

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

1. CALL TO ORDER

2. ROLL CALL/INVOCATION
PLEDGE OF ALLEGIANCE

- 3. APPROVE MINUTES:** Council minutes meeting held September 15, 2008
Work Session minutes meeting held September 11, 2008
Amended minutes meeting held September 2, 2008 / **No Action**
Amended minutes Special Called Meeting held September 2, 2008 /
No Action

PROCLAMATION: Fire Prevention Week / October 5 – 11, 2008

CERTIFICATE OF APPRECIATION: Reverend Jim Fillingim

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE / Scott

a.) Resolutions

1.) Bid Award: Cellular Telephones / 800MHZ Equipment / **Resolution 2008-52**

B. BUILDINGS & PROPERTY - Lake

Review minutes meeting held September 5th

C. PUBLIC SAFETY - Burnam

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Palumbo

E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments - Eady

B. Downtown Redevelopment Authority - Barnette

C. Industrial Development Board – Yelding

Review minutes meeting held August 25th

D. Library Board - Lake

E. Planning Commission – Barnette

Review minutes meeting held August 28th

Review minutes meeting held September 25th

Set Public Hearing date for **November 17, 2008** to consider Rezoning Ashely Gates –

Brookfield / Property located Southeast of the intersection of Main Street and Van Avenue /

Present Zoning B-2 / Requested Zoning R-4, Multi-Family

F. Recreation Board - Palumbo

Review minutes meeting held September 10th

G. Utility Board - Scott

Review minutes meeting held February 19th

Review minutes meeting held August 27th

6. REPORTS OF OFFICERS:

A. Mayors Report

a.) Parade Permit / Apollo's Mystic Ladies / Mardi Gras Parade / February 13, 2008

b.) AL League Orientation Conference For Elected Officials

- B. City Attorney's Report**
- C. Department Head Comments**

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) ALDOT: Cooperative Maintenance of Public Right-of-Way Roadside Along the South Side of I-10 West of and adjacent To Eastern Shore Toyota Dealership / Attached is the Planning Commission Recommendation. /Resolution 2008-45**
- b.) Bid Award: Cellular Telephones/800 MHZ Equipment /Resolution 2008-52**

ORDINANCES:

- 2nd READ**
a.) Revision to Zoning Map. /Ordinance 2008-56

- 1ST READ**
b.) Extending Fiscal Year 2008 Budget Authority. /Ordinance 2008-58

- 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

SEPTEMBER 15, 2008
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

1

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 John 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; Tonja Young, Library Director; James White, Fire Chief; Bill Eady, Planning Department Director; Sandra Morse, Civic Center Director; Melvin McCarley, Interim Public Works Director; Richard Merchant, Building Official; David McKelroy, Recreation Director; David Carpenter, Police Chief; Jane Robbins, Mayor's Assistant; Ashley Campbell, Erosion Control Officer; Scott Hutchinson, City Engineer; Mr. Ron Allen, Library Board; Willie Robison, BZA; Mickey Boykin, Daphne Museum; Derek Boulware, IDB.

Absent: Kim Briley, Finance Director.

3. APPROVE MINUTES:

MOTION BY Councilwoman Barnette to adopt the Special Called Council meeting minutes meeting held September 2, 2008 with the following amendment: Change adjournment time to 11:35 a.m. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt the Council meeting minutes meeting held September 2, 2008 with the following amendment to Councilwoman Barnette's comments: She did not state that the funds for the lodging tax needed to go into the general fund; She stated "that they needed to make a decision about where those funds were going to go, because as it currently stands they would go to the general fund." *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

PRESENTATION: Village Point Foundation / Historic Markers at Village Point Park Preserve

Mr. Larry Boyd representing the Village Point Foundation requested permission from Council to install two 3 X 5 foot historical marker signs at the park. They would install one at the major entrance, and the other at the secondary entrance at Bay Front Park. *(A copy of the sign is spread out upon these minutes)*

MOTION BY Councilwoman Barnette to approve the installation of the historic markers at Village Point Park Preserve. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

PUBLIC HEARING: Revision to the Zoning Map

Mr. Eady presented to Council the changes to the zoning map.

Council President Burnam opened the Public Hearing at 6:41 p.m.

No one spoke for or against the proposed ordinance.

Council President Burnam closed the Public Hearing at 6:42 p.m.

4.REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE / Scott

Treasurers Report / August 31, 2008

MOTION BY Councilman Scott to accept the Treasurers Report ending August 31, 2008 with a balance of \$20,245,439.02. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Sales and Use Tax Collection / July 31, 2008

Total tax collected for July was \$888,690 which was \$117,262 under budget. Year-to-date collections are \$641,756 under budget.

Lodging Tax Collections / July 31, 2008

\$62,035.23 was collected for July.

The next meeting will be the second Monday in October at 4:00 p.m. in the Executive Council Chambers.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

The committee met, and the minutes will be in the next packet. The committee considered improvements to Scardamalia Pavilion which include egress, fire alarms, toilet renovations, new flooring and existing furnishings. There was a motion regarding the historic signage for Bay Front and Village Point Park Preserve.

C. PUBLIC SAFETY COMMITTEE – Burnam

The September 3rd minutes are in the packet, and the next meeting will be October 8th at 4:30 in the Executive Chambers.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

No report.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

The next meeting will be September 26th at 8:00 a.m. in the Executive Council Chambers. Councilman Yelding asked Council to submit the names for the Paving Committee to Public Works prior to the next meeting on the 26th.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Eady

No meeting for October.

B. Downtown Redevelopment Authority – Barnette

The minutes for the last meeting are in the packet. Starke Irvine resigned as chairman and Kit Smith is the new chairman.

MOTION BY Councilwoman Barnette to appoint Dorothy Morrison to the Downtown Redevelopment Authority term ending September 2009. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

C. Industrial Development Board – Yelding

The next meeting will be September 22nd at 6:00 p.m. in the Executive Chambers.

D. Library Board – Lake

MOTION BY Councilman Lake to appoint Windrila C. Longmire to the Library Board term October 2008 - September 2012, and to re-appoint Dee Gambill to the Library Board term October 2008 – September 2012 . *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

E. Planning Commission – Barnette

The Site Review meeting will be Wednesday, at 8:00 a.m. in the Council Chambers, and the Planning Commission meeting will be September 25th at 6:00 p.m. in the Council Chambers.

F. Recreation Board – Palumbo

MOTION BY Councilman Palumbo to suspend the rules to consider a motion to release \$20,000 of dedicated Recreation funds for the purpose of engineering services and to prepare a bid specs for the development of the new acquired property at Trione Park. *Seconded by Councilman Lake.*

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 Councilman Palumbo to release \$20,000 of dedicated Recreation funds for the purpose of engineering services and to prepare a bid package for the development of the new acquired property at Trione Park. *Seconded by Councilman Scott.*

This is just to prepare the bid package not for any approval. The package will come back to Council for approval.

AYE ALL IN FAVOR NONE OPPOSED MOTION CARRIED

G. Utility Board – Scott

The minutes for the June 25th and July 23rd minutes are in the packet. Councilman Scott commented on the refinancing of bonds where they received a much lower interest rate of 3.64% for 12 years saving the utilities about \$600,000. The next meeting will be the last Wednesday of the month at 5:00 p.m. in the Council Chambers.

6. REPORTS OF THE OFFICERS:

A. *Mayor's Report*

a.) Parade Permit / Bayside Academy / Homecoming Parade / October 3, 2008

MOTION BY Councilwoman Barnette to approve the parade Permit for Bayside Academy / Homecoming Parade / October 3, 2008. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

b.) Parade Permit / Daphne High School / Homecoming Parade / October 16, 2008

MOTION BY Councilman Scott to approve the Parade Permit for Daphne High School / Homecoming Parade / October 16, 2008. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

c.) Authorize Mayor to enter into an agreement with South Alabama Mutual Assistance

MOTION BY Councilwoman Barnette to Authorize Mayor to enter into an agreement with South Alabama Mutual Assistance. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

B. City Attorney's Report

Mr. Ross stated that there is a matter that requires a brief Executive Session regarding a pending HR matter that Council needs to address tonight. The session should last about 10 minutes.

MOTION BY Councilman Scott to enter into Executive Session to discuss to discuss the good name a character of an employee. *Seconded by Councilman Nager.*

The City Attorney certified that the reason stated is an appropriate reason under the Alabama Open Meeting Act to enter into Executive Session. The session will last 10 minutes.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Council entered into Executive Session at 7:07 p.m.

Council returned from Executive Session at 7:20 p.m.

