: Walcott Adams Verneuille Architects - Ryan Baker

An introductory presentation was given by Mr. Ryan Baker, representing Walcott Adams Verneuille Architects, requesting revised site plan review for the relocation of the sign location on U.S. Highway 98 and Main Street for the First Community Bank site located on Main Street. The application requests the relocation of the sign on U. S. Highway 98 and Main Street to be in line with the developmental sign for the subdivision and Dr. Manasco's sign located at the North at the end of the service road. We have spoken to and received a letter from Dr. Bondurant, the owner of Village Pointe, which states that he is not interested in relocating the developmental sign which was approved by the Planning Commission. I will be happy to answer any questions you may have.

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 Mayor Small and **Seconded** by Ms. Phelps **to approve**

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF MAY 22, 2008  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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**SUMMARIZATION OF MINUTES:**

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***the revised site plan - sign location for First Community Bank. The Motion carried unanimously.***

The first order of business under new business is site plan review for Lot 15, Equity Drive.

**NEW BUSINESS:**

**SITE PLAN REVIEW:**

**File S08-11:**

**Site:** Lot 15, Equity Drive

**Location:** Equity Drive, Lot 15, Austin Place Commercial Park, Phase Two

**Area:** 0.50 Acres +

**Owner:** Southport Partners

**Engineer:** Jinright & Associates - Trey Jinright

An introductory presentation was given by Mr. Jinright, representing Jinright & Associates, requesting site plan review of an office/warehouse business facility located on Equity Drive on Lot 15, Austin Place Commercial Park Subdivision, Phase Two. I have verified that the storm water drainage in place for the subdivision and found it to be adequate for the development. The signage has been addressed and found to be in compliance. I will be happy to answer any questions you may have.

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. Kirby and **Seconded** by Ms. Barnette **to approve the site plan for Lot 15, Equity Drive. The Motion carried unanimously.**

The next order of business is site plan review for Tuscan Plaza.

**File S08-12:**

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PLANNING COMMISSION MINUTES  
REGULAR MEETING OF MAY 22, 2008  
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**Site:** Tuscan Plaza

Location: Southwest of the intersection of U. S. Highway 90 and Alabama Highway 181, Lot 13, Renaissance Center, Phase Three  
Area: 9.09 Acres +  
Owner: Renaissance, L.L.C.  
Engineer: Jinright & Associates - Trey Jinright

An introductory presentation was given by Mr. Jinright, representing Jinright & Associates, requesting site plan review of a retail office/warehouse commercial facility located Southwest of the intersection of U. S. Highway 90 and Alabama Highway 181, Lot 13, Renaissance Center, Phase Three. I will be happy to answer any questions you may have. have addressed the comments for the Utilities Board of the City of Daphne, revised the plans to show the addition of the sidewalks, and provided color renderings of the building. I will be happy to answer any questions you may have.

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 Ms. Barnette and **Seconded** by Mayor Small **to approve the site plan for Tuscan Plaza. The Motion carried. Mr. Carrico abstained.**

The next order of business is site plan review for Chris Myers Nissan.

**File S08-14:**

**Site:** Chris Myers Nissan

Location: Northwest of the intersection of U. S. Highway 90 and Alabama Highway 181, Lot 1, Phase 2A, Renaissance Center Subdivision  
Area: 10.04 Acres +  
Owner: Myers Family Limited Partnership - Chris Myer  
Agent: Rick LeMaitre  
Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson or Tim Lawley

An introductory presentation was given by Mr. Tim Lawley, representing Hutchinson, Moore & Rauch, requesting site plan review for an automobile sales and service facility located Northwest of the intersection of U. S. Highway 90 and Alabama Highway 181, Lot 1, Phase

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2A, Renaissance Center Subdivision. The signage has been addressed and found to be in compliance. I will be happy to answer any questions you may have.

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 Mayor Small and **Seconded** by Mr. Kirby **to approve the site plan for Chris Myers Nissan. The Motion carried. Mr. Carrico abstained.**

The next order of business is an annexation review for Paul Powers Real Estate (Central Park).

**PETITIONS:**

**ANNEXATION REVIEW:**

An introductory presentation to be given by Mr. David Diehl, representing Engineering Development Services, requesting annexation of four parcels as follows: a twenty-eight point five two acre parcel with B-1, Local Business, zoning; a twelve-point two three acre parcel with R-4, High Density Multi-Family, zoning; a nine-point seven two acre parcel with R-3, High Density Single Family, zoning; and a nine-point one four acre with R-4, High Density Single Family, zoning located on Alabama Highway 181 (North of Dunmore Subdivision) which is currently zoned Rural Agricultural in Baldwin County District 15. The owner of subject property is Powers Real Estate Joint Venture. We revised the master plan yesterday to be more specific in use and tailored the development to an active easy living senior environment. I will be happy to answer any questions you may have.

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 Mayor Small and **Seconded** by Mr. Terry **for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the annexation of four parcels as follows: a twenty-eight point five two acre parcel with B-1, Local Business, zoning; a twelve-point two three acre parcel with R-4, High Density Multi-Family, zoning; a nine-point seven two acre parcel with R-3,**

**High Density Single Family, zoning; and a nine-point one four acre with R-4, High Density Single Family, zoning located on Alabama Highway 181 (North of Dunmore Subdivision) for Powers Real Estate Joint Venture (Reference: Central Park), contingent upon the development being developed as outlined on Exhibit "B" of the revised master plan given during the presentation. The Motion carried**

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***unanimously.***

The next order of business is revised master plan review for Madison Place Subdivision.

An introductory presentation was given by Mr. John Avent, representing Engineering Development Services, requesting revised master plan review for Madison Place Subdivision. The plans consist of the development of ninety-four lot residential subdivision with a mix of R-4, High Density Single Family Residential, and R-3, High Density Single Family Residential, zoning. We have proposed two master plans, Plan A and Plan B. Plan A provides access to Tallent Lane with a straight defined right-of-way, and Plan B provides access to Tallent Lane with a winding right-of-way through the proposed subdivision. We met with the property owners' association for Madison Place Subdivision, and they were in favor of the meandering, winding road through the subdivision which they felt would slow traffic through the subdivision as it entered or exiting onto Parker or Tallent Lane. The construction traffic would be directed into and out of the Tallent Lane entrance to reduce damage to the streets of the existing subdivision. With this proposal will be asking for the approval of Plan B and for the rezoning of a ten-acre parcel from R-3, High Density Single Family Residential, to R-4, High Density Single Family Residential, which is compatible with the present zoning of Madison Place Subdivision. I will be happy to answer any questions you may have.

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 Ms. Barnette and **Seconded** by Mr. Kirby **to approve the revised master plan for Madison Place Subdivision. The Motion carried unanimously.**

The next order of business is a zoning amendment for Elite Development Company.

**ZONING AMENDMENT:**

**File Z08-03: Elite Development Company**

Location: Northeast of the intersection of Parker Lane and Avery Drive

Area: 10.01 Acres ±

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Owner: Elite Development Company - Clarence Burke  
Engineer: Engineering Development Services - David Diehl or John Avent

**Present Zoning: R-3 Proposed Zoning: R-4, Single Family**

An introductory presentation was given by Mr. John Avent, representing Engineering Development Services, requesting the rezoning of a ten-acre parcel located Northeast of the intersection of Parker Lane and Avery Drive from an R-3, High Density Single Family Residential, to an R-4, High Density Single Family Residential, zone. I will be happy to answer any questions you may have.

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

Ms. Barnette: I commend you for going to the property owners' association to discuss the proposed plans prior to submitting to the Planning Commission so you could address their concerns.

Chairman: Do any of the Commissioners have any her questions or comments? He opened the floor to public participation.

The adjacent property owners addressed the Commission to express their concerns regarding the proposed development and how it would impact their property. The president of the property owners association stated that the property owners' association appreciated the developer and the engineer taking the time to present the plans to them so they could see how he proposed to develop this property.

The President of the Madison Place Subdivision: We are in favor of the plan which does not direct the traffic straight from our subdivision to Tallent Lane. We want the plan which allows the traffic to wind through the existing and proposed subdivision.

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

**A Motion was made by Ms. Barnette and Seconded by Mr. Kirby for the affirmative recommendation by the Planning Commission to the City Council of Daphne the rezoning of a ten-acre parcel located Northeast of the intersection of Parker Lane and Avery Drive from an R-3, High Density Single Family Residential, to an R-4, High Density Single Family Residential, zone for Elite Development Company. The Motion**

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***carried unanimously.***

The next order of business is a zoning amendment for Big Sandy.

**File Z08-02: Big Sandy**

Location: Southeast of the intersection of U. S. Highway 98 and Johnson Road  
Area: 0.72 Acres +  
Owner: Big Sandy, L.L.C.  
Engineer: Engineering Development Services - David Diehl

**Present Zoning: R-4 Proposed Zoning: B-2, General Business**

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, requesting rezoning of a three-quarter acre parcel located Southeast of the intersection of U. S. Highway 98 and Johnson Road from an R-4, High Density Single and Multi-Family Residential, to a B-2, General Business, zone. This is a small parcel North and adjacent to the existing parcel for Big Sandy of which we propose to add to that development. 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. If there is no objection, the Chair will entertain a motion.

**A Motion was made by Mr. Kirby and Seconded by Ms. Barnette for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the rezoning of a three-quarter acre parcel located Southeast of the intersection of U. S. Highway 98 and Johnson Road from an R-4, High Density Single Family Residential, to a B-2, General Business, zone for Big Sandy, L.L.C. The Motion carried unanimously.**

The next order of business is a zoning amendment for Baldwin AL Development.

**File Z08-04: Baldwin AL Development**

Location: Southwest of the intersection of Highway 31 and Alabama Highway 181  
Area: 2.3 Acres +  
Owner: Baldwin AL Development, L.L.C.  
Engineer: Rester & Coleman Engineers - Andy Bobe

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**Present Zoning: B-1                      Proposed Zoning: B-2, General Business**

An introductory presentation was given by Mr. Andy Bobe, representing Engineering Development Services, requesting the rezoning of a two-point three acre parcel located Southwest of the intersection of Highway 31 and Alabama Highway 181 from a B-1, Local Business, to a B-2, General Business, zone. This is Lot 3 of TimberCreek Village, the Resubdivision of Lot 1 and TimberCreek Commercial, the Resubdivision of Parcel "A" Unit Three, Resubdivision of Lot 3. The subdivision plat was presented previously and approved by the Planning Commission on November 20, 2007. Since that time the original owner sold to the current owner which realized that the parcels subdivided have two different zones. The owner would like to rezone Lot 3, the B-1, Local Business, zoned parcel, to B-2, General Business, for the purpose of the construction of an automobile part sales facility. 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.

An elected member of the property owners' association stated that seven hundred and thirty-eight of the voting members of the property owners' association were opposed to the rezoning of Lot 3 for development due to the effect that it would have on the property values of the TimberCreek Subdivision, Phase Two, Part B, "The Cottages." Currently the Baldwin County Revenue Division has the homes in the subdivision appraised from three hundred fifty thousand to four hundred thousand dollars.

The adjacent property owners addressed the Commission to express their concerns regarding the proposed development and how it would impact their property. The main concerns were the effect on property values, insufficient buffering, delivery to the stores at unusual times during the morning and the evening, and the revegetation of the disturbed wilderness area between the existing commercial development and the residential subdivision.

Mr. Bobe: The removal of the trees in the wilderness area was done by the TimberCreek Land Company for the purpose of the installation of pipes for the storm water drainage and sanitary sewer lines in the commercial development area due to the impact that the drainage would have had on the adjacent residential areas. I cannot explain why the wilderness area was not revegetated, but that can be done. For the type of business that the developer is proposing to construct there, the property has to have a B-2, General Business, zoning designation.

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The property was rezoned previously to a local business zoning by the TimberCreek Land Company, Mr. Cox, and I am not sure why.

Mr. Palumbo, Councilman: He addressed the Planning Commission to ask that the residents of the TimberCreek Subdivision be protected and the zoning amendment for the Baldwin AL Development be denied. This parcel is currently zoning business. I am sure that Mr. Cox probably rezoned the property to a more restrictive zoning to protect the residents of the subdivision at the time of the parcel's development.

Chairman: Do any of the Commissioners have any questions or comments? He closed public participation. He asked Mr. Eady to explain the difference between B-1 and B-2 zoning.

The Commission addressed the concerns of the adjacent property owner and discussed at length its possible effect on the adjacent property.

Mr. Eady: A B-1, Local Business, zone is for a business that services the needs of the local residents or a neighborhood. A B-2, General Business, zone is for a business that services the general public.

Chairman: Can the type of business that Mr. Bobe's client is proposing go in a B-1 zone?

Mr. Eady: No. The problem is an automobile parts sales store cannot go in a B-1, Local Business, zone. It will go in a B-2, General Business, zoning designation that is why the owner has requested a zoning amendment for Lot 3.

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

**A Motion was made by Mayor Small and Seconded by Ms. Barnette for the negative recommendation by the Planning Commission to the City Council of Daphne the rezoning of rezoning of a two-point three acre parcel located Southwest of the intersection of Highway 31 and Alabama Highway 181 from a B-1, Local Business, to a B-2, General Business, zone for Baldwin AL Development. The Motion carried unanimously.**

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

**ATTORNEY'S REPORT:**

An introductory presentation was given by Mr. Erick Bussey, Associate Attorney, of a proposed amendment to the City of Daphne Land Use and Development Ordinance, Sign Provisions, establishing a time frame for a decision on the issuance of a sign permit. This revises this section

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of the sign ordinance to set a time frame for a response on the issuance of a sign permit from the Code Enforcement Officer to thirty (30) calendar days.

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 Mayor Small and **Seconded** by Ms. Phelps *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the proposed amendment to the City of Daphne Land Use and Development Ordinance, Sign Provisions, establishing a time frame for a decision on the issuance of a sign permit to thirty (30) calendar days.*

*The Motion carried unanimously.*

**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 7:15 p.m.*

*Respectfully submitted by:*

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Jan Dickson, Planning Coordinator

**APPROVED:** June 26, 2008

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Jeff Carrico, Chairman

June 4, 2008

Mayor & City Council  
P. O. Box 400  
Daphne, AL, 36526

Dear Mr.

As you are aware the residents of Lake Forest have been concerned over the quality of their roadway system for many months. We were encouraged with the studies and work completed during 2007, and looked forward to its continuation in 2008, and continuing years.

As we understand current budgeting, approximately \$170,000 was left over from the \$500,000 budgeted for 2007. Added to the promise of at least an additional \$500,000 per year, this equates to approximately \$670,000 for allocation during FY 2008. To our knowledge these funds or even portions thereof have not been specifically reserved and/or allocated for Lake Forest.

This concern and need to address the continuing deterioration of roads throughout Lake Forest but most especially the main arteries including Ridgewood and Bayview Drives led to adoption of the following Motion by an overwhelming majority of the Lake Forest Improvement Committee last night.

“Request arrangements are made to allocate the \$170,000 appropriated for FY 2007 for Lake Forest roads. Further, request additional funds (\$500,000 or more) as previously promised be allocated for FY 2008 and succeeding years.”

We feel the foregoing clearly expresses the will and opinion of not only the committee but the majority of Lake Forest residents.

Therefore, we request you take the innovative steps needed to address this critical need at the earliest opportunity, by first, addressing and completing unfinished items contained in the 2007 Road Study Project. Secondly, seriously consider a long term plan or better pledge to implement a road paving concept that clearly meets the needs of Lake Forest and other entities of the city during the coming years.

We appreciate past and ongoing efforts, leadership and service of every element within the city to improve our quality of life. We look forward to working with each of you to continue this level of service. Copies of this letter will be shared with other Lake Forest organizations including the Board, to assure awareness and support of this request.

Sincerely,

Henry Lawson  
President, Lake Forest Improvement Committee

**City of Daphne Recreation Board Minutes**  
**2605 Hwy 98**  
**Daphne, AL. 36526**  
**June 11, 2008**  
**6:00pm**

**Members Present:** Chairman Ed Nelson, Kit Smith, Matt Cunningham, Glen Vickery

**Members Absent:** Rick Cleveland, John Peterson, Eric Smith and Lynne Thompson-Yates

**Advisory Staff Present:** Councilman Gus Palumbo and David McKelroy, Parks and Recreation Director

**Call to Order**

The meeting was called to order by Chairman Ed Nelson at 6:08pm.

**Review and Approval of Minutes**

Motion was made by Matt Cunningham and seconded by Kit Smith to approve the May 14 meeting minutes.

**Program Reports**

**Athletics** Springs athletic programs have been completed. Men's Open softball will start June 30; Co-ed softball will start July 10. Reminder cards for Fall Sports (Soccer, Football and Cheerleading) will be mailed next week. British Soccer Camp will be held July 14-18. Lott Park will host the Dixie Youth P-nut District tournament the week of July 7. The soccer fields at Trione are closed for maintenance.

**Community Activities** Completed Art in the Park – May 25 and June 5. Estimated that over 500 attended each Thursday. Wet N Wild Wednesday started today (June 11) and will continue the next two Wednesdays, May 18 & 25.

**Senior Adults** Distributed the senior calendar of upcoming events and participation numbers for May.

**Old / New Business**

1. Status of Infrastructure – New Sports Complex Scott Hutchinson from HMR presented design plans and cost estimates for the entrance of the new sports complex. It is the Recreation Board's recommendation that the plans be forwarded to the City Council for their funding considerations. The board also recommended that the plans be forwarded the city clerk David Cohen for any possible grants.

2. Status on Trione Sports Complex Lease The lease for the additional property at Trione Sports Complex was presented to the Recreation board. Upon approval, the Recreation Board recommends that Council proceed with Phase I of the additions (two soccer fields and two multi-use football/soccer fields) to Trione Sports Complex, using the annexation funds for financing.

3. Nicholson Center title/deed concerns Councilman Gus Palumbo presented information from Jay Ross' office that there should be no problem with the BRAG lease. Kit Smith stated his concerns with the title and deed and will forward these concerns to Jay Ross' office.

4. May Day Playground Equipment The Recreation Department received two bids/quotes from companies under the U.S. Communities Purchasing agreement.

J.A. Dawson & Co	GameTime	\$ 30,686.45
Giffen Recreation Co	Little Tikes	30,905.00

The Recreation Board recommended that we accept the quote from Dawson & Co.

### **Comments from the Director**

Some residents from the Dauphine Acres subdivision have contacted the Mayor's office about the possibility of some type of park and or park equipment in their community. After some discussion, it was recommended that the Director and the Mayor explore the possibilities.

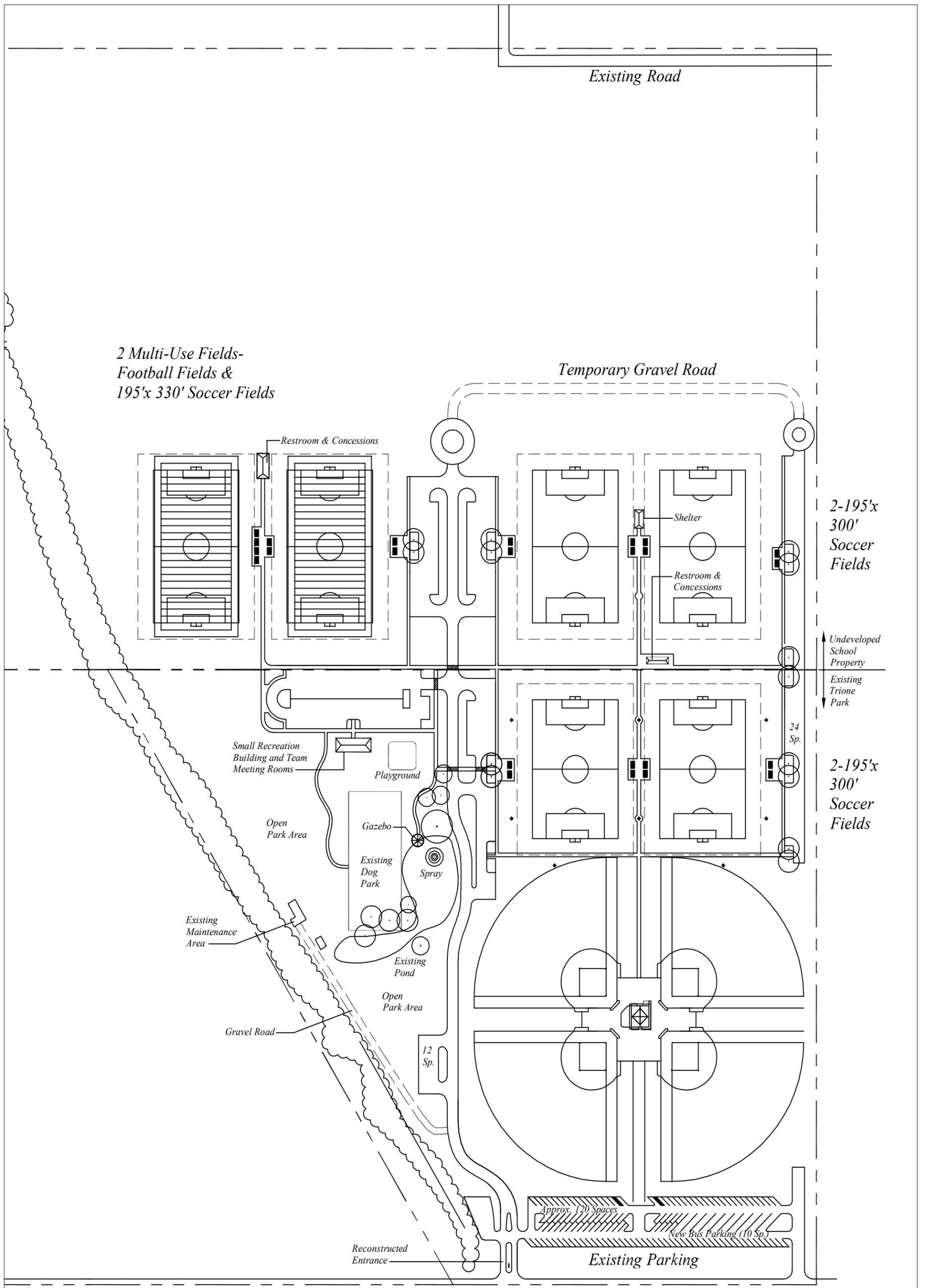
### **Comments from Board Advisors**

Coach Vickery reported on the Summer Clinics at the high school. Participation numbers will be given at the July meeting.

Councilman Gus Palumbo presented Volunteer Puzzle Pins to those members present and thanked them for their contributions to the community.

### **Adjourn**

The meeting was adjourned at 7:22pm.



*Trione Soccer & Football Complex  
Phase 1*

*Scale: 1" = 200'  
January 8, 2008*



# Daphne Utilities

## APPROVED MINUTES

### Utilities Board Meeting

City of Daphne Council Chambers ♦ March 26, 2008 ♦ 5:00 p.m.

#### I. CALL TO ORDER

The March 26, 2008, regular Board meeting for the Utilities Board of the City of Daphne was called to order by Chairman Robert Segalla, at 5:07 p.m.

#### II. ROLL CALL

**Members Present:** Robert Segalla, Chairman  
Ron Scott, Vice Chairman  
Lon Johnston, Secretary Treasurer  
Fenton E. Jenkins – arrived at 5:04 pm  
Fred Small, Mayor

**Others Absent:**

**Others Present:** Tommy Zieman – for Jerry Speegle, Board Attorney  
Rob McElroy – General Manager  
Danny Lyndall – Operations Manager  
Teresa Logiotatos – Finance Manager  
Deloris Brown – Human Resources Manager  
Drew Klumpp – Adm. Services Manager  
Lori Scharles – Executive Assistant

Melinda Immel, Engineer - Volkert  
Ray Moore, Engineer – HMR

**Others Absent:** Jerry Speegle – Board Attorney

#### III. PLEDGE OF ALLEGIANCE

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

#### IV. APPROVAL OF MINUTES

a. **Utilities Board Minutes from February 27, 2008:**

The Chairman inquired if additions, deletions or corrections were recommended for the Minutes from the February 27, 2008, Utilities Board meeting. Chairman Segalla made one grammatical correction recommendation on Page 2, in the VI New Business section, and then entertained a motion for approval.

**MOTION BY Mr. Johnston to approve the Utilities Board of the City of Daphne minutes from the regular Board meeting conducted February 27, 2008; Seconded by Mr. Scott.**

**AYE: SEGALLA, SCOTT, SMALL, JENKINS, JOHNSTON, ABSENT: MOTION CARRIED**

## V. OLD BUSINESS

### a. *Park City Service Agreement:*

Rob McElroy explained that after the last meeting with Jerry Speegle, the Park City Water Board decided not to sign the proposed Agreement after their requested changes were made. He further explained that this proposed Agreement is no longer an option and are contemplating on what action to take to move forward being aware that free sewer service for our customers is unacceptable.

### b. *Wells 10 & 11 Construction Update:*

Rob McElroy informed the Board that construction to divert the storm-water run-off water is complete.

### c. *Daphne High School Stadium:*

Mr. McElroy asserted that arrangements to offset compensation for the storm-water run-off project and the capacity fees have been made with Mike Keating of the Baldwin County Board of Education. He stated that he would give a final update to the Board at next month's meeting and that he is hopeful that this item will be complete and removable from the agenda at that time.

### d. *Advertising:*

Mr. McElroy explained that he was working through scheduling difficulties with Doug Gresham to finalize the Advertising Agreement at Jubilee Stadium (Daphne High School Stadium). He stated that he would give a final update to the Board at next month's meeting and this item will be removable from the agenda.

### e. *Items in Abeyance:*

1. **Gas Franchise Agreement** – no updated information.
2. **19 Acres** – no new development.

## VI. NEW BUSINESS –

### a. *Capacity Fee Study:*

Mr. McElroy suggested that a work session be scheduled with the Board to analyze an extensive report on the Capacity Fee study obtained. Chairman Segalla questioned Drew Klumpp if the development previously presented by Seamans Capital was apartments or condos, to which Mr. Klumpp replied that it was apartments.

## VII. BOARD ATTORNEY'S REPORT

Chairman Segalla noted that Mr. Speegle's report was self-explanatory. He remarked that neither the Anderson letter nor Mr. Speegle's response was included in the information provided and asked to have it included for next month.

## VIII. FINANCIAL REPORT

Teresa Logiotatos reviewed the Financial Report for February 2008. She noted on the Balance Sheet in the Asset section the monies established from Inventory due to items being booked into the general ledger system. Chairman Segalla commented on the fine organization at the Warehouse and praised Earl Bolden for his determined efforts. Mr. Johnston expressed his concern of the state of the economy and the effects it would have on our finances. Mr. McElroy commented that there has not been any mention of this in the utilities industry and utilities' revenue are generally not affected as much.

## IX. GENERAL MANAGER'S REPORT

### a. *GM Report*

Rob McElroy informed the Board of the award presented to Daphne Utilities from the Alabama Rural Water Association for being one of the first 100 members associated with the organization. He added that Daphne Utilities continues to support the City of Daphne in the beautification of the downtown in two different areas and also mentioned the clean-up at the Well #2 area on Trione. Deloris Brown reminded the Board of the upcoming Employee Service Award banquet. Drew Klumpp briefed the Board on the new e-bill option offered to Daphne Utilities customers.

### b. *Operations Report*

Mr. Lyndall asked Martin Dale to address the Board on the fire hydrant flushing procedure and the benefits of flushing the fire hydrants. Mr. Dale also stated that his operation is ahead of schedule. Mr. Johnston commented on a remark published in the Sound-Off column of the newspaper about the painting of the fire hydrants and

questioned who is responsible for repainting them. Mr. McElroy and Mr. Lyndall explained that after the hydrants are flushed, they follow a schedule to repaint the hydrants. Mr. Scott commented on the sewer blockage on his street at his residence that was due to an incorrect connection by a plumber and asked if the plumber will bear the financial responsibility. Mr. Lyndall responded that the general contractor will receive the bill for this error. Mr. Scott asked if the water could be kept from being turned on until payment is made. Mr. Lyndall stated that he was not aware of any other precedence.

Melinda Immel was present to review the Volkert Project Status Report.

Mr. Ray Moore reviewed with the Board the HMR Project Status Report.

**X. BOARD ACTION – None**

**XI. PUBLIC PARTICIPATION –** Chairman Segalla asked for Public Participation. James Austin addressed the Board stating that he is an assistant to the Park City Water Authority. He also presented the Chairman, Vice Chairman and the Secretary as well. He stated that he was made aware at 4:00 p.m. of this meeting concerning Park City and that they are not aware of what Daphne Utilities is doing. Mr. Austin continued stating that Park City Water Authority received a letter some time ago about changing the status of Park City Water and had the attorney deny it the way it was prepared because there was a 40-year agreement with Farmers' Home in '77 at the time that Board was initiated and the Agreement will not expire until 2017. Mr. Austin pondered why Daphne continues to force Park City to turn everything over to them and that is the reason for their appearance today. Mr. McElroy responded that he is cognizant of the expiration of the Agreement to sell water to Park City Water Authority until 2017 and that there has been no change in that status. Mr. Austin stated that Park City Water received a letter questioning changes and that if it the changes were not accepted, people would have their sewer blocked and in turn not be able to receive water, and Park City should take over their sewer. Mr. Austin acknowledged that Park City Water Authority's by-laws and constitution does not authorize this. Mr. McElroy explained that it is not an Agreement to combine systems but to combine the billing in an effort to reduce costs, placing the Meter Reading cost on Daphne Utilities because they would have to read the meters anyway, as well as the cost for postage. He continued that Daphne Utilities also offered to be the primary emergency responder due to the fact that we have people on our staff 24-hours a day trained and ready to respond to water and wastewater emergencies. Mr. McElroy commented that he felt the Agreement was a very cooperative and attractive proposal for all parties concerned and did not understand why the Park City Water Board did not want to sign and that by not signing this Agreement, it forces Daphne Utilities to take other action in order to collect sewage fees. After a discussion about the Agreement details, Chairman Segalla expressed that the collection of sewage fees are necessary and suggested to schedule a meeting to discuss and resolve the issues.