MOTION BY Councilwoman Barnette to set a Special Called Council meeting for October 27, 2008 at 6:30 p.m. to hear an employee grievance. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

C. Department Head Comments

David Carpenter – Police Chief – reported that there was a bank robbery that did not end in a good way.

David McKelroy – Recreation Directory – reminded everyone that Brown Bag by the Bay will be through October at May Day Park. Also, youth soccer began tonight at Trione Sports Complex.

Tonja Young – Library Director – announced that Tuesday the Alabama Humanities speaker will be speaking on the “Traveling School Marm”.

David Cohen – City Clerk – stated that the AL League Conference in May will be in Montgomery and asked Council to let him know who will be attending. Councilman Lake stated that he will be attending.

7. PUBLIC PARTICIPATION

Mr. Rod Drummond – Ridgewood Drive – spoke regarding the school property and new Recreation property.

Mr. Lee Gayle – 8764 Ash Court – spoke regarding lodging tax appropriations. He handed out a proposal by the area hotels for the lodging tax.

Council President Burnam requested that this handout be made a part of the record.

Mr. John Coulter – Ridgewood Drive - spoke regarding raising the lodging tax to 10%.

Mr. Kevin Spriggs – 23 Signal Hill, Spanish Fort – Owner of Daphne business – spoke rejecting Mr. Coulter’s proposal of raising the lodging tax.

Mr. Henry Lawson – 104 Booksetuh Circle – announced that the Mobile Bay National Estuary Program will be holding public meetings on the 17th in the Council Chambers. One will be from 3:00 – 4:30 p.m. and the other from 6:00 – 7:30 p.m. There will also be a Storm Water Authority meeting at 9:00 – 11:00 a.m. on at the Civic Center.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

- a.) **ALDOT: Cooperative Maintenance of Public Right-of-Way Roadside Along the South Side of I-10 West of and adjacent To Eastern Shore Toyota Dealership. /Resolution 2008-45**
- b.) **Declaring Certain Property Surplus / Authorize the Mayor to Dispose of Such Property. /Resolution 2008-46**
- c.) **Bid Award: Breathable Air Compressor / Sunbelt Fire Apparatus. . . . /Resolution 2008-47**
- d.) **Bid Award: Livescan Fingerprint System / Southern Detention Technologies, Inc. /Resolution 2008-48**
- e.) **Bid Award: Crowd Control Barricades / Friedrichs Custom Mfg. . . . /Resolution 2008-49**
- f.) **Retiree Cost of Living / Act 2008-555. /Resolution 2008-50**
- g.) **Appointing Election Officials for Run-Off Election. /Resolution 2008-51**

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-45. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-45. *Seconded by Councilman Yelding.*

Discussion was held on where the resolution came from, and if it had been before the Planning Commission. Councilman Palumbo objected to the resolution being on the agenda.

Councilwoman Barnette withdrew her motion. Councilman Yelding withdrew his second.

Council asked Mr. Jinright to get with the Mayor and discuss the permit.

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-46. *Seconded by Councilman Scott.*

AYE Yelding, Barnette, Scott, Nager, Palumbo, Burnam

NAY Lake

MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-46. *Seconded by Councilman Scott.*

AYE Yelding, Barnette, Scott, Nager, Palumbo, Burnam

NAY Lake

MOTION CARRIED

MOTION BY Councilwoman Barnette to waive the reading of Resolutions 2008-47 and 2008-49. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolutions 2008-47 and 2008-49. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-48. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-48. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

MOTION BY Councilman Scott to waive the reading of Resolution 2008-50. Seconded by Councilman Palumbo.

Council discussed the resolution.

Councilman Nager called for the question

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2008-50. Seconded by Councilman Yelding.

Council discussed the resolution.

Council President Burnam requested that the remainder of his travel budget be transferred to cover the lump sum.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-51. Seconded by Councilman Yelding.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-51. Seconded by Councilman Yelding.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES

1ST READ

- a.) **Regulating Erosion Control and Sediment for Residential Dwelling and Other Land Disturbance /Ordinance 2008-54**
- b.) **Correction Funds Appropriation / Livescan Fingerprint System. /Ordinance 2008-55**
- c.) **Revision to Zoning Map. /Ordinance 2008-56**
- d.) **Adopting the Fiscal Year 2009 Budget. /Ordinance 2008-57**

Council President Burnam asked Ashley Campbell, Erosion Control Officer, to come back to the next Council meeting to answer questions regarding Ordinance 2008-54.

MOTION BY Councilman Scott to suspend the rules to consider Ordinance 2008-55. *Seconded by Councilman Palumbo.*

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 Councilman Scott to waive the reading of Ordinance 2008-55. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinance 2008-55. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES 2008-54, 2008-56 AND 2008-57 ARE 1ST READ.

8. COUNCIL COMMENTS

Councilwoman Barnette commented that she is proud to live in Daphne that respects the tragedy of 9/11. She stated that there was a great turn out in honor of that day, and is proud that the city continues to honor that day. She thanked the Public Safety guys, and she appreciates them suiting up everyday.

Councilman Lake commented on the lodging tax, and hopes that the Council does not entertain an increase. He also commented on signage to direct people to Daphne.

**SEPTEMBER 15, 2008
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

Councilman Scott stated that he met with people at the Lake Forest Country Club regarding the watershed, and stated that a lot of people are behind this. The city needs to seize the opportunity, and encouraged everyone that can to come to the meetings on the 17th.

Councilman Nager announced that the Chamber is holding a Lunch and Learn session at Riley Hall at 11:30 on September 17th. A noted business author is coming from Birmingham, and this is a good way for folks to come out and hear some good ideas.

Council President Burnam announced that Coffee with the Mayor will be September 25th.

Councilwoman Barnette reminded everyone that the Jubilee Festival is this weekend, and encouraged all to come out and have a great time.

10. ADJOURN

MOTION BY Councilwoman Barnette to adjourn. *Seconded by Councilwoman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:37 P.M.

Respectfully submitted by,

David L. Cohen,
City Clerk, MMC

Certification by Presiding Officer:

Greg Burnam
Council President
Date & Time Signed: _____

Designation of the Daphne Lodging Tax as Proposed by the Daphne Area Hotels

Continuation for the Debt Service for the Bay Front
Parks. Remainder of the funds to be used for:

- The enhancements of Exits 35 and 38 such as Blue Directions Signs on I-10, Billboards, Landscaping, sidewalks, etc.
- Promotion of tourism related items such as improvement of Alligator Alley, Bayside walkways, advertising of the Daphne area, etc.

These funds will become be a self supported fund which will increase other revenues streams for the City of Daphne such as sales taxes from retail and restaurants. These additional taxes in turn can be used to help fund other areas such as parks and recreation.

We would like to propose the funds be managed by a Tourism Council represented by 3 members of the hotel industry, 1 member from the restaurant or business community and one representative of the Daphne City Council or appointed by same Council.

**SEPTEMBER 11, 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 6:50 p.m.; Ron Scott; Eric Nager; August Palumbo.

ABSENT: Bailey Yelding.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; David McKelroy, Recreation Director; Ed Nelson; Recreation Board; Al Guarisco, Village Point Foundation; Kit Smith, Recreation Board; Derek Boulware, IDB; Selena Vaughn, Village Point Foundation.

Absent: Jay Ross, City Attorney

Council Vice President John Lake called the meeting to order at 6:37 p.m.

1. RECREATION / ED NELSON / KIT SMITH

The Recreation Board came before Council to ask for four things:

1. Allocate the Recreation reserve account funds which is over \$700,000
2. Endorse Option 1 or 2 presented by HMR, with any modification made by Council
3. Approve to go forward with engineering and drainage and develop specs to go out to bid
4. Work to provide funds to supplement the \$700,000

The board requested the additional funds in order to finish the project so that it will not be piece mill.

Kit Smith discussed the construction estimates for Options 1 & 2. (The cost estimates are spread out upon these minutes.) Council may be pleasantly surprised by the bids that come in because so many companies are idle at this time.

NOTE: Council President Burnam arrived at 6:50 p.m.

Consensus of Council was that recreation is at the top of the priority list, but they will have to find the extra funds for the project.

Councilman Palumbo stated that he plans to make a motion at the Council meeting to authorize \$20,000 to prepare the engineering and start the project.

Council asked Scott Hutchinson to do a phasing plan.

**SEPTEMBER 11, 2008
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

2. AT&T CABLE

Ms. Gigi Ambrecht presented a proposed agreement with AT&T for cable through the phone lines. *(The agreement is spread out upon these minutes)* There will be 45 channels and a public access channel where the council meetings could be broadcast, and there will be 45 channels. They will pay the city 5% of gross receipts quarterly.

Consensus of the Council was that it would be good for the city to have choices.

3. Lodging Tax

Council discussed ideas on how the tax should be used.

Consensus of Council was that as long as the city owes money on water front property the lodging tax should go toward paying the debt. That funds that are already in the account should stay there. Council would like hotel input as to the use of the tax. They need to earmark funds collected since 2004 to Bay Front and IDB and not go to the general fund.

6. ADJOURN

There being no further business to discuss the meeting adjourned at 8:30 p.m.

Respectfully submitted by,

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

Certification of Presiding Officer:

**Greg Burnam
Council President**

Date & Time Signed: _____



ENGINEERING COST ESTIMATE

Owner: City of Daphne

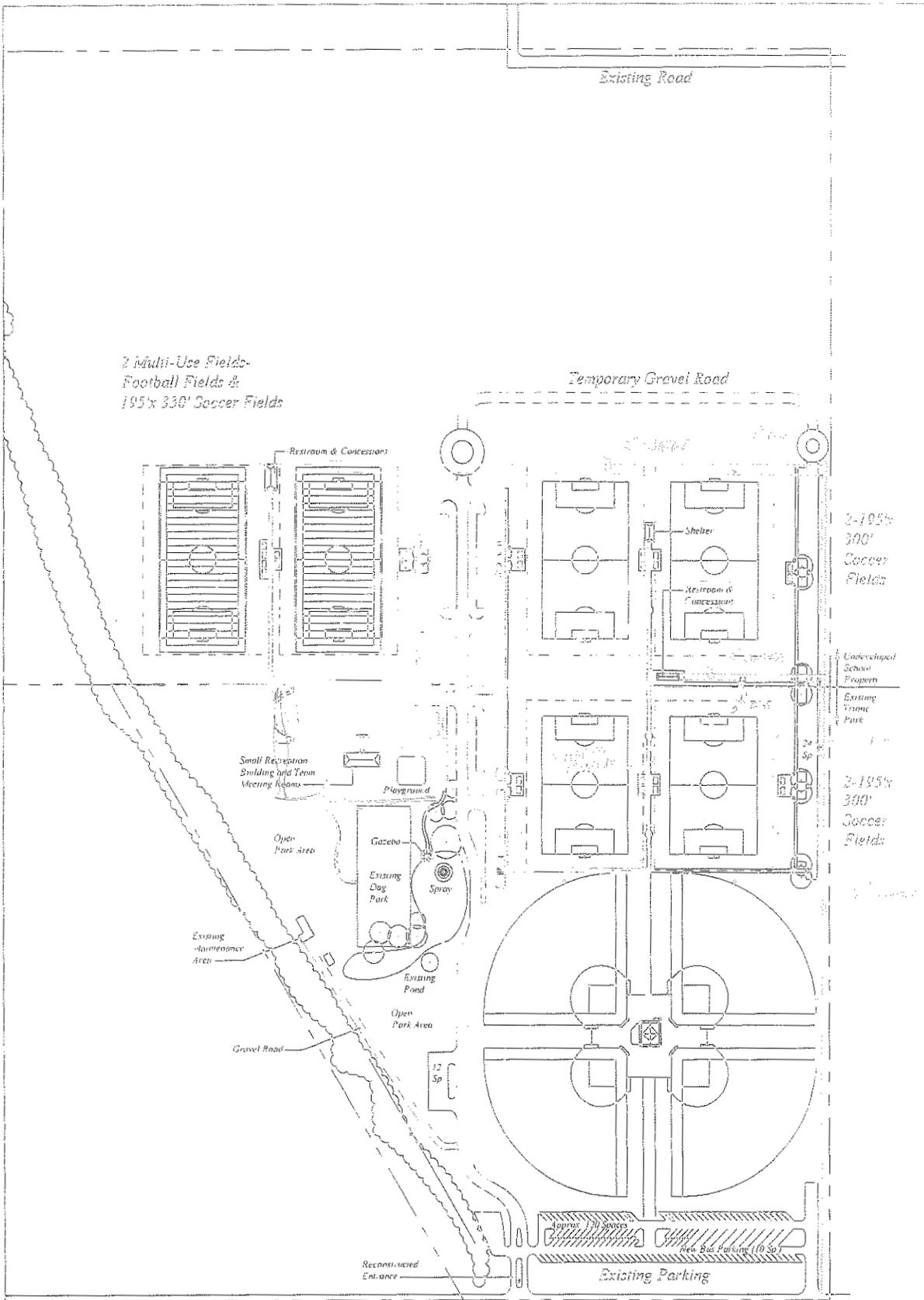
Project: Trione Park Football & Soccer Fields (Option 1)

Date: July 17, 2008

ITEM #	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
1	CLEARING AND GRUBBING, APPROX. 21.5 ACRES (201-A)	LS	1	\$	20,000.00
2	UNCLASSIFIED EXCAVATION, WASTE OFFSITE (210-A)	CYIP	15,900	6.50 \$	103,350.00
3	UNCLASSIFIED EXCAVATION (WASTE ON-SITE)	CY	9,100	4.50 \$	40,950.00
4	BORROW EXCAVATION, SELECT FILL, 18" SAND CLAY (210-D)	CYIP	8,600	11.50 \$	98,900.00
5	ROADBED PROCESSING (230-A)	RDBD STA	19	350.00 \$	6,650.00
6	GRANULAR SOIL BASE, COURSE, UPPER LAYER, TYPE A, ROAD MIXED, 5" AGGREGATE BASE COMPACTED THICKNESS (301-A)	SYCIP	17,200	15.00 \$	258,000.00
7	BITUMINOUS TREATMENT, TYPE A (401-A)	SY	17,200	1.25 \$	21,500.00
8	BITUMINOUS CONCRETE WEARING SURFACE, MIX 1, 1 1/2" THICKNESS (429-A)	SY	17,200	9.00 \$	154,800.00
9	COMBINATION CONCRETE CURB & GUTTER, TYPE M-2, 24" WIDE	LF	3,500	13.50 \$	47,250.00
10	CONCRETE SIDEWALK, 4" THICK, 5' WIDE (618-A)	SY	4,500	25.00 \$	112,500.00
11	6" C-900 PVC WATERLINE	LF	1,825	20.00 \$	36,500.00
12	6" TAPPING VALVE & SLEEVE	EA	1	2,500.00 \$	2,500.00
13	6" GATE VALVES	EA	1	750.00 \$	750.00
14	DUCTILE IRON OR CAST IRON WATER FITTINGS (WL-2)	LBS	750	6.50 \$	4,875.00
15	3" C-900 PVC WATERLINE	LF	1,545	6.00 \$	9,270.00
16	CONCRETE FOR WATER LINES (WL-11)	CY	5	300.00 \$	1,500.00
17	3" FORCEMAIN (PVC)	LF	3,250	6.00 \$	19,500.00

ITEM #	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
18	1" PVC SERVICE LINES	LF	500	4.00	\$ 2,000.00
19	LOW PRESSURE GRINDER PUMP	EA	2	3,500.00	\$ 7,000.00
20	CONCRETE FOR SEWER LINES	CY	5	300.00	\$ 1,500.00
21	FORCE MAIN TAPPING VALVE & SLEEVE	EA	1	2,500.00	\$ 2,500.00
22	GRATE INLET (621-C)	EA	15	3,500.00	\$ 52,500.00
23	INLETS, TYPE "S3", ONE WING (621-C)	EA	3	3,500.00	\$ 10,500.00
24	INLETS, TYPE "S3", TWO WING (621-C)	EA	2	4,000.00	\$ 8,000.00
25	24" RCP	LF	3,600	55.00	\$ 198,000.00
26	24" PIPE END TREATMENT (619-A)	EA	4	800.00	\$ 3,200.00
27	MOBILIZATION (600-A)	LS	1		\$ 20,000.00
28	OUTFALL STRUCTURE	EA	1	7,500.00	\$ 7,500.00
29	SOLID SODDING (654-A)	SY	30,000	4.50	\$ 135,000.00
30	SILT FENCE, TYPE A (665-J)	LF	3,000	4.50	\$ 13,500.00
31	FIRE HYDRANT ASSEMBLY (WL-8)	EA	2	2,800.00	\$ 5,600.00
32	SIGNS	LS	1		\$ 4,000.00
33	STRIPING	LS	1		\$ 5,000.00
34	CONCRETE SLOPE PAVING (614-A)	CY	50	300.00	\$ 15,000.00
35	**LIGHTING	LS	1		\$ 375,000.00
36	**IRRIGATION	LS	1		\$ 32,000.00
37	**BLEACHERS (4)	LS	1		\$ 50,000.00
38	**RESTROOM/ CONCESSIONS (2)	LS	1		\$ 150,000.00
TOTAL AMOUNT					\$ 2,036,595.00