**XII. BOARD COMMENTS – Ron** Scott commented to Park City Water Board that the issue with Park City Water Board has been on the agenda since December 2006, and no action was expected to take place at this meeting.

**XIII. EXECUTIVE SESSION –**

**MOTION BY Mr. Scott to go into Executive session to discuss legal matters at 7.11 pm. Seconded by Mr. Johnston. Executive session concluded at 7:41 pm.**

**AYE: SEGALLA, SCOTT, SMALL, JOHNSTON, JENKINS      ABSENT:      MOTION CARRIED**

**XIV. ADJOURNMENT:**

**MOTION BY Mr. Scott to adjourn the meeting. Seconded by Mr. Jenkins.**

**AYE: SEGALLA, SCOTT, JOHNSTON, JENKINS      ABSENT: SMALL      MOTION CARRIED**

The meeting adjourned at 7:41 p.m.



# Daphne Utilities

## DRAFT MINUTES

### Utilities Board Meeting

City of Daphne Council Chambers ♦ April 30, 2008 ♦ 5:00 p.m.

#### I. CALL TO ORDER

The April 30, 2008, regular Board meeting for the Utilities Board of the City of Daphne was called to order by Chairman Robert Segalla, at 5:03 p.m.

#### II. ROLL CALL

**Members Present:** Robert Segalla, Chairman  
Ron Scott, Vice Chairman  
Lon Johnston, Secretary Treasurer  
Fred Small, Mayor – arrived at 5:04 pm

**Others Absent:** Fenton E. Jenkins

**Others Present:** Tommy Zieman – for Jerry Speegle, Board Attorney  
Rob McElroy – General Manager  
Danny Lyndall – Operations Manager  
Deloris Brown – Human Resources Manager  
Drew Klumpp – Adm. Services Manager  
Lori Scharles – Executive Assistant  
Rebecca Williamson – Accounting Assistant  
Melinda Immel, Engineer - Volkert  
Ray Moore, Engineer – HMR

**Others Absent:** Teresa Logiotatos – Finance Manager  
Jerry Speegle – Board Attorney

#### III. PLEDGE OF ALLEGIANCE

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

**Announcement:** Chairman Segalla made an announcement that Mr. Johnston is recovering very well and will fulfill his term with the Board until June, 2009.

#### IV. APPROVAL OF MINUTES

##### a. *Utilities Board Minutes from March 26, 2008:*

The Chairman inquired if additions, deletions or corrections were recommended for the Minutes from the March 26, 2008, Utilities Board meeting. No further comments were added.

**MOTION BY Mayor Small to approve the Utilities Board of the City of Daphne minutes from the regular Board meeting conducted March 26, 2008; Seconded by Mr. Johnston.**

**AYE: SEGALLA, SCOTT, SMALL, JOHNSTON**

**ABSENT: JENKINS**

**MOTION CARRIED**

**Announcement:** Chairman Segalla announced that due to the early departure of Mayor Small, he would like to proceed with the agenda as far as possible, then re-arrange to accommodate a topic Mayor Small would like to address.

**V. OLD BUSINESS**

**a. Park City Service Agreement:**

Rob McElroy advised the Board that he, Danny Lyndall, Deloris Brown and Lori Scharles met with the Park City Water Board the day before and had a lengthy discussion regarding the Agreement and combined billing. He explained that it is his feeling that negotiations with Park City Water Board is deserving of one more discussion and vote from them. He stated that he was informed by their Board of the date of their meeting and should have a decision by the May, 2008, Daphne Utilities Board meeting. Chairman Segalla expressed his reservation after reviewing the minutes of the previous month's meeting and stated that attempts at negotiations should be only with the Park City Water Board and not their acting legal counsel and emphasized the longstanding duration of this situation. Mr. McElroy reiterated that he would be able to report to this Board whether the Park City Water Board approved or disapproved the proposed Agreement and the outcome will decide on a Resolution to be submitted to the Board authorizing Daphne Utilities to move forward collecting the unpaid delinquent accounts or that significant progress was made and a different course of action will be taken. Chairman Segalla requested that any information should be made available to the Daphne City Council due to the fact that the garbage fee collections is affected by the Proposal as well and would be a separate matter. Tommy Zieman offered a suggestion to reduce the economic turns to help focus on the real issue. Mr. Scott stated that it would be wise to give attention to the recent events from the WhiteHouse Fork Water System and realize that even though money was saved for the citizens, a trust issue continued to exist and this Board would be remiss to not recognize that there are trust issues with this Board and Park City Water Board and even Belforest that would have to be repaired. Mr. McElroy responded that this was how the meeting was framed, to ensure that Park City Water Board fully understood the Agreement that was proposed to them and is acceptable even if the Agreement is rejected. Chairman Segalla agreed with this mistrust issue but stressed that none of the incumbents at Daphne Utilities Board were established at the time Park City Water Board was formed to which Mr. McElroy expressed that this was pointed out in the meeting.

**b. Daphne High School Stadium:**

Mr. McElroy stated that a letter was sent to Mike Keating of the Baldwin County Board of Education detailing the costs for the stormwater modifications of which were to be divided and subtracted from the amount due to Daphne Utilities for the capacity fees. He advised that he is waiting on the response and payment.

**c. Advertising:**

Mr. McElroy notified the Board that he has met with the Daphne High School and Quarterback Club representatives to discuss the advertising agreement outlined as \$3,000 per year for three years and approval is required on their part from the Baldwin County Board of Education. Chairman Segalla suggested to have this finalized before the next budget; Mr. McElroy confirmed that it would be.

**d. Capacity Fee Study – Call for Workshop**

Mr. McElroy explained that the workshop for the Capacity Fee Study had to be postponed due to emergencies on the part of the outside consultant and that a later date would be scheduled.

**e. Items in Abeyance:**

1. **Gas Franchise Agreement** – no updated information.
2. **19 Acres** – no new development.

**VI. NEW BUSINESS –**

**a. MWPP:**

Mr. Lyndall explained that the MWPP Resolution is an annual document submitted to the Municipal Water Pollution Prevention and is a routine resolution that ensures to ADEM that our practices and procedures to reduce sewer spills will continue. Chairman Segalla suggested this motion be voted on while Mayor Small was present.

**MOTION BY Mayor Small to approve Resolution 2008-02. Seconded by Mr. Johnston.**

**AYE: SEGALLA, SCOTT, SMALL, JOHNSTON**

**ABSENT: JENKINS**

**MOTION CARRIED**

**b. Source Water Assessment:**

Melinda Immel briefed the Board that the Source Water Assessment is an ADEM requirement for the two newly installed wells consisting of a study that examines the well-head location and potential area for contamination of the water source. She explained that this is a fairly expensive process and that during a recent conference with the Alabama Rural Water Association, it was noted that since Rob McElroy had assisted the Association with several presentations, that Alabama Rural Water Association offered to assist with the Source Water Assessment at no charge to Daphne Utilities. She confirmed that ADEM will be inspecting in the coming weeks. Chairman Segalla asked if Mrs. Immel feels that everything that could have and should have been done has been done with all the protective work performed at the well site. She agreed that it has. Mr. McElroy noted that he is following up with the High School and their irrigation well close to the site and has notified them of the potential harm in fertilizing the area close to our wells as well as storing chemicals in the facility that well-head is situated. Mrs. Immel reiterated that the Source Water Assessment is to be used as a planning tool for cities and their proximity for potential planning. Chairman Segalla requested that at some point in the near future to be updated on the aquifer from which we draw, specifically how deep it is located, how large the aquifer is, the recovery rate, and the potential life existence based on current and forecast usage put in a format easily understood by someone who is not an engineer. Mr. Scott asked if refill spots are shown to which Mrs. Immel responded yes. Chairman Segalla asked if the wells are currently fully productive. Mrs. Immel answered that they were and have exceeded expectations. Mr. Scott asked when the actual date that the water will be used from the wells. Mrs. Immel explained that ADEM would perform their inspection on the 6<sup>th</sup> of May, and when the inspection is complete, she expects ADEM to approve the wells. Mr. Scott noted the apartment complex being constructed and commented on the need for new capacity. Mr. McElroy advised that even though well #5 is inoperable at this time, the 3million gallon tank is full and acts as a buffer.

**ANNOUNCEMENT:** Chairman Segalla asked to re-arrange the agenda in order to discuss the Highway 64 sewer issue while Mayor Small is present and requested Ray Moore to review his Status Report.

Mr. Ray Moore advised the Board that he has contacted Janey Galbraith for availability of grant programs for the City to begin work on expanding the sewer system. He was delayed due to the review of grant allocations and new criteria required for more impartial distribution. Mr. Moore explained that he has talked extensively with Mayor Small about this undertaking. Mr. Moore stated that he has presented two cost estimates and plans to the Mayor and Councilman Yelding, who represents that district. He offered: 1) the gravity system which ties into the Pollard Road/Stanton Road area for which the cost was split 3-ways; 2) the low-pressure system with low-pressure pipes and grinder pumps at each dwelling. He discussed the community block grants and how they function by installing the sewer lines in the street but run the lines to the dwelling and connect to the dwelling and stated that this type of grant was implemented for Park City. He also pointed out another factor would be that no tap fees would be associated with this option because it is a federal program. He noted that Daphne Utilities bond issues would need to be reviewed for compatibility with any type of grant funding programs. He stated that the gravity system would be at a cost to the City at approximately \$1.8 million, and the low-pressure system estimated cost to the City would be \$990,000. He continued that the low-pressure system does have the drawback of the grinder pump but that they are widely used throughout the County and have improved from past reported performance, except when power outages occur. Mr. Scott inquired about for whom Janey Galbraith works. Mr. McElroy and Mr. Moore responded that she is a self-employed grants writer/grants administrator. Mr. Scott also questioned her fee of \$75,000 for a half-million dollar grant. Mr. Moore confirmed. Chairman Segalla commented to Mr. Moore about the grinder pump option and the cost incurred, and asked about the costs incurred for maintenance on a gravity sewer line. He also asked for all the figures for each system, including maintenance costs, in order for comparison. Mr. Scott expressed that the mood of the Council is one of which to single out this area because it is financially beneficial to the City and/or the Utility Board and to install a grinder pump system whereas the rest of the City that has been sewerred has been on gravity system is unfair and could possibly be legal challenges to the City treating one section of the City differently than others. Mr. Johnston commented that he felt there would be some reaction to the residents at the southern end of the City where they had a choice between the two options and where they paid for the additional cost for the gravity system and has been paid over time. Mr. Johnston expressed concern with a legality issue if now gravity is provided free at some additional cost where they had to pay. Mr. Moore recalled the additional cost to residents was approximately \$40 per linear foot. Mrs. Immel commented that the Ordinance passed for the area in question relative to the \$40 linear foot was the area whereby everybody was going to be assessed and that group was given an exception to that rule because \$400,000 was already allocated by the City and that this was a unique situation and the only one that she recalled. Chairman Segalla expressed that he is not taking sides but would like to have all the facts for both options, especially for the gravity option due to the terrain and unknown maintenance costs. Mr. Scott restated the negative issue of the grinder pump and replacement costs responsible to the resident, and

mentioned some type of monthly insurance plan for the grinder pump to offset the replacement costs and felt that would be an alternative option that would allay concerns of the Council. Mayor Small stated that even now the Planning Commission requires the developer of new subdivisions to install gravity sewer, except for one – Ottawa Subdivision – which when completed was low-pressure. Mayor Small explained that in the past 10 years when the City has paid to install sewer has implemented gravity sewer whenever possible and expressed his opinion to finish this last pocket within the City with gravity sewer. He continued that with the requirement of new development in place, this would be a good opportunity to finish uniformly throughout the City and that although no grant is guaranteed, he mentioned EPA grants that may be available in the fall of the year. He stated that it is his opinion for everyone to come along to try to help finish this to give money and he stated that a small amount of money is left over from the Highway 90 project whereby the entire sewer was built, (Mr. Scott stated there is \$670,000 left from the original) approximately \$1million and \$20,000 left to put toward this project. Mr. Scott stated if the half million-dollar grant money becomes available would be almost \$1.6 million, would mean \$200,000 would have to be ascertained. Mayor Small inquired as to the cost of the wet-well. Mr. Moore approximated \$100,000. Mayor Small suggested the Utility Board to pay for the pumping station, and the City be responsible for the remainder. He asked Mr. Moore if the overview work schedule of this particular industry (construction of this nature) is backlogged, to which Mr. Moore responded that the work load is light at this time. Mayor Small indicated that it might be possible to estimate less than \$1.8 million dollars. Mr. Moore explained that a project of this magnitude would have to be advertised state-wide which has a good and bad outcome, one being that good prices would be received, and the bad outcome not being familiar with whom the contractor may be. Mr. Scott commented that it is his understanding from serving on the Utility Board that money is not made on wastewater treatment, he praised the diligent financial examination and asked if it is true that \$1.1 million dollars was made to date in wastewater treatment. Mr. McElroy explained that utilities do not make money in the long term; money is saved as fast as possible for wastewater due to the exorbitant and numerous costs of repair. Mr. Scott reported that at a recent Baldwin County Sewer presentation, it is their contention that municipalities subsidize sewer with their other utility products and are artificially creating a price. Mr. Scott's concern is if at some point State legislation is passed to regulate utilities, private and public, this could cause us to charge (more); where we're actually make a rate of return on our investment, if that was the case, instead of charging \$30 we could be subject to charge the \$54 similar to what is being charged throughout the County. Mr. McElroy stated that this subject would be discussed in the requested Capacity Fee Study workshop to be scheduled, as well as introducing a study of our rates and re-examine a transparent rate of which we can stand behind. He commented that if it were revealed that our rates are excessive, it would then be up to the Board to determine the best rate structure. He remarked that it is necessary to make this information available to the Board for the future of the utility. Mr. Scott pointed out that if a \$1.8 million new improvement would be turned over to the Utility of which money could be made, that \$100,000 from the Utility would be good partnering with the City and that the \$6 million sitting in some accounts used for drawing interest is good. Mr. McElroy advised that those are capacity fee funds in restricted accounts to be used for capacity increases and expanding the sewer system is the opposite of capacity increases, taking capacity away, and that just because that money is sitting there drawing interest, it is in a restricted account and cannot be spent in just any way. Mr. Scott stated that not all the \$6 million is restricted due to the fact a profit is being made over the past three years that has gone some place. Mr. McElroy declared that discussions with Mr. Moore have transpired relative to Daphne Utilities acquiring the lift station and running the force main line and agree that it would be a good partnership with the City. He continued that he did want the Board to be aware that there is a capacity fee issue with this grant due to the fact that the residences in this area would be subject to the "grandfather" \$1500 sewer capacity fee which would represent a loss of approximately \$125,000 in capacity fees ineligible for collection in addition to the \$100,000 for the lift station making a total of a \$250,000 cost to the Utility. Chairman Segalla asked of the legal ramifications. Mr. McElroy stated that he has discussed with Janey Galbraith at length regarding this and she has indicated that there is a significant amount of work to satisfy our bond-holders and that federal grants are the only exception to providing free service, otherwise our bond covenants will be violated and we are unable to move forward until approval from the bond-holders. Mr. Scott inquired if the lift station would have the capacity for other residences to be tied into it. Mr. McElroy approved. Mr. Scott stated that knowing that grants are an uncertain funding source, he would recommend making a motion as a Utility to make the determined funds available if the grant funds are secured and if this project moves forward, that these funds are appropriated and set aside \$250,000 for this project. Mr. McElroy corrected that it would only be \$100,000 to be set aside for the project due to the fact that the other funds would not be an expense but money we would not be able to collect. Chairman Segalla stated to defer from Mr. Zieman that the allocation of money would be contingent upon Ms. Galbraith's research for federal grants relative to satisfying our bond covenants by forgiving or not collecting these capacity fees and he would not vote for anything that would cause legal problems for Daphne Utilities. Mr. Scott reassured that it would need to be legal. Mr. Zieman stated that the bond covenants need to be protected and was not certain of how to protect yourself by getting close to violation of those covenants. Mr. Scott asked if the grant package could be forwarded to our bond-holders and request approval for Daphne Utilities to partner with the City in this way. Mr. McElroy stated

that Ms. Galbraith has been previously successful in this endeavor but that it is a significant amount of work, and that it is still no guarantee from our bond-holders. Chairman Segalla stated that Mr. Scott asserted that Ms. Galbraith is charging \$75,000 for preparing the grant, but he inquired as to what her fee would be to investigate our bond covenants clearance to correlate with the grant and City partnership. Mr. McElroy stated that discussions have not reached that point as of yet. Chairman Segalla stated that we need to know what those costs are going to be before any vote, the total cost of her fee to the Utilities and how much money to set aside and then if that is acceptable, the Board could vote at that time. Mr. Zieman asked if there was knowledge of how widely-held the bonds are of Daphne Utilities; it was determined that information was not known. Mayor Small commented that time is running out on the grant and that the Council has to make a decision on this at their Monday Council meeting and he agreed to make a motion to work with the City to move forward with the project in any means possible which involves the Utilities paying for the lift station in order to provide sewer to that area off of Hwy. 64 east and to work with Ms. Galbraith in any means possible in determining to not charge capacity fees. Mr. Scott discussed that as part of the motion if it is determined that we could not waive the tap fees due to violation of our bond covenants then the Council would be responsible for the additional dollars to avoid risking Daphne Utilities' bond rating. Mayor Small stated that this could be incorporated into his motion that if for some reason the Utilities is unable to provide, the City would have to be liable for all the tap fees. Chairman Segalla reviewed to simplify the motion the issue upon which the vote would be is \$100,000 for the lift station. Mayor Small added to include the force main. Chairman Segalla suggested making that a separate motion for clarity purposes. A discussion ensued for clarity of the correct wording of the motion. Ron Scott commented on the Highway 90 sewer project that the City assessed a portion of and could not assess the lift stations which resulted in the City ultimately paying out of a bond issue, however sewerage this area created retail income opportunities for this Utility Board, not only with sewer but for water and natural gas as well.

**MOTION BY Ron Scott for approval of \$100,000, not to exceed 10% of \$100,000, for construction of the lift station for the Highway 64 South sewer project. Seconded by Mayor Fred Small.**

**AYE: SEGALLA, SCOTT, SMALL, JOHNSTON      ABSENT: JENKINS      MOTION CARRIED**

A further discussion took place relative to the waiver of tap fees for the residences of the proposed Highway 64 South sewer project.

**MOTION BY Ron Scott to indicate to the City Council of the City of Daphne that if the tap fees for the 86 residences in this Highway 64 South sewer project can be legally waived, contingent upon the language of the federal grant relative to the project, and without causing violation of the bond covenants of Daphne Utilities based on research and investigation by Janey Galbraith, and upon approval of this Board and its counsel, that this Board is willing to do so. Seconded by Mayor Fred Small.**

**AYE: SEGALLA, SCOTT, SMALL, JOHNSTON      ABSENT: JENKINS      MOTION CARRIED**

Mayor Small left the meeting at 6:00 p.m.

#### **VII. BOARD ATTORNEY'S REPORT**

Chairman Segalla noted that Mr. Speegle's report was self-explanatory. Mr. Zieman commented that he circulated a memo regarding the current litigation. An Executive Session is recommended.

#### **VIII. FINANCIAL REPORT**

Rebecca Williamson noted that the independent audit was distributed to the Board and a representative from the auditing firm is expected to be at the May 2008 Board meeting; she then reviewed the Financial Report for March 2008. Mr. McElroy commented that Earl Bolden will be at the May 2008 Board meeting to give an update on the warehouse and inventory, which is a new item incorporated into the Financials. A discussion took place regarding cell phone usage.

#### **IX. GENERAL MANAGER'S REPORT**

##### **a. GM Report**

Rob McElroy reviewed the report of the General Manager and announced to the Board that notification was just received that Daphne Utilities has won Water Quality – Best Operated Plant in the State of Alabama for our well department supervised by Larry English and will be awarded at the AWPCA in Huntsville and conflicts with the July Board meeting and requested to move the July Board meeting to change the scheduled date ahead one

week. He stated that a vote would be required at the May 2008 Board meeting. Tammy Cannup reported to the Board the involvement Daphne Utilities displayed for the 2008 Relay For Life fundraiser. Mr. McElroy reported on the progress of the Elizabeth Yelding Park. Drew Klumpp reviewed the new Automated Payment Center Kiosk for the Board.

**b. Operations Report**

Danny Lyndall recognized the promotion of Larry Jackson as the Field Services Manager. Larry Jackson commented that he appreciates the opportunity.

Melinda Immel was present to review the Volkert Project Status Report.

Ray Moore reviewed the HMR Status Report for the Board and commended the ground breaking ceremony for the Elizabeth Yelding Park.

**X. BOARD ACTION – None.**

**XI. PUBLIC PARTICIPATION – None**

**XII. BOARD COMMENTS –** Mr. Johnston gave praise and thanks for the volunteer spirit displayed by the Utilities particularly in the Daphne Public Library’s Spring into Reading event. Mr. Scott also commended the participation of Daphne Utilities for the April 19<sup>th</sup> Earth Day celebration.

**XIII. EXECUTIVE SESSION –**

**MOTION BY Mr. Scott to go into Executive session to discuss legal matters at 6:29 pm. Seconded by Mr. Johnston. Executive session concluded at 7:01 pm.**

**AYE: SEGALLA, SCOTT, SMALL, JOHNSTON, JENKINS      ABSENT:      MOTION CARRIED**

**XIV. ADJOURNMENT:**

**MOTION BY Mr. Johnston to adjourn the meeting. Seconded by Mr. Scott.**

**AYE: SEGALLA, SCOTT, JOHNSTON, JENKINS      ABSENT: SMALL      MOTION CARRIED**

The meeting adjourned at 7:01 p.m.



# Daphne Utilities

## DRAFT MINUTES

### Utilities Board Meeting

City of Daphne Council Chambers ♦ May 28, 2008 ♦ 5:00 p.m.

#### I. CALL TO ORDER

The May 28, 2008, regular Board meeting for the Utilities Board of the City of Daphne was called to order by Chairman Robert Segalla, at 5:05 p.m.

#### II. ROLL CALL

**Members Present:** Robert Segalla, Chairman  
Ron Scott, Vice Chairman  
Lon Johnston, Secretary Treasurer  
Fred Small, Mayor

**Others Absent:** Fenton E. Jenkins

**Others Present:** Jerry Speegle – Board Attorney  
Rob McElroy – General Manager  
Danny Lyndall – Operations Manager  
Deloris Brown – Human Resources Manager  
Cedric Goodloe – Human Resource Assistant  
Drew Klumpp – Adm. Services Manager  
Teresa Logiotatos – Finance Manager  
Voneka Nettles – Accounting Technician  
Tim Patton - Volkert  
Robbie Strom – HMR  
Mike Andreoli- Robertson, Andreoli & Covington, PC

**Others Absent:** Lori Scharles – Executive Assistant

#### III. PLEDGE OF ALLEGIANCE

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

**Announcement:** Chairman Segalla announced that Mike Andreoli will discuss the audit and findings of the Utilities Board of the City of Daphne.

#### IV. APPROVAL OF MINUTES

a. **Utilities Board Minutes from April 30, 2008:**

The Chairman stated there were no additions, deletions, or corrections for the Minutes from the April 30, 2008, Utilities Board meeting.

**MOTION BY Mr. Johnston to approve the Utilities Board of the City of Daphne minutes from the regular Board meeting conducted April 30, 2008; Seconded by Mayor Small**

**AYE: SEGALLA, SCOTT, SMALL, JOHNSTON**

**ABSENT: JENKINS**

**MOTION CARRIED**

**V. OLD BUSINESS**

**a. Park City Service Agreement:**

Mr. McElroy reported Daphne Utilities Board met with Park City's Board to discuss the verbiage in the proposed agreement. Park City's Board will meet and discuss the proposal and will notify Daphne Utilities Board of its decision. Daphne Utilities Board has yet to hear from Park City and will move forward with other options to address issue and will brief the Board at next month's meeting.

**b. Daphne High School Stadium:**

Mr. McElroy stated that Baldwin County Board of Education has been billed for capacity fees associated with the stadium project but Daphne Utilities still has not received payment.

**c. Advertising:**

Mr. McElroy reported the proposal for advertising was sent to Daphne High School Quarterback Club for a signature.

**d. Capacity Fee Study – Call for Workshop - TABLED**

Mr. Scott commented about Riviera Utilities and suggested Mr. McElroy talk to Mike Dugger of Riviera Utilities.

**e. Items in Abeyance:**

1. **Gas Franchise Agreement** – no updated information.
2. **19 Acres** – no new development.

**VI. NEW BUSINESS –**

**a. Construction Specifications Revisions**

Mr. Lyndall discussed the Revisions and asked the Board for an approval. Mr. Segalla stated the Board will wait until the June board meeting to vote for an approval; giving the Board members a chance to read the revisions in its entirety. Grinder pumps specifications were discussed at length.

**b. Revisement of Bylaw of Utilities Board of the City of Daphne:**

There was confusion about the verbiage used in the second sentence of Article V. A lengthy discussion ensued among the Board about the reader's interpretation of verbiage in Article V.

**c. Certificate of Amendment to Certificate of Incorporation of the Utilities Board of the City of Daphne:**

Chairman Segalla asked Mr. Speegle to resubmit the Amendment to Certificate of Incorporation for clarification due to the confusion of the verbiage in Article V. Mr. Speegle added that a new agreement will also need to be resubmitted.

**d. Reschedule of July 2008 Board Meeting:**

Mr. McElroy asked the Board for a motion to reschedule the July 2008 Board meeting to July 23, 2008.

**MOTION BY Mr. Scott to reschedule board meeting to July 23, 2008: Seconded by Mr. Johnston**

**AYE: SEGALLA, SCOTT, SMALL, JOHNSTON ABSENT: JENKINS MOTION CARRIED**

**VII. BOARD ATTORNEY'S REPORT**

Mr. Speegle requested an Executive Session.

Mr. Johnston commented that the title search needs to come to a close.

**VIII. FINANCIAL REPORT**

Mrs. Logiotatos gave a review of the April 2008 Financial Report and commented about the Auditors Report. Mr. Johnston stated in the future he would like to see a third line added to the graphs of the auditors' report to include the actual expenses versus the previous year. The other Board Members concurred with Mr. Johnston's request. Mike Andreoli discussed the 2006 and 2007 audits and findings of the Utilities Board of Daphne. Mr. Segalla commented that the wording contained on page 19 of the Auditors' Report regarding the tap / capacity fees need to be consistent. Mr. Johnston added that he would like to see the debt reduced and Mr. McElroy commented that ways to reduce the debt will be included in the Strategic Planning. Mr. Andreoli concluded by commending Daphne Utilities Board for

their responsible fiscal management of the Utility especially as it concerns our efforts towards better asset management and controlling labor costs.

**IX. GENERAL MANAGER'S REPORT**

**a. GM Report**

Rob McElroy discussed the launch of the Biodiesel Workshops and he also reminded the Board Members that the grand opening of the Elizabeth S. Yelding Park is scheduled for June 27, 2008. Drew Klumpp presented the customer service report and he commented on the positive Customer service ratings received from the customers during a recent Customer Service Survey. Chairman Segalla commented to Mr. McElroy about an outstanding job that two Daphne Utilities employees performed for his father-in-law and to anticipate a letter of accommodation from his father-in-law.

**b. Operations Report**

Danny Lyndall commented on the corrections to sewer manhole problems that had recently been underway in swampy areas which were contributing to high inflow and filtration we had been seeing. Mr. Lyndall also discussed the recent safety training conducted by the operations departments. Mr. Lyndall explained this safety training was actually conducted using in-house personnel as the trainers and featured Power Point Presentations designed by our own staff. The subjects covered were: personal protective equipment, hand tool safety, chemical safety, traffic / roadside work safety, workmen's compensation and accident / incident reporting. The employees involved who deserve special recognition for their efforts were: Cedric Goodloe, Kenny Johnson, Tommy Mitchell, Rex Rentz and Martin Dale.

**X. BOARD ACTION**

July Board Meeting was approved and rescheduled for July 23, 2008.

**XI. PUBLIC PARTICIPATION – None**

**XII. BOARD COMMENTS**

Mr. Johnston commented on unpainted fire hydrants throughout the city of Daphne and the weed growth around the fire hydrants; He suggested Daphne Utilities take a better look at the upkeep of fire hydrants. Mr. Lyndall reported that we had recently finished flushing of the entire system and the crews would now begin the regular maintenance of the fire hydrants which included painting and installing the blue pavement reflectors. Mr. Lyndall also explained that the location of the fire hydrants in rights-of-way should be maintained by the City or County when the roadways are mowed. In other instances, the hydrants are located in resident's yards who have planted flowers around the hydrants and we are looking at ways to address those situations.

**XIII. EXECUTIVE SESSION –**

**MOTION BY Mr. Scott to go into Executive Session at 6:05 pm; Seconded by Mr. Johnston.**

**AYE: SEGALLA, SCOTT, SMALL, JOHNSTON      ABSENT: JENKINS      MOTION CARRIED**

Executive Session concluded at 6:40 pm.