**** Prices provided by Daphne Recreation Department.**



Trione Soccer & Football Complex
 Phase I
 Scale: 1"=2400'
 January 8, 2003

OPTION 1



ENGINEERING COST ESTIMATE

Owner: City of Daphne

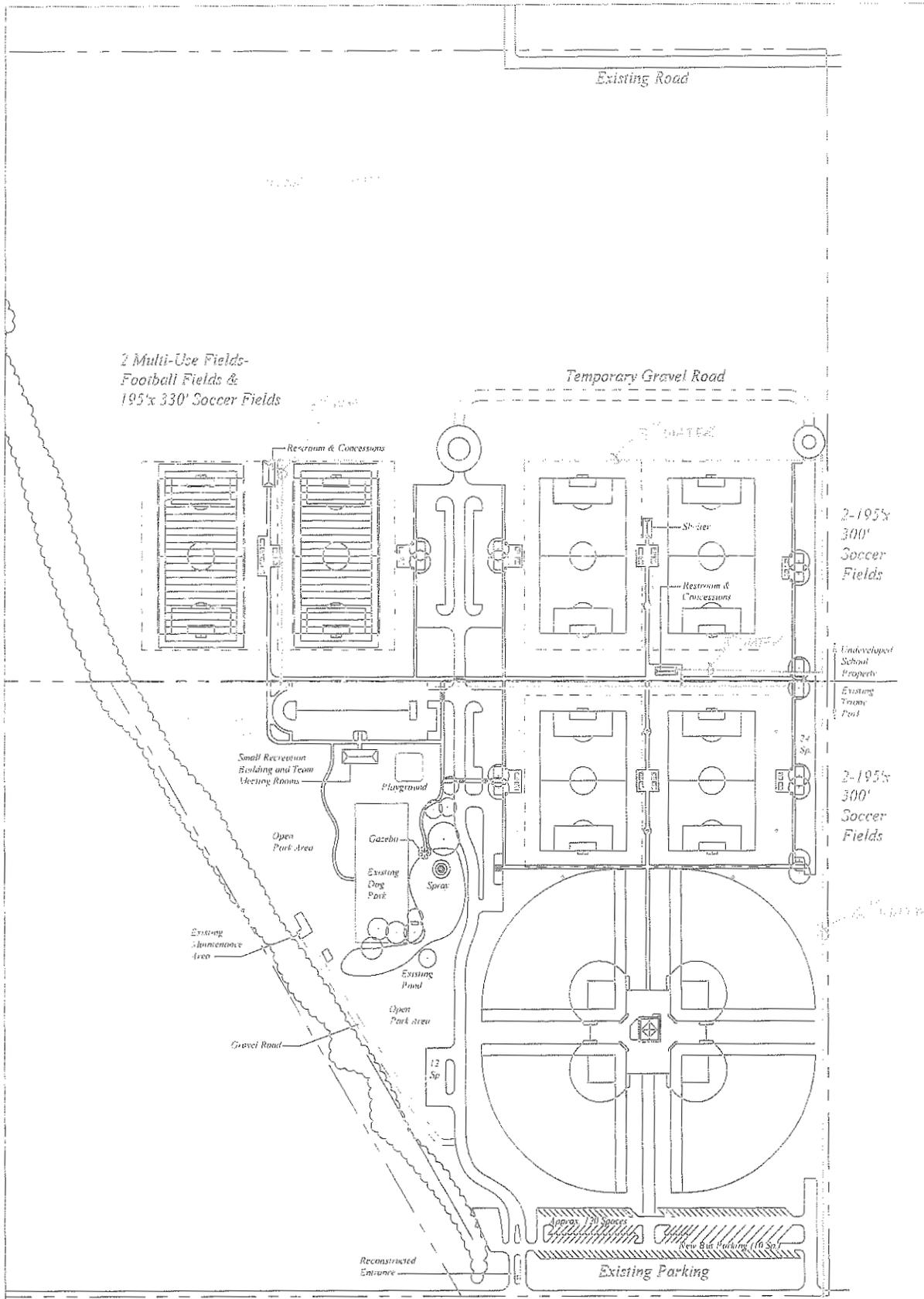
Project: Trione Park Football & Soccer Fields (Option 2B)

Date: September 11, 2008

ITEM #	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
1	CLEARING AND GRUBBING, APPROX. 21.5 ACRES (201-A)	LS	1		\$ 20,000.00
2	UNCLASSIFIED EXCAVATION (USE ON-SITE)	CYIP	17,451	6.50	\$ 113,431.50
3	BORROW EXCAVATION	CY	17,668	11.50	\$ 203,182.00
4	6" C-900 PVC WATERLINE	LF	1,825	20.00	\$ 36,500.00
5	6" TAPPING VALVE & SLEEVE	EA	1	2,500.00	\$ 2,500.00
6	6" GATE VALVES	EA	1	750.00	\$ 750.00
7	DUCTILE IRON OR CAST IRON WATER FITTINGS (WL-2)	LBS	750	6.50	\$ 4,875.00
8	3" C-900 PVC WATERLINE	LF	1,545	6.00	\$ 9,270.00
9	CONCRETE FOR WATER LINES (WL-11)	CY	5	300.00	\$ 1,500.00
10	3" FORCEMAIN (PVC)	LF	460	6.00	\$ 2,760.00
11	1" PVC SERVICE LINES	LF	500	4.00	\$ 2,000.00
12	LOW PRESSURE GRINDER PUMP	EA	2	3,500.00	\$ 7,000.00
13	CONCRETE FOR SEWER LINES	CY	5	300.00	\$ 1,500.00
14	FORCE MAIN TAPPING VALVE & SLEEVE	EA	2	2,500.00	\$ 5,000.00
15	GRATE INLET (621-C)	EA	4	3,500.00	\$ 14,000.00
16	24" HDPE	LF	3,600	35.00	\$ 126,000.00
17	24" PIPE END TREATMENT (619-A)	EA	1	800.00	\$ 800.00
18	MOBILIZATION (600-A)	LS	1		\$ 20,000.00
19	OUTFALL STRUCTURE	EA	1	7,500.00	\$ 7,500.00
20	SOLID SODDING (654-A)	SY	30,000	4.50	\$ 135,000.00
21	SILT FENCE, TYPE A (665-J)	LF	3,000	4.50	\$ 13,500.00
22	FIRE HYDRANT ASSEMBLY (WL-8)	EA	2	2,800.00	\$ 5,600.00

ITEM #	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
23	AGGREGATE (B-BASE) 6" THICK (301-B)	CYIP	4,285	20.00	\$ 85,700.00
24	**LIGHTING	LS	1		\$ 375,000.00
25	**IRRIGATION	LS	1		\$ 32,000.00
26	**BLEACHERS (4)	LS	1		\$ 50,000.00
27	**RESTROOM/ CONCESSIONS (2)	LS	1		\$ 150,000.00
TOTAL AMOUNT					\$ 1,425,368.50