**XIV. ADJOURNMENT:**

**MOTION BY Mr. Scott to Authorize the General Manager to represent the Daphne Utilities Board at mediation in accordance with agreement in Executive Session; Seconded by Mayor Small.**

**AYE: SEGALLA, SCOTT, JOHNSTON, SMALL      ABSENT: JENKINS      MOTION CARRIED**

The meeting adjourned at 6:45 p.m.

**CITY COUNCIL MEETING  
MAYOR'S REPORT**

**NOTES:**

CASE NO. 2008-8

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV. 5-21-08 (initial) YCS  
DATE FORWARDED TO POLICE DEPT. 5-21-08 YCS  
DATE RECEIVED BY POLICE DEPT. 5-22-08 JH  
DATE: APPROVED  DISAPPROVED   
POLICE DEPT SIGNATURE [Signature]  
DATE RETURNED TO REVENUE DIV. 6-16-08 YCS  
DATE FORWARDED TO CITY CLERK 6-16-08 YCS  
DATE RECEIVED BY CITY CLERK 6/16/08 RH  
SCHEDULED DATE ON AGENDA 7/07/08 RH

Council Action:  APPROVED  DISAPPROVED  TABLED

COMMENTS: \_\_\_\_\_

Rescheduled for Council Agenda Date: \_\_\_\_\_

Council Action:  APPROVED  DISAPPROVED  TABLED

COMMENTS: \_\_\_\_\_

DATE RETURNED TO REVENUE DIV.: \_\_\_\_\_

DATE RETURNED TO TAXPAYER \_\_\_\_\_  
OR TO ABC FIELD OFFICE \_\_\_\_\_ (per taxpayer request)

Date Refused: \_\_\_\_\_  
 By: \_\_\_\_\_

**TYPE APPLICATION**

**020 - Restaurant Retail Liquor**

Date Approved: \_\_\_\_\_  
 By: \_\_\_\_\_

Name of Applicant (s) Don Carlos De Malbis, Inc.

Circle One:  Ind.  Part.  Assoc.  Corp.  LLC

Name and address of individual, partners and members, association, corporate officers, etc.:

Name	D.L. # Title	Date of Birth Place of Birth	Present Residence Address	Length at Residence
Ruben Gimenez	AL 5856142 President	08/29/1955 Guadalajara, Mexico	3073 Isle of Palms Dr. W. Mobile, AL 36695	1 Mo.

Corporate Information: Book # 6340 Page # 364 Date 2/29/2008 County Mobile  
 (Enter book and page or document info.) (Incorporation or Authority)

Trade Name Don Carlos

Location 29669 Hwy. 181 Daphne, AL 36526 County Baldwin

Mailing Address P.O. Box 91330 Mobile, AL 36691  
 (Include Street or Post Office Box Address, City, State, and Zip Code)

Previous Licensee Information  Transferee

Licensee Name N/A Type N/A Year N/A

Trade Name N/A License Number N/A

Location (location transfer only) N/A

Has applicant complied with ABC Regulation # 20-X-5-14 regarding financial responsibility? Y N

Does the ABC Board have any actions pending against the current licensee? (If Yes, explain in Investigation Section) Y N

Has ANYONE, including manager or applicant, had a Federal/State permit or license suspended, revoked or declined? Y N

Has a liquor, wine, malt or brewed beverage license for these premises ever been denied, suspended or revoked? Y N

Are the applicant(s) named above, the only person(s), in any manner, interested in the business sought to be licensed? Y N

These premises are located in the: Corporate Limits Police Jurisdiction of DAPHNE, Alabama (Enter N/A if not located in either)

Are any of the applicants, whether individual, member of partnership or association, or officers and directors of corporation or the corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this Act? Y N

Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage or distilled liquors permit or license issued under authority of this Act? Y N

Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate of another licensee, or from any firm, association or corporation operating under or regulated by the authority of this Act? Y N

What is the applicants' primary source of funding?  Loan  Inheritance  Individual(s)  Business  Other (explanation attached)

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of ANY law violation? Y N

(If Yes, explain in investigation Section) Signature of applicant Ruben Gimenez

The undersigned agree, if a license is issued as herein above applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages. The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the Board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the licensed premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him in connection with said licensed premises. The undersigned hereby understands that should he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA Signed Ruben Gimenez

COUNTY OF Baldwin Title President Date 05/20/2008

The undersigned Ruben Gimenez  
 (Name of applicant or member if Partnership or Association of Name and Title of Officer, if a Corporation)

applicant for the Alcoholic Beverage license requested, hereby swears and affirms that he/she has read said application and all statements therein and the facts set forth are true and correct, and that the applicant is the only person interested in the business for which license is requested.

Sworn to and subscribed before me this 20th day of May, 2008

[Signature]  
 Signature of Notary Public  
 Notary Public, State at Large My commission expires \_\_\_\_\_

[Signature]  
 Signature of Affiant  
 Home Phone (251) 367-7592

For Central Office Use Only  
 License No.  
 Date of Issue  
 Amount of fees  
 Total

**GENERAL APPLICATION INFORMATION**

Contact Person: Ruben Gimenez

Phone Numbers: Home: (251) 367-7592 Business: \_\_\_\_\_

Fax: \_\_\_\_\_ Pager: \_\_\_\_\_ Other: \_\_\_\_\_

Internet/Web Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

Does the premises have a fully equipped and operational kitchen?  Y  N  NA

Does the establishment have restroom facilities?  Y  N

Is place of business habitually and principally used for providing food to the public?  Y  N  Snacks Only  NA

Are these premises equipped with services and facilities for on premise consumption of alcoholic beverages?  Y  N

Will this business be operated PRIMARILY as a package store?  Y  N  NA

If a COMMON CARRIER, does each vehicle seat 10 or more persons?  Y  N  NA

**INVESTIGATION SECTION OF APPLICATION (To be completed by Investigating ABC Agent)**

Will applicant engage in the sale of tobacco products?  Y  N If yes, type of business: \_\_\_\_\_

Number of tobacco vending machines present: n/a

Will applicant engage in the sale of products containing ephedrine or pseudo-ephedrine?  Y  N (Benadryl, Claritin, Motrin, Sudafed, etc.)

Neighborhood Investigation waived in accordance with Application Guidelines

Building seating capacity 210 License premises includes patio area  Y  N

Building Dimensions: Length 210 ft Width 198 ft Square Footage 41580 Sales and Display Square Footage \_\_\_\_\_

License covers:  Entire structure  Portion of:  Top Floor  Bottom Floor  Other \_\_\_\_\_

License Structure:  One Story  Two Story  Multi-Story  Single Structure  Shopping Center  Motel/Hotel

Structure Material:  Wood  Brick/Block  Metal/Pre-Fab  Other \_\_\_\_\_

Is location within city limits?  Y  N Police Protection: County  City  \_\_\_\_\_

Number of licenses issued in vicinity:  0  1-5  6-10  more than 10 Nearest: 50 ft

Nearest:  School  Church  Private Residence

within 2 blocks  within 2 blocks  within 2 blocks

within 1/2 mile  within 1/2 mile  within 1/2 mile

Exceeds Above  Exceeds Above  Exceeds Above

**EXPLANATION OF LAW VIOLATIONS**

List below the court records for law violations, if any, of each person interested in this application, including manager whether as a sole applicant, partner, officer, or member. (Do not include traffic violations, except DUI and Reckless Driving)

Name	Date	Violation	Jurisdiction	Disposition
I certify no member of this corporation has a criminal record.				

**FILING FEE ACKNOWLEDGEMENT**

In reference to ACT NO. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

Signature of Applicant: Ruben Gimenez

**TRANSFER AGREEMENT** License Type: \_\_\_\_\_ License # \_\_\_\_\_

I, \_\_\_\_\_ This is not a License Transfer, as \_\_\_\_\_ holding current ABC License at \_\_\_\_\_

(Name) (Title)

this location, hereby authorize the ABC Board to transfer the license(s) to APPLICANT as appears on front of application, provided that this applicant obtains approval from the appropriate local governing body and meets all requirements of the ABC Board. I understand that I am responsible for the operation of this licensed establishment until the applicant obtains a re-issued license from the ABC Board. I also understand that if for any reason this transfer is not approved by the local governing body or the ABC Board, I must take over complete control, operation, and responsibility of these licensed premises. If I do not continue operation of this licensed establishment, I will relinquish my ABC License to the local ABC Board office, or local Agent.

Licensee	Date
Applicant	Date

(Note: If applicant or licensee is a partnership, ALL partners must sign this agreement)

**LEASE/PROPERTY OWNERSHIP**

If applicant OWNS property, is copy of recorded deed attached?  Y  N

If applicant has CONTRACT TO PURCHASE, is a copy of the recorded sales contract attached?  Y  N

If applicant is LEASING the property, is a copy of the lease agreement attached?  Y  N

A: Name of Property Owner/Lessor: Bertha Properties, Inc. Contact #: (251) 367-7592

B: What is the LESSOR'S primary business? Real Estate

C: Is LESSOR involved in any way with the Alcoholic Beverage business?  Y  N (If yes, explain on an attached sheet)

D: Is there any further interest in, or connection with, the licensee's business by the LESSOR?  Y  N (If yes, explain on an attached sheet)

Applicant attests to the truthfulness of the above responses. (Applicant's Initials) RG

Agent/ID \_\_\_\_\_ Supervisor \_\_\_\_\_

(Review includes complete application packet)

AGENT: Application taken: 05/20/2008 Application/Investigation completed: \_\_\_\_\_ Forwarded to D.O.: \_\_\_\_\_

LOCAL GOVERNMENT: Submitted: \_\_\_\_\_ Received from: \_\_\_\_\_

SUPERVISOR: Received in District Office: \_\_\_\_\_ Reviewed: \_\_\_\_\_ Forwarded to C.O.: \_\_\_\_\_

**MEMORANDUM**

**CITY of DAPHNE - DIVISION OF PUBLIC WORKS**

---

To: Kim Briley, Finance Director  
Finance Committee Members

From: Melvin McCarley, Superintendent *MM*  
Divisions of Public Works & Maintenance

Date: June 26, 2008

Re: Recommendation to Reject Bid – 2008-P-Justice Center Air Conditioning System

The Finance Department and Public Works sent out requests for bids for the 2008-P-Justice Center Air Conditioning System. After evaluating the three bid submittals, it was found that the systems bid included equipment that is not critical for the Justice Center Air Conditioning system. Since all the bids are more than was budgeted the recommendation is to reject these bids and go back out for bid with updated specs for an air conditioning system more suitable for the building.

MM:swc

**CITY OF DAPHNE**

**BID OPENING MINUTES**

**BID DOCUMENT NO: 2008-P-JUSTICE CENTER AIR CONDITIONING SYSTEM**

**JUNE 25, 2008**

11:30 A.M.

CITY HALL

Those present were as follows:

Ms. Suzanne Henson

Sr. Accountant

Frank Barnette

Building Maintenance Supervisor

Melvin McCarley

Public Works Director

11 bid invitations were mailed/picked up, 3 sealed bids were received.

Melvin McCarley opened the bids presented and the bids were read aloud as follows:

<u>VENDOR</u>	<u>BID BOND</u>	<u>TOTAL UNIT COST</u>
Inland Air, Inc.	<u>X</u>	<u>76,378.00</u>
Johnson Controls	<u>X</u>	<u>97,489.00</u>
Batchelor's Mechanical Contractors	<u>X</u>	<u>88,762.00</u>



Suzanne Henson, Sr. Accountant

Budget - \$ 60,800



# Boy Scout Troop 177

## Spanish Fort, Alabama

*"Serving the Spanish Fort community since 1974"*



7/1/2008

*Dear David Cohen,*

*My name is Christian Barrett and I am working on my Eagle Scout. I am submitting this plan to follow up on our discussion about the project at Village Point.*

*Presently there is a walking pier going out into the bay. I would like to build a deck approximately 20' x 20' using treated pine as a substrate this deck will include nine pilings four feet deep spaced ten feet apart, deck bracing will be spaced 16" apart with treated decking.*

*I will be available if there are any further questions that need to be asked. I look forward to hearing from you concerning this matter and can assure you it will be done knowing that it is something that the City of Daphne will be proud of. I would like to thank you for this opportunity.*

*Christian Reece Barrett  
Boy Scout Troop 177  
Spanish Fort, Alabama.*

---

*A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.*

**CITY ATTORNEY'S REPORT**

**NOTES:**

**DEPARTMENT HEAD'S COMMENTS**

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

**NOTES:**

RECOMMENDATIONS

**COUNCIL COMMENTS:**

**Resolution 2008-30**

Recreational Trails Grant: Lake Forest Lake Grant

**WHEREAS**, the City of Daphne proposes to construct a walking trail around Lake Forest Lake to provide for the health and well being of the general public and be ADA compliant; and

**WHEREAS**, the city intends to make application to the Alabama Department of Economic and Community Affairs for grant assistance to develop a walking trail at May Day Park from the Recreational Trails Grant Program; and

**WHEREAS**, said programs are limited to funding a maximum of eighty percent or (\$100,000) of the proposed project cost estimates at (\$964,000) which will be used to develop the boardwalk upon (    acres) around the lake.

**NOW THEREFORE BE IT RESOLVED**, that the City of Daphne hold in reserve twenty percent (\$20,000) of the proposed project cost for the purpose of matching the Recreational Trails Grant Fund assistance, and

**BE IT FURTHER RESOLVED**, that in the event a grant is awarded, the City of Daphne understands that it will sign assurances to comply with all applicable Federal and State laws, rules and regulations.

**APPROVED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF DAPHNE, ALABAMA, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.**

\_\_\_\_\_  
Greg Burnam, Council President

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

**ATTEST:**

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



# HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127  
Daphne, Alabama 36526

Telephone: (251) 626-2626  
Fax: (251) 626-6934

July 3, 2008

Mr. David Cohen  
City of Daphne  
Post Office Box 400  
Daphne, Alabama 36526

RE: Proposed Sidewalk and Trail  
North Main to Lake Forest along the lake

Dear Mr. Cohen:

The attached drawing shows the proposed pedestrian trail for connecting the sidewalk on North Main at D'Olive Creek with Lake Forest. Due to the topography and the vast majority of the site being possible wetlands, a 6' wide boardwalk is recommended. The proposed project also includes a new timber bridge across D'Olive Creek.

Based on current construction costs and recent bids, we estimate the cost of this project to be \$964,000. This cost includes survey, design, wetland delineation, permitting and construction surveillance.

Should you have any questions or need any additional information, please call me at 626-2626.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC



Scott A. Hutchinson, P.E.