**** Prices provided by Daphne Recreation Department.**



Trione Soccer & Football Complex
Phase I

Scale: 1" = 200'
January 8, 2008

OPTION 2

Existing Road

11' 6" x 18' 0" LINES
1' 0" x 1' 0" SQUARES & INLETS

Total New Parking Spaces: 405

2 Multi-Use Fields-
Football Fields &
195'x 330' Soccer Fields

Temporary Gravel Road

156 spaces

40 spaces

2-195'
300'
Soccer
Fields

Underdeveloped
School
Property
Existing
Tennis
Park

15 spaces
13 spaces
15 spaces

19 spaces
24 spaces
24 spaces
7 spaces
13 spaces

45 spaces

2-195'
300'
Soccer
Fields

72 spaces

72 spaces

16" WATER

Existing
Maintenance
Area

Gravel Road

Existing
Point

Open
Park Area

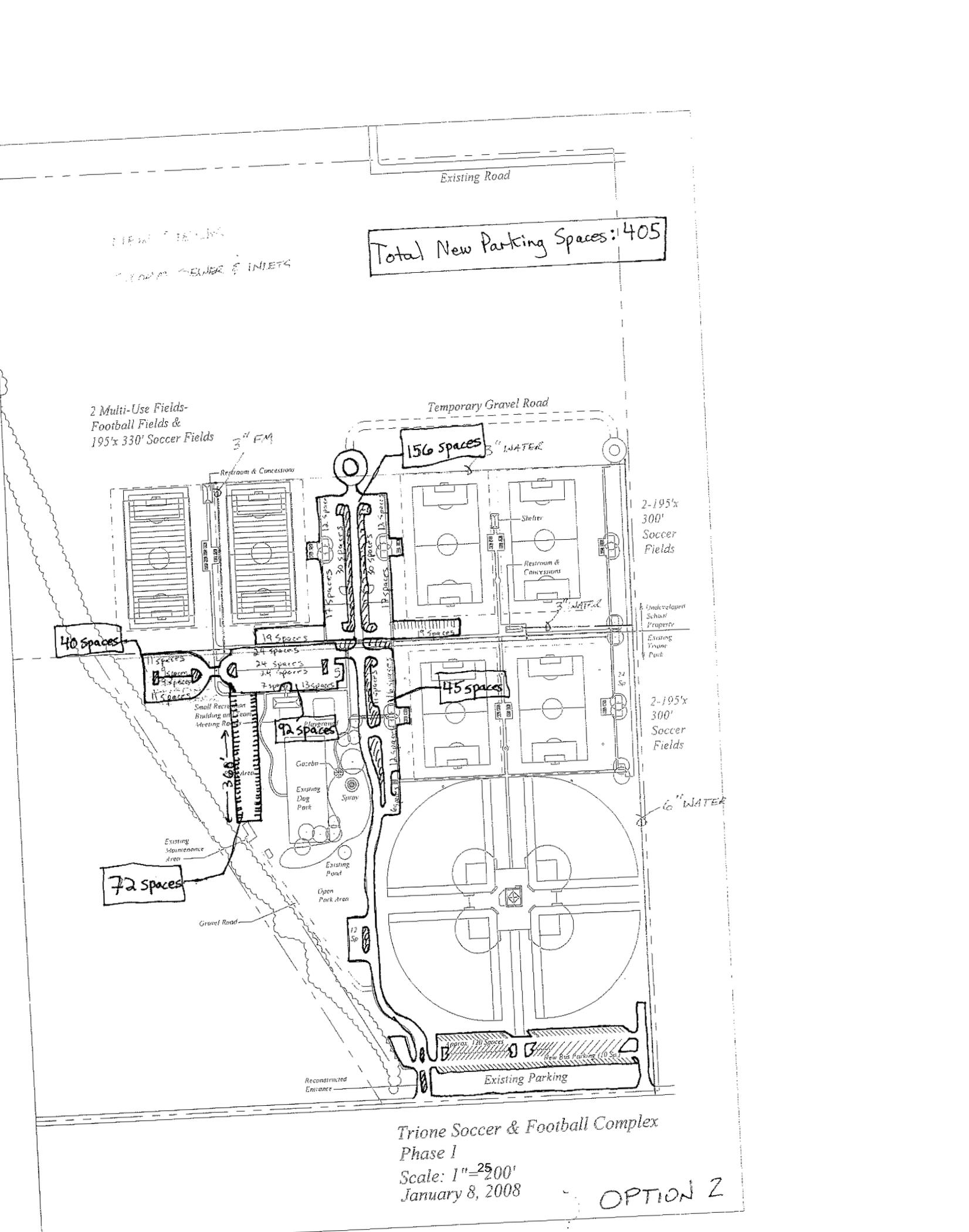
Reconstructed
Entrance

Approx. 120 Spaces

Existing Parking

Trione Soccer & Football Complex
Phase I
Scale: 1"=250'
January 8, 2008

OPTION 2



6161 Armbrect (SP)

AGREEMENT

THIS AGREEMENT ("Agreement") dated _____, 2008 ("Effective Date") is made by and between BellSouth Telecommunications, Inc., d/b/a AT&T Alabama ("AT&T Alabama" or the "Company"), a Georgia corporation, and the City of Daphne, Alabama, a municipal corporation ("City"). AT&T Alabama and City shall sometimes be referred to separately as a "Party," and collectively as the "Parties."

Recitals

WHEREAS, as a telephone corporation, AT&T Alabama asserts that it has a statewide franchise under Alabama Code Section 23-1-85 (1975) and its predecessors, by operation of law, and under other applicable law to construct, operate and maintain its communications facilities in the public rights of way ("ROW") throughout the state of Alabama without having to obtain a local franchise or pay franchise fees. This assertion by AT&T Alabama is supported by the opinion of the Alabama Attorney General Opinion 2008-021 issued to Representative Greg Canfield; and

WHEREAS, the Parties recognize and acknowledge that their positions may differ on the language stated above, and the City takes no position on the legal conclusion stated therein; and

WHEREAS, the Parties agree that the installation of the IP Network and provision of IP-enabled Video Service should not be delayed by possible litigation; and

WHEREAS, AT&T Alabama is in the process of modifying its existing telecommunications network to provide an integrated Internet Protocol ("IP") enabled broadband platform of voice, data and video services ("IP Network"), the video component of which AT&T Alabama asserts is a switched, two-way, point-to-point and interactive service ("IP-enabled Video Service"). The IP Network upgrade will involve the use of the City's ROW.

NOW, THEREFORE, in consideration of and reliance upon the respective representations, promises, concessions, terms and conditions contained herein, City and AT&T Alabama agree as follows.

1. Term. The term of this Agreement shall be from the Effective Date of this Agreement through December 31, 2013. The term may be extended upon mutual agreement of the Parties.

A. The Parties agree to consult in the event that, after the Effective Date, any court, agency, commission, legislative body, or other authority of controlling jurisdiction issues a finding that limits the validity or enforceability of this Agreement, in whole or in part. Should the finding be final, non-appealable and binding upon either City or AT&T Alabama, this Agreement shall be deemed modified or limited to the extent necessary to address the subject of the finding unless either Party, within thirty (30) days of receipt of the finding, provides

written notice to the other party of election to terminate, in which case this Agreement shall terminate within six (6) months or such earlier period as the Parties mutually may agree. Where the effect of a finding is a modification, the Parties shall enter into good faith negotiations to modify this Agreement in the manner which best effectuates its overall purposes and the intentions of the Parties. Failure to reach a mutually satisfactory modification within ninety (90) days of the commencement of such efforts shall entitle either Party to terminate the Agreement on the provision of thirty (30) days' written notice.

B. In addition to the termination rights set forth in section 1(A) above, AT&T Alabama shall have the right to terminate this Agreement and all obligations hereunder upon ninety (90) days notice to the City, if (a) AT&T Alabama concludes in its reasonable business judgment that IP Video Service in the City is no longer technically, economically or financially consistent with AT&T Alabama's business objectives; (b) Title VI of the Communications Act of 1934, as amended, obligations or any similar obligations are imposed on AT&T Alabama; or (c) it becomes clear that AT&T Alabama must offer or provide IP Video Service pursuant to a franchise (cable or otherwise) and/or franchise-like requirements or other local authorization.

2. Compensation to City. During the term of this Agreement, AT&T Alabama shall pay to City a fee equal to 5% of the Gross Revenues from subscription fees collected from each subscriber to AT&T Alabama's IP Video Services product delivered over the IP Network in the City's ROW, including any Gross Revenues from video services included in a bundle of services. The fee ("IP Video Services Provider Fee") will be identified and passed through on any subscriber bill by AT&T Alabama, and all such fees collected will be forwarded to City quarterly and shall be due 45 days after the end of each quarter.

Payment shall be accompanied by a report, in such form and containing sufficient detail to determine AT&T's compliance with this Section, not later than forty-five (45) days after the last day of each March, June, September, and December, throughout the term of this Agreement setting forth the Gross Revenue for the quarter ending on said last day. The City shall have the right to audit any such payment for a period of three (3) years, and no acceptance of any payment shall be deemed final until the period for audit shall have expired.

A. For purposes of this Agreement, Gross Revenues are limited to amounts billed to and collected from AT&T Alabama IP Video Services product subscribers for the following:

- (a) recurring charges for IP Video Services;
- (b) event-based charges for IP Video Services, including but not limited to pay-per-view and video-on-demand charges;
- (c) rental of set top boxes and other IP Video Services equipment;

(d) service charges related to the provision of IP Video Services, including, but not limited to, activation, installation, and repair; and

(e) administrative charges related to the provision of IP Video Services, including, but not limited to, service order and service termination charges.