/big

Enclosure  
08.290

**CITY OF DAPHNE  
ORDINANCE NO. 2008-42**

**AN ORDINANCE AMENDING CERTAIN FEES RELATED TO TOWING  
AND RECOVERY ROTATION SERVICES FOR THE CITY OF DAPHNE**

**WHEREAS**, The City Council of the City of Daphne, Alabama deems it to be in the interest of public safety and for the benefit of its citizens to provide regulations for the towing of vehicles and wrecker rotation within the City of Daphne; and

**WHEREAS**, the City Council of the City of Daphne, Alabama, being aware of fuel costs and after due consideration, believes an amendment to Ordinance 2006-65 related to certain fees be increased due to the increase cost of diesel fuels, and whereas the City Council of the City of Daphne believes such an amendment is proper and in the best interest of the City.

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

**SECTION 1 AMENDMENT**

That Section 16 (A) of Ordinance 2006-65 be in and hereby amended as follows:

- (A) The tow truck service business may not charge more than one hundred and five (\$105.00) dollars for each vehicle towed from one point in the Daphne city limits and police jurisdiction to another point therein, for any vehicle with a gross vehicle weight rating (GVWR) of 10,000 pounds or less. In addition to the one hundred and five (\$105.00) dollar charge for towing each car, any service call which requires more than one and one half (1-1/2) hours on scene, shall be permitted an additional sixty five (\$65.00) dollars per hour charge.

**SECTION 2 AFFIRMATIONS**

That all other provisions of Ordinance 2006-65 be and are hereby affirmed.

**SECTION 3 SEVERABILITY**

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

**SECTION 3 REPEALER**

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

**SECTION 4 EFFECTIVE DATE**

That this Ordinance shall be effective upon its due adoption by the City Council and publication as required by law.

**ADOPTED AND APPROVED on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.**

\_\_\_\_\_  
**Greg Burnam**  
**City Council President**  
Date & Time Signed: \_\_\_\_\_

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

**ATTEST:**

\_\_\_\_\_  
**David Cohen,**  
**City Clerk, MMC**

**CITY OF DAPHNE  
ORDINANCE NO. 2008-43**

=====

**AN ORDINANCE REPEALING ORDINANCE  
No. 2004-08 AND TO REESTABLISH RULES FOR FEE  
WAIVERS AND COMMUNICATIONS REQUIREMENTS  
FOR SCHOOLS' USE OF THE DAPHNE  
CIVIC CENTER AND BAYFRONT PARK**

=====

**WHEREAS**, the City of Daphne wishes to promote the health welfare and safety of the citizens of the City by waiving the fee for the use of the Daphne Civic Center and Bayfront Park for local schools; and

**WHEREAS**, the Buildings and Property Committee, have proposed that the City Council adopt rules for the purpose of consideration of school fee waiver requests.

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

That Ordinance No. 2004-08 be and is hereby repealed in its entirety.

**SECTION I: WAIVER OF FEES**

That the following schools shall each be entitled to use of the Civic Center and/ or Bayfront Park on a first come first serve basis with base rental fees and percentages of ticket sales waived as follows:

- A) **Daphne High School, Daphne Middle School, Bayside Academy, and Christ the King:**
  - (1) Total of three (3) weekdays (Monday-Thursday) per year.
  - (2) Total of one (1) weekend day per year (Friday is considered a weekend day).
  - (3) The school principals of Daphne High School, Daphne Middle School, Bayside Academy, and Christ the King shall contact the Daphne Civic Center at the beginning of the school year via letter requesting the date(s) of use and further stating the name of the school organization and/or department requesting the use of the Civic Center or

Bayfront Park. A follow-up telephone call shall be made to the Civic Center to ensure that the Sales Department received the notification and for any other provisions that may be necessary. (The Civic Center should receive this letter and confirmation call no later than 30 days into the new school year. All bookings are on a first come first serve basis.)

**B) Daphne Elementary School and Daphne Intermediate School**

- (1) Total of two (2) days per year with one (1) day which can be a weekend day (Friday is considered a weekend day).
- (2) The school principals of Daphne Elementary School and Daphne Intermediate School shall contact the Daphne Civic Center at the beginning of the school year via letter requesting the date(s) of use and further stating the name of the school organization and/or department requesting the use of the Civic Center or Bayfront Park. A follow-up telephone call shall be made to the Civic Center to ensure that the Sales Department received the notification and for any other provisions that may be necessary. (The Civic Center should receive this letter and confirmation call no later than 30 days into the new school year. All bookings are on a first come first serve basis.)

**C) Spanish Fort Public Schools**

- (1) Total of two (2) days per year of which one (1) day is to be a weekday (Monday-Thursday) and the remaining day be a weekend day. (Friday is considered a weekend day).
- (2) The City of Spanish Fort School Board shall contact the Daphne Civic Center at the beginning of the school year via letter requesting the date(s) of use and further stating the name of the school organization and/or department requesting the use of the Civic Center or Bayfront Park. A follow-up telephone call shall be made to the Civic Center to ensure that the Sales Department received the notification and for any other provisions that may be necessary. (The Civic Center should receive this letter and confirmation call no later than 30 days into the new school year. All bookings are on a first come first serve basis.)

**SECTION II. SEVERABILITY**

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

**SECTION III. EFFECT OF REPEAL**

This Ordinance shall operate expressly to repeal Ordinance 2004-08 in its entirety to repeal and hereby replace any and all previous ordinances related to fee waiver requirements in regards to the aforementioned schools as mandated by the City of Daphne, Alabama.

**SECTION IV. EFFECTIVE DATE**

This Ordinance shall become effective and shall be in full force from and after the date of its adoption and approval by the City Council of the City of Daphne and publication as required by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF DAPHNE,  
ALABAMA, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008.**

\_\_\_\_\_  
**GREG BURNAM,  
COUNCIL PRESIDENT**

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

**ATTEST:**

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

**ORDINANCE NO. 2008 -44**  
**Ordinance to Rezone Property Located on the Southeast Corner of**  
**U.S. Highway 98 and Johnson Road ( 0.72 Acres)**  
**Big Sandy L.L.C.**

**WHEREAS**, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-4, High Density Single and Multi-Family Residential District to B-2, General Business District, to said property is located on the Southeast Corner of U.S. Highway 98 and Johnson Road, being more particularly described as follows:

**Legal Description:**

COMMENCE AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN, AND RUN THENCE SOUTH 627.0 FEET; THENCE RUN NORTH 89 DEGREES 31 MINUTES EAST, A DISTANCE OF 1510.4 FEET TO A POINT ON THE EAST MARGIN OF U.S. HIGHWAY NO. 98, (ALSO KNOWN AS STATE HIGHWAY PROJECT S-635 (2)), SAID POINT BEING MARKED BY AN 3/4" IRON PIPE CORNER MARKER SITUATED SOUTH 05 DEGREES 36 MINUTES 59 SECONDS WEST, A DISTANCE OF 88.6 FEET FROM RIGHT-OF-WAY MONUMENT STATION 265+00 FOR THE POINT OF BEGINING: THENCE RUN NORTH 89 DEGREES 52 MINUTES 16 SECONDS EAST, A DISTANCE OF 140.33 FEET TO A 5/8" CAPPED IRON PIN MARKER; THENCE RUN SOUTH 00 DEGREES 25 MINUTES 00 SECONDS WEST, A DISTANCE OF 208.76 FEET TO A 1/2" CAPPED IRON PIN MARKER; THENCE RUN NORTH 89 DEGREES 32 MINUTES 54" WEST, A DISTANCE OF 160.46 FEET TO A CRIMPED TOP IRON PIPE MARKER ON THE EAST MARGIN OF SAID HIGHWAY NO. 98; THENCE RUN NORTH 05 DEGREES 57 MINUTES 45 SECONDS EAST ALONG THE EAST MARGIN OF SAID HIGHWAY NO. 98, A DISTANCE OF 208.30 FEET TO THE POINT OF BEGINING. TRACT CONTAINS 0.72 ACRES MORE OR LESS AND LIES IN THE NORTHWEST QUARTER OF SECTION 29 TOWNSHIP-5-SOUTH, RANGE-3-EAST, IN BALDWIN COUNTY, ALABAMA

**WHEREAS**, the Planning Commission of the City of Daphne on May 22, 2008 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on Monday, July 7, 2008 concerning the requested rezoning.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, that said property described above is hereby rezoned from R-4, High Density Single and Multi-Family Residential District to B-2, General Business District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA,**  
**THIS \_\_\_\_ day of \_\_\_\_\_, 2008.**

\_\_\_\_\_  
**Greg Burnam, Council President**  
Date & Time Signed:\_\_\_\_\_

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

**ATTEST:**

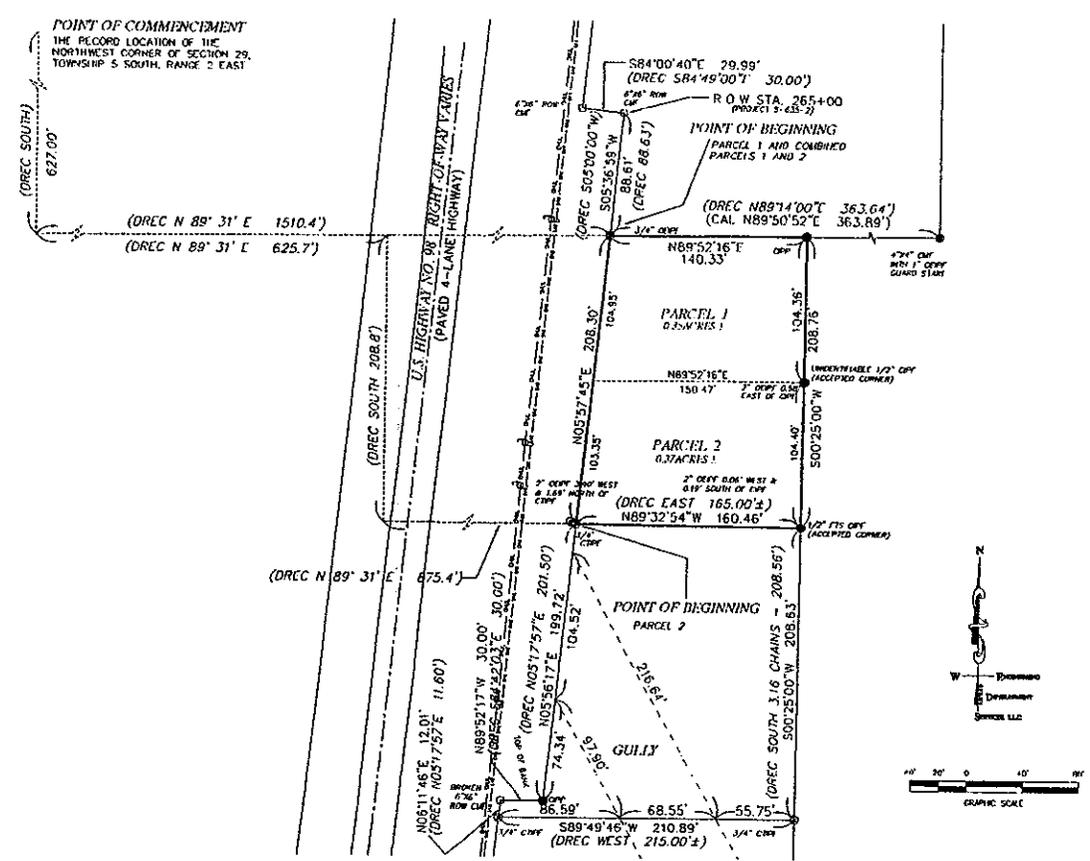
\_\_\_\_\_  
**David L. Cohen**  
**City Clerk, MMC**

**BIG SANDY, L.L.C.**  
**ZONING AMENDMENT**  
**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**(PROPERTY 0.72 AC)**

COMMENCE AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN, AND RUN THENCE SOUTH 627.0 FEET; THENCE RUN NORTH 89 DEGREES 31 MINUTES EAST, A DISTANCE OF 1510.4 FEET TO A POINT ON THE EAST MARGIN OF U.S. HIGHWAY NO. 98, (ALSO KNOWN AS STATE HIGHWAY PROJECT S-635 (2)), SAID POINT BEING MARKED BY AN 3/4" IRON PIPE CORNER MARKER SITUATED SOUTH 05 DEGREES 36 MINUTES 59 SECONDS WEST, A DISTANCE OF 88.6 FEET FROM RIGHT-OF-WAY MONUMENT STATION 265+00 FOR THE POINT OF BEGINING: THENCE RUN NORTH 89 DEGREES 52 MINUTES 16 SECONDS EAST, A DISTANCE OF 140.33 FEET TO A 5/8" CAPPED IRON PIN MARKER; THENCE RUN SOUTH 00 DEGREES 25 MINUTES 00 SECONDS WEST, A DISTANCE OF 208.76 FEET TO A 1/2" CAPPED IRON PIN MARKER; THENCE RUN NORTH 89 DEGREES 32 MINUTES 54" WEST, A DISTANCE OF 160.46 FEET TO A CRIMPED TOP IRON PIPE MARKER ON THE EAST MARGIN OF SAID HIGHWAY NO. 98; THENCE RUN NORTH 05 DEGREES 57 MINUTES 45 SECONDS EAST ALONG THE EAST MARGIN OF SAID HIGHWAY NO. 98, A DISTANCE OF 208.30 FEET TO THE POINT OF BEGINING. TRACT CONTAINS 0.72 ACRES MORE OR LESS AND LIES IN THE NORTHWEST QUARTER OF SECTION 29 TOWNSHIP-5-SOUTH, RANGE-3-EAST, IN BALDWIN COUNTY, ALABAMA



PROPERTY IS LOCATED IN THE NW 1/4 OF SECTION 29, TOWNSHIP SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.



**SURVEYOR'S NOTES:**

1. ALL MEASUREMENTS WERE MADE IN ACCORDANCE WITH U.S. STANDARDS.
2. DESCRIPTION AS FURNISHED BY CLIENT.
3. THERE MAY BE RECORDED OR UNRECORDED DEEDS, EASEMENTS, RIGHT-OF-WAYS, OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OF SAID PROPERTIES.
4. THERE WAS NO ATTEMPT TO DETERMINE THE EXISTENCE, LOCATION, OR EXTENT OF ANY SUB-SURFACE FEATURES.
5. THE LINES REPRESENTING THE CENTERLINE AND RIGHT-OF-WAYS OF THE STREETS ARE SHOWN FOR VISUAL PURPOSES ONLY AND WERE NOT SURVEYED UNLESS RIGHT-OF-WAY MONUMENTATION IS ALSO SHOWN.
6. SURVEY WAS CONDUCTED ON SEPTEMBER 26TH, 2005, AND OCTOBER 5TH, 7TH, 11TH AND 26TH, 2005, AND IS RECORDED IN FIELD BOOK #156, AT PAGES 72, 74, 78, & 79 AND IN FIELD BOOK #152 AT PAGES 14 & 36 AND IN AN ELECTRONIC DATA FILE.
7. BEARINGS AND DISTANCES SHOWN HEREON WERE "COMPUTED" FROM ACTUAL FIELD TRAVERSES.

**LEGEND:**

- CON = CONCRETE MONUMENT FOUND IN PLACE
- CTIPF = CRIMP TOP IRON PIN FOUND IN PLACE
- IFP = IRON PIN FOUND IN PLACE
- CIPF = CAPPED IRON PIN FOUND IN PLACE
- OENP = OPEN END IRON PIPE FOUND IN PLACE
- CCP = 5/8" EDS CAPPED IRON PIN PLACED
- CAL = CALCULATED BEARING AND DISTANCE
- ESL = ENGINEERING DEVELOPMENT SERVICES
- FTS = FAIRHOPE TITLE & SURVEY, CO., INC.
- PREC = RECORD MAP OR PLAT BEARING AND DISTANCE (SURVEY BY FAIRHOPE TITLE & SURVEY, CO., INC. DATED 12/23/1985) (SURVEY BY CLAUDE W. ARNOLD, DATED 01/20/1974)
- POW = RIGHT-OF-WAY
- OUH = OVERHEAD UTILITY LINE
- GAS = UNDERGROUND NATURAL GAS PIPELINE
- U = UTILITY POLE

**SURVEYOR'S CERTIFICATE:**

STATE OF ALABAMA  
 COUNTY OF BALDWIN  
 WE, ENGINEERING DEVELOPMENT SERVICES, LLC, A FIRM OF LICENSED ENGINEERS AND LAND SURVEYORS OF BALDWIN COUNTY, ALABAMA, HEREBY STATE THAT THE ABOVE IS A CORRECT MAP OR PLAT OF THE FOLLOWING DESCRIBED PROPERTY SITUATED IN BALDWIN COUNTY, ALABAMA, TO-WIT:

**LANDS SURVEYED DESCRIBED AS:**  
 COMMENCE AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS HIGHWAY, AND RUN THENCE SOUTH 62° 0' FEET; THENCE RUN NORTH 89 DEGREES 31 MINUTES EAST, A DISTANCE OF 1510.4 FEET TO A POINT ON THE EAST MARGIN OF U.S. HIGHWAY NO. 98, (ALSO KNOWN AS STATE HIGHWAY PROJECT 5-635 (2)), SAID POINT BEING MARKED BY AN 3/4" IRON PIPE CORNER MARKER SITUATED SOUTH 05 DEGREES 36 MINUTES 50 SECONDS WEST, A DISTANCE OF 88.5 FEET FROM RIGHT-OF-WAY MONUMENT STATION 265+00 FOR THE POINT OF BEGINNING; THENCE RUN NORTH 89 DEGREES 52 MINUTES 16 SECONDS EAST, A DISTANCE OF 140.33 FEET TO A 5/8" CAPPED IRON PIN MARKER; THENCE RUN SOUTH 00 DEGREES 25 MINUTES 00 SECONDS WEST, A DISTANCE OF 208.76 FEET TO A 1/2" CAPPED IRON PIN MARKER; THENCE RUN NORTH 89 DEGREES 32 MINUTES 54" WEST, A DISTANCE OF 160.46 FEET TO A CRIMP TOP IRON PIN MARKER ON THE EAST MARGIN OF SAID HIGHWAY NO. 98, THENCE RUN NORTH 05 DEGREES 57 MINUTES 45 SECONDS EAST ALONG THE EAST MARGIN OF SAID HIGHWAY NO. 98, A DISTANCE OF 208.63 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 0.22 ACRES MORE OR LESS AND LIES IN THE NORTHWEST QUARTER OF SECTION 29 TOWNSHIP-5-SOUTH, RANGE-2-EAST, IN BALDWIN COUNTY, ALABAMA.

WE FURTHER STATE THAT THE IMPROVEMENTS PRESENTLY SITUATED ON SAID PROPERTY ARE LOCATED WITHIN THE BOUNDARIES THEREOF; THAT THERE ARE NO ENCROACHMENTS ON SAID PROPERTY BY BUILDING OR FRINGES SITUATED ON ADJOINING PROPERTIES; AND THAT THERE ARE NO RIGHTS-OF-WAY, EASEMENTS, HOV RIGHT-OF-WAYS, ETC. OF ACCESS SAID PROPERTY, VISIBLE ON THE SURFACE, EXCEPT AS HEREON NOTED.

DESCRIPTIONS COMPOSED FROM ACTUAL FIELD SURVEY AND OFFICE RECORDS.

WE FURTHER STATE THAT WE HAVE SURVEYED AND OWNED SUBJECT PROPERTY AT THE REQUEST AND INSTANT OF THE OWNER THEREOF.

WE FURTHER STATE THIS SURVEY HAS BEEN CONDUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA, EFFECTIVE MAY 3, 2002.

4/18/2008

DAVID E. DIEHL  
 ENGINEERING DEVELOPMENT SERVICES, LLC  
 BALDWIN COUNTY, ALABAMA



<b>BOUNDARY SURVEY</b>	
<b>YANCE, INGE &amp; ASSOCIATES</b>	
<b>ENGINEERING DEVELOPMENT SERVICES, LLC</b>	
DATE: 12/12/05	SCALE: 1" = 60'
DRAWN BY: JLD	CHECKED BY: DLE
PROJECT: 05-0005-002-001	
CLIENT: YANCE, INGE & ASSOCIATES	
PROJECT: 05-0005-002-001	
PROJECT NO. 1000	

**CITY OF DAPHNE  
ORDINANCE NO. 2008-45**

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**AN ORDINANCE ADDING/AMENDING THE CITY OF DAPHNE,  
ALABAMA LAND USE AND DEVELOPMENT ORDINANCE 2002-22, as  
ADOPTED by the CITY COUNCIL ON SEPTEMBER 3, 2002**

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**WHEREAS**, the City Council of the City of Daphne, after due consideration believes that certain revisions to the City of Daphne Land Use & Development Ordinance are necessary for the proper administration of said Ordinance; and

**WHEREAS**, The City of Daphne Planning Commission reviewed such changes at its regularly scheduled Commission meeting on the 22<sup>nd</sup> day of May, 2008 and has made a favorable recommendation for adoption to the City Council;

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

**SECTION I: GENERAL PROVISIONS**

That Article XXXIII entitled “*Sign Provisions*”, denoted as section 33-2 (a) (1) be and is hereby deleted in its entirety and is replaced as follows:

**33-2 (a) (1)** the following apply

(1) Signs Prohibited:

No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, until a permit has been issued by the Code Enforcement Officer. Before any permit shall be issued an application prescribed forms, which shall indemnify and hold harmless the City of Daphne of all damages, all demands or expenses of every character which may in any manner be caused by the erection and use of said sign or sign structure, shall be filed together with drawings and specifications maybe necessary to fully advise and acquaint the Code Enforcement Officer with

location, size, construction, materials, manner of illuminating, and securing or fastening, and number of size applied for in the wording of the sign or advertisement to be carried on the sign. A decision by the Code Enforcement Officer shall be made within thirty (30) calendar days from the date of when the application is received. Further an application for a business license shall be a prerequisite for applying for a sign permit.

**SECTION II:** That Article XXXVII, entitled “*Eastern Shore Park Overlay District-General Provisions*”, denoted as section 37 (15) entitled “Permitted Signs” shall include a new subsection (k) which shall provide as follows:

No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, until a permit has been issued by the Code Enforcement Officer. Before any permit shall be issued an application prescribed forms, which shall indemnify and hold harmless the City of Daphne of all damages, all demands or expenses of every character which may in any manner be caused by the erection and use of said sign or sign structure, shall be filed together with drawings and specifications maybe necessary to fully advise and acquaint the Code Enforcement Officer with location, size, construction, materials, manner of illuminating, and securing or fastening, and number of size applied for in the wording of the sign or advertisement to be carried on the sign. A decision by the Code Enforcement Officer shall be made within thirty (30) calendar days from the date of when the application is received. Further an application for a business license shall be a prerequisite for applying for a sign permit.

**SECTION III: CONFLICT WITH OTHER ORDINANCES.**

That any Ordinance heretofore adopted by the City Council of Daphne, Alabama, which is in conflict with this Ordinance, be and is hereby placed to the extent of such conflict.

**SECTION IV. SEVERABILITY**

That 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 hereof.

**SECTION IV: EFFECTIVE DATE.**

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
DAPHNE, ALABAMA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008.**

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**GREG BURNAM,  
CITY COUNCIL PRESIDENT**

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**FRED SMALL,  
MAYOR**

**ATTEST:**

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**DAVID COHEN,  
CITY CLERK, MMC**

**ORDINANCE NO. 2008-46**

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

**Powers Real Estate Venture “Central Park”  
(Property located on East Side of Alabama 181 Highway)**

**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 May 22, 2008 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 – 28.52 Acres, R-4 High Density Multi-Family Residential District – 12.23 Acres, R-4, High Density Single Family Residential District – 9.14 Acres, R-3 High Density Single Family District – 9.72 Acres**; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on July 7, 2008 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"**

**LEGAL DESCRIPTION:**

COMMENCE AT A RAILROAD SPIKE MARKER AT THE "LOCALLY ACCEPTED" SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, ST. STEPHENS MERIDIAN AND RUN THENCE NORTH 89 DEGREES 49 MINUTES 30 SECONDS EAST, FOR A DISTANCE OF 40.06 FEET TO AN IRON PIN MARKER ON THE EAST RIGHT-OF-WAY OF ALABAMA STATE HIGHWAY NUMBER 181 FOR A POINT OF BEGINNING: THENCE CONTINUE NORTH 89 DEGREES 49 MINUTES 30 SECONDS EAST, FOR A DISTANCE OF 1964.36 FEET TO AN IRON PIN MARKER; THENCE RUN NORTH 00 DEGREES 13 MINUTES 17 SECONDS EAST, FOR A DISTANCE OF 1321.20 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89 DEGREES 38 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 1333.96 FEET TO AN IRON PIN MARKER; THENCE RUN NORTH 00 DEGREES 19 MINUTES 25 SECONDS EAST, FOR A DISTANCE OF 15.0 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89 DEGREES 38 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 626.91 FEET TO AN IRON PIN MARKER ON THE EAST RIGHT-OF-WAY OF SAID HIGHWAY 181; THENCE RUN SOUTH 00 DEGREES 22 MINUTES 30 SECONDS WEST, ALONG SAID HIGHWAY, FOR A DISTANCE OF 1330.04 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 59.60 ACRES, MORE OR LESS, AND LIES IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
**Greg Burnam**  
**Council President**  
Date & Time Signed: \_\_\_\_\_

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

**ATTEST:**

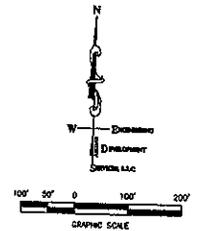
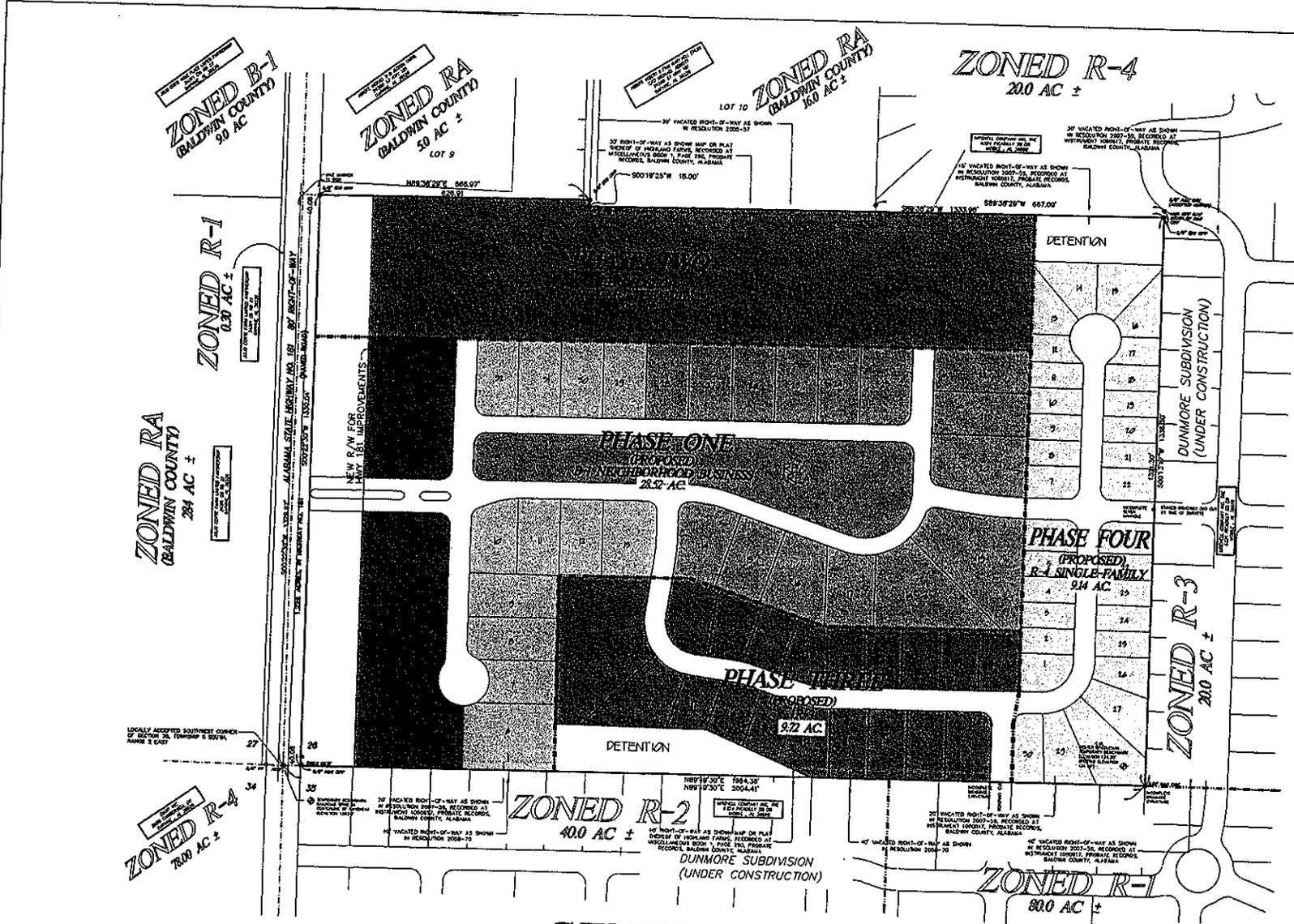
\_\_\_\_\_  
**David L. Cohen**  
**City Clerk, MMC**

# EXHIBIT "A"

## CENTRAL PARK COMPOSITE DESCRIPTION

COMMENCE AT A RAILROAD SPIKE MARKER AT THE "LOCALLY ACCEPTED" SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, ST. STEPHENS MERIDIAN AND RUN THENCE NORTH 89 DEGREES 49 MINUTES 30 SECONDS EAST, FOR A DISTANCE OF 40.06 FEET TO AN IRON PIN MARKER ON THE EAST RIGHT-OF-WAY OF ALABAMA STATE HIGHWAY NUMBER 181 FOR A POINT OF BEGINNING; THENCE CONTINUE NORTH 89 DEGREES 49 MINUTES 30 SECONDS EAST, FOR A DISTANCE OF 1964.36 FEET TO AN IRON PIN MARKER; THENCE RUN NORTH 00 DEGREES 13 MINUTES 17 SECONDS EAST, FOR A DISTANCE OF 1321.20 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89 DEGREES 38 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 1333.96 FEET TO AN IRON PIN MARKER; THENCE RUN NORTH 00 DEGREES 19 MINUTES 25 SECONDS EAST, FOR A DISTANCE OF 15.0 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89 DEGREES 38 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 626.91 FEET TO AN IRON PIN MARKER ON THE EAST RIGHT-OF-WAY OF SAID HIGHWAY 181; THENCE RUN SOUTH 00 DEGREES 22 MINUTES 30 SECONDS WEST, ALONG SAID HIGHWAY, FOR A DISTANCE OF 1330.04 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 59.60 ACRES, MORE OR LESS, AND LIES IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

PROPERTY IS LOCATED IN THE SW 1/4 OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.