B. For purposes of this Agreement, Gross Revenues do not include:

(a) uncollectible fees, provided that all or part of uncollectible fees which is written off as bad debt but subsequently collected fees, less expenses of collection, shall be included in Gross Revenues in the period collected;

(b) discounts, refunds, and other price adjustments that reduce the amount of compensation received by AT&T Alabama;

(c) late payment fees;

(d) maintenance charges;

(e) amounts billed to IP Video Services subscribers to recover taxes, fees or surcharges imposed upon IP Video Services subscribers in connection with the provision of IP Video Services, including the IP Video Services Provider Fee authorized by this section;

(f) revenue from the sale of capital assets or surplus equipment or

(g) charges, other than those described in subsection (a), that are aggregated or bundled with amounts billed to IP Video Services subscribers including but not limited to any revenues received by AT&T Alabama or its affiliates for telecommunications services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing.

C. (1) "Gross Revenues" which are subject to the IP Video Service Provider Fee paid by AT&T Alabama include a pro rata portion of all revenue collected by AT&T Alabama pursuant to compensation arrangements for advertising (less any commissions AT&T Alabama receives from any third party for advertising) and home-shopping sales derived from the operation of AT&T Alabama's IP Video service within the City.

(2) Advertising commissions paid to third parties (excluding any refunds, rebates, or discounts the Company may make to advertisers) shall not be deducted from advertising revenue included in gross revenue. The allocation of advertising and home-shopping revenue referred to above shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

3. Public, Educational and Governmental Programming. In recognition of the technical architecture of IP Video Services AT&T Alabama will make Public, Educational, and Governmental ("PEG") capability available with AT&T Alabama's IP Video Service network, at such time as AT&T Alabama achieves 10% market share of the pay TV subscriber market within City or within 180 days of AT&T Alabama's launch of IP Video Services and subject to reasonable economic and technical feasibility considerations. AT&T Alabama will provide two (2) programming streams or the number of programming streams provided by the incumbent cable company with the most subscribers in the City on the effective date of this Agreement.

Any operation of any PEG access channel by City shall be the responsibility of City, and AT&T Alabama's only obligation, if any, is the responsibility for the transmission of such channel. The City will be responsible to ensure that all transmissions, retransmissions, content, or programming that may be requested to be transmitted over a channel or facility by AT&T Alabama in the future, if any, are provided or submitted to AT&T Alabama, at the AT&T Alabama's designated connection point, in a manner or form that is capable of being accepted and transmitted by AT&T Alabama, without requirement for additional alteration or change in the format or content by AT&T Alabama, over the network of the AT&T Alabama, and which is compatible with the technology or protocol utilized by AT&T Alabama to deliver IP Video Services.

If technically and economically feasible, AT&T Alabama will, at its discretion, use reasonable efforts to interconnect with the incumbent cable provider to provide PEG programming.

4. Emergency Message. AT&T Alabama shall carry all Federal, State and Local alerts provided over the "Federal Emergency Alert System" through AT&T Alabama's IP-enabled Video Services in the event of a public safety emergency, which at a minimum will include the concurrent rebroadcast of local broadcast channels.

5. Customer Service Standards. AT&T Alabama shall comply with the customer service requirements set forth in 47 C.F.R. Section 76.309(c) until there are two or more wireline providers offering service within the City.

6. Indemnification.

A. AT&T Alabama agrees to indemnify, defend, and hold harmless City, its officers, agents, and employees, from and against any liability for damages and for any liability or claims resulting from tangible property damage or bodily injury (including accidental death), to the extent proximately caused by AT&T Alabama's negligent placement, construction, operation, or maintenance of its IP Network, provided that City shall give AT&T Alabama written notice of its obligation to indemnify City within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, AT&T Alabama shall not indemnify City for any damages, liability or claims resulting from the negligence or willful misconduct of City, its officers, agents, employees, attorneys, consultants, independent contractors or third parties or for any

activity or function conducted by any person or entity other than AT&T Alabama in connection with PEG programming.

B. With respect to AT&T Alabama's indemnity obligations set forth above, AT&T Alabama shall provide the defense of any claims brought against City by selecting counsel of AT&T Alabama's choice to defend the claim, subject to the consent of City, which shall not be unreasonably withheld. Nothing herein shall be deemed to prevent City from cooperating with AT&T Alabama and participating in the defense of any litigation by its own counsel at its own cost and expense, provided, however, that after consultation with City, AT&T Alabama shall have the right to defend, settle or compromise any claim or action arising hereunder, and AT&T Alabama shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the terms of any such settlement do not include the release of City and City does not consent to the terms of any such settlement or compromise, AT&T Alabama shall not settle the claim or action, but its obligation to indemnify City shall in no event exceed the amount of such settlement.

C. City shall hold AT&T Alabama harmless and shall be responsible for damages, liability or claims resulting from the negligence or willful misconduct of City.

D. City shall be responsible for its own acts of negligence or willful misconduct, or breaches of obligation committed by City for which City is legally responsible, subject to any and all defenses and limitations of liability provided by law. AT&T Alabama shall not be required to indemnify City for acts of City which constitute willful misconduct or negligence on the part of City, its officers, employees, agents, attorneys, consultants, independent contractors or third parties.

E. In the event that the incumbent video service provider(s) in the City files a claim against the City in state or federal court arising out of the fact that the City entered into this Agreement, challenging the lawfulness of this Agreement and/or seeking to modify its obligations under its existing cable franchise on the basis that the City entered into this Agreement, AT&T Alabama shall cooperate with the City to provide information that may assist the City in responding to such claim

At the City's request, AT&T Alabama will intervene in any such action and participate in the defense of any claim. In such event, AT&T Alabama shall assume, at its expense, the sole defense of the claim through counsel selected by AT&T Alabama and shall keep the City fully informed as to the progress of such defense. Upon reasonable request by AT&T Alabama and at AT&T Alabama's expense, the City shall cooperate with AT&T Alabama in the defense of the claim. At its option and expense, the City may retain or use separate counsel to represent it, including in-house counsel.

However, AT&T Alabama shall maintain control of the defense and resolution or settlement of the claim, including decisions with respect to appeals, except that if the settlement of a claim would adversely affect the City, AT&T Alabama may settle the claim as to the City only with its consent, which consent shall not be unreasonably withheld or delayed.

AT&T Alabama shall pay the full monetary amount of (i) any judgment or award issued by a court against the City as a result of entering into the Agreement with AT&T Alabama or (ii) any settlement negotiated by AT&T Alabama with respect to the claim and all other expenses related to the resolution of the claim. AT&T Alabama's obligation to pay excludes an incumbent provider's costs, interest and reasonable attorneys' fees in bringing such action or claim unless otherwise agreed to by AT&T Alabama in any settlement agreement.

7. Obligations of City. During the term of this Agreement City will not subject, nor attempt to subject, the provision of AT&T Alabama's IP-enabled Video Services over the IP Network to regulation under any cable television franchise ordinance or similar ordinance. In addition:

- (a) City agrees to subject the construction and installation of the IP Network to the same process and review as it subjects the installation and construction of AT&T Alabama's existing telecommunications infrastructure.
- (b) City agrees not to unreasonably block, restrict, or limit the construction and installation of the IP Network.
- (c) City agrees to process any and all applicable permits for the installation, construction, maintenance, repair, removal, and other activities associated with the IP Network in a timely and prompt manner.

8. Rights of Way. The City shall maintain reasonable police powers over installation of facilities in the public rights of way. AT&T Alabama shall maintain its facilities in a condition which shall not pose unreasonable danger to the safety of the traveling public. AT&T Alabama will comply with the same terms and conditions as are applicable under its existing authorizations for AT&T Alabama's facilities and equipment in the public ROW with respect to all work involved in the construction, maintenance, repair and upgrade of the IP Network. AT&T Alabama shall make reasonable efforts to notify, consult, and collaborate with the City as to locations where it will construct, implement, or otherwise erect equipment necessitated for the proper working order and/or functioning of its IP Network in the City's ROW. Nothing in this Agreement shall in any way reduce or expand the City's authority over the public ROW.

9. Insurance. AT&T Alabama agrees to either obtain a policy of public liability insurance in an amount not less than \$1,000,000 with the City named as an additional insured under such policy or provide the City with proof of self insurance in an amount not less than \$1,000,000.

10. Breach of Agreement. Should either party claim that a breach of any part of this Agreement has occurred, that party will provide prompt written notice to the other, specifying the nature of the breach; and upon receipt the other party shall cure such breach within 60 days.

11. Dispute Resolution. Except as otherwise provided in this Agreement, the Parties shall make diligent, good faith efforts to resolve all issues and disputes that arise

in the administration of this Agreement, prior to filing any court action, through discussions between designated representatives of the Parties and use of a mediator when such discussions have failed.