- SITE DATA**
- PHASE ONE  
ZONE B-1:  
28.52 AC.  
35 LOTS
  - PHASE TWO  
ZONE R-4 MULTI-FAMILY:  
12.23 AC.  
140 UNITS
  - PHASE THREE  
ZONE R-3:  
9.72 AC.  
22 LOTS
  - PHASE FOUR  
ZONE R-4 SINGLE-FAMILY:  
9.14 AC.  
30 LOTS

- RETAIL
- PROFESSIONAL OFFICE
- SENIOR / ASSISTED LIVING
- MULTI-FAMILY (SENIORS)
- R-4 (SENIORS)
- R-3 (SENIORS)

# CENTRAL PARK EXHIBIT "B"

APRIL 17, 2008

**ENGINEERING DEVELOPMENT SERVICES, LLC**  
 Engineering • Planning • Surveying • Construction Management  
 8734 Parkway Road • Daphne, Alabama 36528  
 P.O. Box 1000 • Daphne, Alabama 36528  
 (256) 828-1110 • Fax (256) 828-0028

**ORDINANCE NO. 2008 -47**

**Ordinance to Rezone Property Located on the Northeast Corner of  
Parker Lane and Avery Lane (10.01 Acres)  
Elite Development Company**

**WHEREAS**, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-3, High Density Single Family Residential District, to R-4, High Density Single Family Residential District, to said property is located on the Northeast Corner of Parker Lane and Avery Drive, being more particularly described as follows:

**Legal Description:**

COMMENCE AT THE NORTHEAST CORNER OF COMMON AREA 4 OF MADISON PLACE SUBDIVISION, PHASE TWO, AMENDED, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2258F, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING: THENCE RUN SOUTH 89 DEGREES 54 MINUTES 03 SECONDS WEST, A DISTANCE OF 746.60 FEET; THENCE RUN NORTH 00 DEGREES 12 MINUTES 17 SECONDS EAST, A DISTANCE OF 494.33 FEET; THENCE RUN NORTH 00 DEGREES 07 MINUTES 50 SECONDS EAST, A DISTANCE OF 85.68 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 741.26 FEET; THENCE RUN SOUTH 13 DEGREES 06 MINUTES 30 SECONDS EAST, A DISTANCE OF 170.66 FEET; THENCE RUN SOUTH 24 DEGREES 29 MINUTES 50 SECONDS WEST, A DISTANCE OF 86.58 FEET; THENCE RUN SOUTH 00 DEGREES 05 MINUTES 57 SECONDS EAST, A DISTANCE OF 335.00 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 10.01 ACRES, MORE OR LESS, AND LIES IN FRACTIONAL SECTION 8, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**WHEREAS**, the Planning Commission of the City of Daphne on May 22, 2008 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on Monday, July 7, 2008 concerning the requested rezoning.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, that said property described above is hereby rezoned from R-3, High Density Single Family Residential District, to R-4, High Density Single Family District and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_ day of \_\_\_\_\_, 2008.**

\_\_\_\_\_  
**Greg Burnam, Council President**

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

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

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

**ATTEST:**

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

**“EXHIBIT A”**  
**MADISON PLACE,**  
**PHASE THREE (PORTION) AND PHASE FOUR (PORTION)**  
**REZONE**  
**LEGAL DESCRIPTION**

COMMENCE AT THE NORTHEAST CORNER OF COMMON AREA 4 OF MADISON PLACE SUBDIVISION, PHASE TWO, AMENDED, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2258F, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING: THENCE RUN SOUTH 89 DEGREES 54 MINUTES 03 SECONDS WEST, A DISTANCE OF 746.60 FEET; THENCE RUN NORTH 00 DEGREES 12 MINUTES 17 SECONDS EAST, A DISTANCE OF 494.33 FEET; THENCE RUN NORTH 00 DEGREES 07 MINUTES 50 SECONDS EAST, A DISTANCE OF 85.68 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 741.26 FEET; THENCE RUN SOUTH 13 DEGREES 06 MINUTES 30 SECONDS EAST, A DISTANCE OF 170.66 FEET; THENCE RUN SOUTH 24 DEGREES 29 MINUTES 50 SECONDS WEST, A DISTANCE OF 86.58 FEET; THENCE RUN SOUTH 00 DEGREES 05 MINUTES 57 SECONDS EAST, A DISTANCE OF 335.00 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 10.01 ACRES, MORE OR LESS, AND LIES IN FRACTIONAL SECTION 8, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.



**ORDINANCE 2008-48**

**COMPENSATION FOR ABSENTEE ELECTIONS MANAGER**

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

**Section 1** Compensation of the Absentee Elections Manager or his designee for the City of Daphne shall be and the same is hereby fixed at the sum of \$\_\_\_\_\_ per day for the performance of his or her duties with respect to the absentee ballots on election day and during the 35-day period prior to day of the election for which his or her services are required, to be paid from the city treasury.

**Section 2** This ordinance is adopted pursuant to §17-11-14 Code of Alabama, 1975, and shall be effective in all elections, both general and special, from and after the date of adoption.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this the \_\_\_\_ day of \_\_\_\_\_, 2008.

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

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

**ATTEST:**

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

## Compensation of Absentee Election Manager

In 2006, the Alabama Legislature passed Act 2006-570, a 371 page bill that recodified state election laws. One provision in this Act amended Section 17-11-14, Code of Alabama 1975, to remove the restriction on municipal employees receiving pay for performing the duties of the absentee election manager. The section now provides that the Absentee Election Manager is entitled to at least \$50.00 per day for each of the 45 days prior to the Election Day and for the day of the election for which his or her services are required.

The Attorney General has noted in AGO 88-434 that “the right to compensation grows out of the rendition of services. 63A, Am.Jur.2d, ‘Public Officers and Employees,’ Section 432.” As a result, the Attorney General concluded that this Section (17-11-14) required paying the county absentee election manager only for 21 days before a runoff election, despite the specific statutory language requiring payment for 45 days before each election.

Based on this opinion and our discussions with various election experts, the League has developed the following answers to questions received on this issue:

1. **Is this law mandatory on municipal governments?** Yes
2. **Who serves as the absentee election manager in municipal elections?** No official action by the council is necessary to appoint the clerk as the municipal absentee election manager. State law provides that the city clerk serves as the municipal absentee election manager unless he or she is disqualified from holding the position or declines to hold the position, in which event a new appointment would have to be made by the council.
3. **Is the compensation required by this law in addition to the clerk’s regular salary?**  
Yes
4. **Is the pay due for every day within the 45 day period?** The statute states that the manager is entitled to compensation for the period before the election and on election day “for which his or her services are required.” It is our opinion that the 45 day requirement of Section 17-11-14 does not automatically apply in municipal elections. In municipal elections, the official list of qualified voters shall be furnished to the absentee election manager at least 35 days before the election. Section 17-11-5, Code of Alabama, 1975. Since the municipal elections manager has no responsibilities in a general election until the ballots are delivered, it is our opinion that compensation begins on the day absentee ballots are delivered to the clerk, which may be more than 35 days before the election. As far as we can determine, neither the Attorney General or a court has definitively ruled as to whether compensation is due even on days when no work relating to absentee ballots has been performed by the absentee election manager.

Further, absentee balloting in municipal elections is different from that in county elections. Many smaller municipalities will not even have a single absentee ballot cast and compensation for the full statutory period is not the best interpretation in this situation. While arguments can be made both ways, we feel that the language in Section

17-11-14 is best interpreted as meaning that services have to be performed in order for compensation to be due for any specific day. Therefore, a municipal absentee election manager is only entitled to be compensated for days on which he or she actually performs absentee services.

**5. What actions constitute absentee election services for which compensation is due?**

The services an absentee election manager performs which are compensable include, but are not limited to:

- Processing absentee applications (accepting absentee applications and returning absentee ballots)
- Verifying that the voter's identification was included with the ballot
- Striking names of absentee voters off the list
- Posting the absentee voters list
- Delivery of the ballots to the election officials
- Delivery of the list of absentee voters to the board of registrars the day after the election
- Contacting provisional absentee voters

The absentee elections manager is entitled to be compensated a minimum of \$50.00 on days when any of these duties or others must be performed.

**6. Are other individuals who may, from time to time, assist the absentee election manager entitled to this pay also?** State law only requires the payment to be made to the absentee election manager. The council may, in its discretion, pay additional compensation or provide comp time to employees who assist the absentee election manager.

**7. How do municipalities implement this law?** The council should enact a resolution to establish the rate of compensation for the absentee election manager. This resolution should be in place prior to the assumption of duties of absentee election manager. We have provided sample language below. Because this does not change the election process or affect voting rights, in the League's opinion this resolution would NOT have to be precleared by the Department of Justice following adoption. Section 17-11-14 of the Code of Alabama, has already been precleared and that Code Section mandates compensating the municipal absentee elections manager. This resolution merely implements this legislation. This change could be implemented by the adoption of a general and permanent ordinance, rather than by a resolution, if the municipality wishes to implement this for all future elections. If the municipality adopts this as a general and permanent ordinance, Section 2 of the sample resolution should be deleted and replaced with the following suggested language:

“Section 2. This ordinance is adopted pursuant to Section 17-11-14 Code of Alabama, 1975, and shall be effective in all elections, both general and special, from and after the date of adoption.”

8. **Does the absentee election manager have to accept this compensation?** No. Any officer or employee of a municipality may voluntarily diminish his or her salary by following the procedures outlined in Section 36-6-10, Code of Alabama 1975.

9. **If we have a runoff election, is compensation required?** Yes. Compensation should be made for each day the absentee election manager performs services during the runoff election.

**SAMPLE RESOLUTION SETTING COMPENSATION FOR ABSENTEE ELECTIONS  
MANAGER**

A RESOLUTION

BE IT RESOLVED BY THE CITY [TOWN] COUNCIL OF \_\_\_\_\_, ALABAMA, AS  
FOLLOWS:

Section 1. Compensation for the Absentee Election Manager for the City [Town] of \_\_\_\_\_, shall be and the same is hereby fixed at the sum of \$ \_\_\_\_\_ per day for each day absentee elections services are performed from the date of delivery of the absentee ballots to the absentee elections manager and including the day of the election, to be paid from the city [town] treasury.

Section 2. This resolution is adopted pursuant to Section 17-11-14 Code of Alabama, 1975, and shall be effective for all municipal elections, both general and special, held in the year 2008.

ADOPTED THIS THE \_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

#### ALABAMA COMMENT

Subsections (b) and (c) are moved to Section 17-11-3.

#### § 17-11-13. Circuit clerk disqualified from serving as absentee election manager when candidate for any office with opposition.

When the circuit clerk is a candidate for any office and has opposition, he or she shall be disqualified from performing any of the duties imposed by this chapter with reference to the handling of absentee ballots. At least 55 days prior to the election, the circuit clerk shall certify to the appointing board of the county his or her candidacy with opposition and that he or she is disqualified to serve or otherwise prevented from serving. The appointing board shall thereupon appoint a person to serve as absentee election manager in the manner provided for in Section 17-11-2.

History. Acts 1978, No. 78-616; Acts 1986, No. 86-428; Acts 1988, No. 88-88; Acts 2006, No. 06-570.

#### ALABAMA COMMENT

Alabama no longer has a "register or register in chancery." The "appointing board" has been substituted for the "presiding circuit judge" as the body appointing an absentee election manager to be consistent with other appointments to fill vacancies due to other election officials being disqualified due to their candidacy at the election.

#### § 17-11-14. Compensation of absentee election manager.

The county commission, or the municipal governing body for municipal elections, shall determine the amount of compensation to be paid to the absentee election manager or other absentee election manager for the performance of his or her duties with respect to the absentee ballots during the 45 day period prior to and on the day of the election for which his or her services are required, but such compensation shall be at least fifty dollars (\$50) per day or the same pay as an inspector as authorized under Section 17-8-12. In all counties in which the compensation of absentee election managers is pre-

scribed by local law or general law of local application at an amount in excess of the amount prescribed, the compensation of the absentee election manager shall not be increased or decreased. The amount shall be the total compensation allowed the absentee election manager for duties relating to absentee ballots in all elections held on the same day and shall be paid from the county treasury, except in case of a municipal election held at a time different from a primary or general election, in which event payment shall be made from the city or town treasury. Any reimbursement shall be as provided in Chapter 16.

*History.* Acts 1978, No. 78-616; Acts 1986, No. 86-428; Acts 1988, No. 88-88; Acts 2000, No. 00-722; Acts 2006, No. 06-570.

ALABAMA COMMENT

Amount of compensation now provided in chapter for "Reimbursing Counties for Expenses," Chapter 16. Absentee election manager as the chief election official for the absentee box is compensated the same as an inspector who is in charge of a voting precinct see Atty. Gen. Opinion 2005-25.

**§ 17-11-15. Designation of person to perform duties of circuit clerk in municipal elections held at time different from primary or general election.**

In any municipal election that is held at a time different from a primary or general election, the duties with reference to the handling of absentee ballots which are required of the circuit clerk shall be performed by the town clerk, city clerk, or other officer performing the duties of the clerk. If such clerk or other officer is also a candidate in such election, the governing body of the city or town shall appoint a qualified elector of the city or town to perform the duties. Such person so appointed shall have all the powers, duties, and responsibilities of the circuit clerk under this chapter and shall be entitled to the compensation provided by Section 17-11-14.

*History.* Acts 2006, No. 06-570.

ALABAMA COMMENT

No substantive change, only clarification of "clerk" and deletion of "register" which has been abolished.

**§ 17-11-16. Costs and expenses generally.**

All necessary and proper expenses and costs incurred in the carrying out of the provisions of this chapter for which no special provision is made in this chapter shall be paid for in the same manner as are necessary costs and expenses incurred in the several classes of elections enumerated under this chapter.