12. Non-discrimination. AT&T Alabama shall not deny access to its IP Video Services to any group of potential residential customers because of the income of the residents of the local area in which the group resides.

13. Notices.

A. Any notice to be given under this Agreement shall be in writing and may be delivered to either personally, by facsimile or by certified or registered mail with postage prepaid and return receipt requested, addressed as follows:

If to City:

Honorable Fred Small, Mayor
City of Daphne
P.O. Box 400
Daphne, Alabama 36526

If to AT&T Alabama:

AT&T Alabama
General Counsel – Alabama
Suite 28A2
600 19th Street N
Birmingham, AL 35203

14. Modification. This Agreement may be amended or modified only by a written instrument executed by both Parties.

15. Assignment. AT&T Alabama may not assign or transfer this Agreement or any interest therein without the prior consent of City except to any affiliate of AT&T Alabama.

16. Entire Agreement. This Agreement constitutes the entire agreement between City and AT&T Alabama with respect to the subject matter contained herein and supersedes all prior or contemporaneous discussions, agreements, and/or representations of or between City and AT&T Alabama regarding the subject matter hereof.

17. Waiver. Failure on the part of either Party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

18. Miscellaneous.

A. AT&T Alabama and City each hereby warrants that it has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof.

B. The headings used in this Agreement are inserted for convenience or reference only and are not intended to define, limit or affect the interpretation of any term or provision hereof. The singular shall include the plural; the masculine gender shall include the feminine and neutral gender.

C. AT&T Alabama and City shall cooperate fully with one another in the execution of any and all other documents and in the completion of any additional actions including, without limitation, the processing of permits that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

D. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward any person or entity not a party to this Agreement, unless otherwise expressly set forth herein.

19. Binding Effect. This Agreement shall be binding upon and for the benefit of each of the Parties and their respective successors and assigns and any parents, subsidiaries or affiliated corporations or entities, as applicable.

20. Counterpart Execution. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile and any signature transmitted by facsimile will be given the same force and effect as an original signature.

21. Force Majeure. In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by a force majeure, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference.

22. Relationship of the Parties. The Parties understand, acknowledge and agree that by making and entering into this Agreement, the City is not in any way or for any purpose a partner of or joint venturer with AT&T Alabama.

23. Choice of Law. This Agreement shall be construed and interpreted according to the laws of the State of Alabama.

24. Removal. Upon abandonment, AT&T Alabama will, at the City's request and within a reasonable amount of time, remove from the City rights-of-way any visible equipment that AT&T Alabama used exclusively for video services and restore the property.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement and made the same effective as of this ____ day of _____, 2008.

AT&T Alabama

By: _____
Name: Fred J. McCallum, Jr.
Title: President - AT&T Alabama

State of Alabama)
County of _____)

Sworn to and subscribed before me this _____ day of _____, 2008.

NOTARY PUBLIC SEAL

CITY OF DAPHNE

By: _____
Name: Fred Small,
Title: Mayor -- City of Daphne, Alabama

State of Alabama)
County of _____)

Sworn to and subscribed before me this _____ day of _____, 2008.

NOTARY PUBLIC SEAL

SEPTEMBER 2, 2008
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

Amended minutes from the September 15, 2008 Council meeting
Amended Councilwoman Barnette's comments from: She
feels that the money needs to be re-appropriated to the general
fund to: They need to make a decision about where those funds
funds were going to, because as it currently stands they would go
to the general fund.

ORDINANCES

a.) Adjust Speed Limit in City of Daphne/Ordinance 2008-53

MOTION BY Councilwoman Barnette to <u>waive the reading</u> of Ordinance 2008-53. <i>Seconded by Councilman Palumbo.</i>				
AYE	ALL IN FAVOR	NAY	NONE OPPOSED	MOTION CARRIED

MOTION BY Councilwoman Barnette to <u>adopt</u> Ordinance 2008-53. <i>Seconded by Councilman Palumbo.</i>				
AYE	ALL IN FAVOR	NAY	NONE OPPOSED	MOTION CARRIED

7. COUNCIL COMMENTS

Councilman Yelding commended the Mayor and staff for preparing the city for Gustav, and stated that the Mayor and his staff are doing a good job.

Councilwoman Barnette stated that she brought up the lodging tax so that council could see that it had expired. She is in favor of DRA receiving a portion of the funds. They need to make a decision about where those funds were going to go, because as it currently stands they would go to the general fund. The lack of action makes the lodging tax susceptible to general fund issues. She believes that they need to set forth an allocation for Bay Front Park, IDB and she would like to see Downtown Redevelopment receive funding. She is not in support reallocating the funds that have already been collected since 2004 to those efforts. A lack of action for doing nothing does leave all those projects susceptible and vulnerable to receiving nothing, and there are pressures to pave and do other projects other than the intention of the lodging tax, and paving does not necessarily bring in tourism.

Councilman Lake asked Mr. Cruitt that the city get a copy of the picture to put in the Council Chambers, and said that he appreciated him thinking about taking a picture.

Councilman Scott mentioned that there has been a lot said about the new building, the cost and who is responsible for it. He said that the Council, except for Mr. Nager and the few who did not vote for it, bears the responsibility for the building. Council looked at what was needed, not just for today, but had to look out into the future, and the city found itself in the situation after Ivan and Katrina where the city had lost the Planning building which also housed Building Inspection, and had to come up with somewhere to put these folks. The city has been paying commercial rent for three plus years now, and hopefully, soon they will all be in one building.

Councilman Nager stated that he enjoyed the presentation by the IDB. The resolution was interesting. He said he would like to look at the legality of business license abatement as well, because that could be an incentive as well. He said that he has enjoyed serving will all the Council, and he congratulated everyone on their re-election to office. He has enjoyed the experience, and he looks back to December to another election, and Council was the only voters, and that election he won. He said that he appreciated the opportunity.

SEPTEMBER 2, 2008
CITY OF DAPHNE, AL
SPECIAL CALLED CITY COUNCIL MEETING
11:00 A.M.

Amended minutes from the
September 15, 2008 Council
meeting: Amended the time
of adjournment from:
10:30 a.m. to 11:35 a.m.

5. ADJOURN

MOTION BY Councilwoman Barnette to adjourn.	<i>Seconded by Councilman Lake.</i>	
AYE ALL IN FAVOR	NAY NONE OPPOSED	MOTION CARRIED

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING
ADJOURNED AT 11:35 A. M.**

Respectfully submitted by:

David L. Cohen,
City Clerk

Certified by Presiding Officer:

Greg Burnam,
Council President
Date & Time Signed: _____

City of Daphne

Proclamation

Fire Prevention Week

October 5 – 11, 2008

WHEREAS, the City of Daphne is committed to ensuring the safety and security of all those living in our city and visiting our state; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, home fires killed more than 2,500 people in the United States in 2006, according to the latest research from the nonprofit National Fire Protection Association (NFPA), and fire departments in the United States responded to nearly 400,000 home fires; and

WHEREAS, cooking is the leading cause of home fires and home fire injuries, while heating equipment and smoking are the leading causes of home fire deaths; and

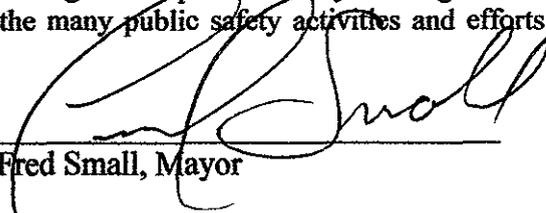
WHEREAS, Daphne's fire fighters are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, Daphne's residents are responsive to public education measures and are able to take personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

WHEREAS, the 2008 Fire Prevention Week theme, "It's Fire Prevention Week – Prevent Home Fires!" effectively serves to remind us all of the simple actions we can take to stay safer from fire during Fire Prevention Week and year-round.

THEREFORE, I, Fred Small, Mayor of Daphne, do hereby proclaim October 5-11, 2008 as Fire Prevention Week throughout this city, and I urge all the people of Daphne to protect their homes and families by heeding the important safety messages of Fire Prevention Week 2008, and to support the many public safety activities and efforts of Daphne's fire and emergency services.


Fred Small, Mayor



City of Daphne
Office of the Mayor

CERTIFICATE OF APPRECIATION

presented to

Rev. Jim Fillingim

WHEREAS, *Rev. Jim Fillingim*, has served as the Pastor of the Daphne United Methodist Church since June of 2001; and

WHEREAS, he has opened his church and his heart to everyone in the City of Daphne making his church facilities available to a wide variety of programs that enhance the quality of life for others; and

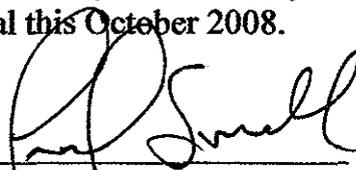
WHEREAS, *Jim* and his church have wrapped their arms around this community and provided an outreach to hundreds of individuals and families; and

WHEREAS, he now deserves time to enjoy his family and time for playing golf, camping, vegetable gardening and traveling with his wife Kay.

NOW THEREFORE, the Mayor appreciates *Rev. Jim Fillingim* for his untiring energy and efforts on behalf of all of the citizens in Daphne. Your positive impact you have made on others will be forever remembered in our hearts. I wish you success and happiness in your retirement and any of your future endeavors.

This Certificate of Appreciation is presented by the Mayor of the City of Daphne, Alabama and affixed with the official seal this October 2008.




Fred Small, Mayor

**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

Buildings and Property Committee Minutes

September 5, 2008

10:00 a.m.

City of Daphne

Council Chambers

Committee

Councilman John Lake, Chairman

Mayor Fred Small

Councilman August A. Palumbo

Sandra Morse, Director Daphne Civic Center

Richard Merchant, Buildings Inspector

Minutes

The meeting opened at 10:10 a.m. with Mr. William Caswell Architect for proposed renovations at Bayfront Park. Mr. Caswell discussed various findings at the Richard Scardamelia Pavilion. The Committee discussed necessary areas that needed to be addressed to bring the facility up to code. Some of these areas included the following:

- 1) Egress
- 2) Fire Alarm System
- 3) Toilet renovation for ADA
- 4) New flooring
- 5) New exterior finishes
- 6) Renovation of toilets at large multi-use space

Mr. Larry Boyd of Village Point Foundation presented a design for a visitor information sign to the Committee. The group would like to install two of these signs one at Bayfront Park and the other at Village Point. **Motion** by Councilman Lake for acceptance of the signage. **Seconded** by Councilman Palumbo. **Motion Approved.**

The Committee discussed updating the Civic Center ordinance and requested that the City Attorney review the ordinance to make recommendations for the next committee meeting.

Mr. Richard Merchant, Building Official presented the building report.

Mr. Frank Barnett, Public Works Department presented a copy of the attorneys position concerning a maintenance contract for the air conditioning system at the Civic Center. The committee requested that Mr. Barnett contact Johnson Controls Inc. to better clarify the terms of the contract and make a report to the committee at the meeting next month.

The meeting adjourned at 11:20 a.m.

Daphne Police Department		Monthly Report					JULY 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	1,108	# New Cases Received:	69	Total Arrestees Received & Processed:	173	1,529		Arson	1	
# Misd. Arrests	52	# Previous Unsolved Cases:	131	Arrestees by Agency:			#Complaints	64	Burglary – Commercial	1
# Felony Arrests	3	# Cases Solved:	52	Daphne PD	151	1,228	#Follow-ups	114	Burglary – Residence	12
DUI Arrests	16	Resulting in Total Arrests:	28	BCSO	2	87	#Citations	1	Burglary - Vehicle	0
Alias Warrant Arrests	43	Felonies:	27	Silverhill PD	0	0	#Warnings	7	Criminal Mischief	13
Citations	455	Misdemeanors:	1	Spanish Fort PD	19	183	#Felines Captured	53	Disorderly Conduct	2
Close Patrols	809	Houses Searched	0	Troopers	0	24	#Canines Captured	37	Domestic Disturbance	16
Warnings	195			INS	0	0	#Other Captured	17	False Info to Police	4
Motorist Assists	244			Other Agencies	1	7	#Returned to Owner	12	Felony Assault	0
Roadway Accidents	55	Warrants:					#Adopted Out	24	Felony Theft	18
Private Property Accidents	19	Bettner Served	71				#Euthanized	45	Harassment	13
Traffic Homicide	1	Agency Assists	30	Highest	34				Identity Theft	5
		Recalls (Pd Fines)	33	Lowest	21				Indecent Exposure	0
DRUG REPORT		Total Warrants Served	134						Kidnapping	0
ROUTINE PATROL/SPECIAL OPS				Meals Served	2,317	24,132			Menacing	0
		Sex Offender:		Medical Cost	2,732.56	\$18,228.81			Misdemeanor Assault	3
# Misd. Marijuana Arrest	0	New Registration:	1	Worker Inmate Hours	579	6,170			Misdemeanor Theft	18
# Felony Marijuana Arrest	0	Contact Verification	0						Murder	0
# Controlled Substance Arrest:	0	Total # registered in Daphne	3						Other Death Investigations	4
# Drug Paraphernalia Arrest	2	DARE:							Public Intoxication	2
Vehicles Searched	69	# Hours Report Writing:							Public Lewdness	0
		# Students Instructed SRO							Receiving Stolen Property	1
Drugs Seized:	0	# Students Instructed DARE							Reckless Endangerment	1
Type:	0	# Police Reports by SRO							Resisting Arrest	1
Money Seized	0	# Arrest by SRO							Robbery	0
Vehicles Seized									Sex Crime Investigations	1
		CODE ENFORCEMENT:							Suicide	0
Commercial Vehicle Inspections	0	Warnings:	7						Suicide, attempted	0
		Citations	6						Theft of Services	0
		Warning							Unauthorized Use of Services	2
		Compliance	3						Weapon Offenses	2
		Follow – Up	1						White Collar Crimes	5
<i>Approved by:</i>		<i>David Carpenter, Chief of Police</i>								

**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:

August 25, 2008
CITY OF DAPHNE, AL
INDUSTRIAL DEVELOPMENT BOARD MEETING 6:00 P.M. at U.S. Hwy 98, Daphne,
AL in conference room.

1. CALL TO ORDER/ROLL CALL

Members present – Toni Fassbender, Phillip Ellis, Dan Romanchuck, and Derick Boulware
Also present – David Cohen and Robert Ingram

2. OLD BUSINESS

3. TREASURERS REPORT

The treasurers report revealed that the total balance of funds is \$138,693.01.

**Motion by Mr. Romanchuck Seconded by Mr. Ellis To approve
the treasurer's report.**

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

4. OTHER BUSINESS

a. Resolution establishing guidelines for Economic Development Incentives

**Motion by Mr. Romanchuck Seconded by Mr. Ellis To approve
with corrections.**

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

b. IDB Web Site

Mr. Ellis reported to the board that he had met with Dick Scott about the development of a IDB website. The cost to construct the website is \$1500 with a \$50 annual fee to host.

**Motion by Mr. Ellis Seconded by Mr. Romanchuck To approve
establishing a web site in the amount of \$1500 and a annual fee of \$50.**

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

5. ADJOURN

Motion by Mr. Romanchuck Seconded by Mr. Ellis To adjourn.

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

**THERE BEING NO FURTHER BUSINESS TO DISCUSS THE MEETING
ADJOURNED AT 6:50 P.M.**

Respectfully Submitted,

David L. Cohen, Secretary

Approved:

Toni Fassbender, Chairman

**Daphne Public Library Board
September 4, 2008
Meeting Minutes**

In Attendance:

Library Director Tonja Young; Library Board Members Dee Gambill and Jan Blankenhorn; Board Chairman Ron Allen; Friends of the Library Board President Karen Kyzar, and Councilman Gus Palumbo.

1) Call to Order:

After a quorum was established, Library Board Chairman Ron Allen called the meeting to order at 4:04 pm.

2) Reading and Approval of the Minutes:

The minutes of the August 7, 2008 meeting were reviewed and approved. Motion made by Dee, second by Jan. Motion passed.

3) Update on Library Addition:

Still waiting on the contract to be signed.

4) Discussion of Prospective Foundation Board Members:

Ron discussed the selection and interview process for prospective Foundation Board Members.

5) Library Director's Report

Tonja reported that the library would be having the *Fall into Reading Celebration* sponsored by the Teen Advisory Board and the Friends of the Library on September 13 from 6:30 until 8:30, with music, original poetry, and a silent auction of art and other donated items.

Tonja also reported on the first interview conducted as part of the Daphne Oral History Project with Red Trione and his wife Teenie, with the help of Al Guarisco.

The monthly report for August, 2008 was reviewed. August showed an overall increase of 0.22 % in circulation, and a slight decrease of -1.44 % in patronage. Other statistics include:

Interlibrary Holds Loaned to Daphne = 1663
Interlibrary Holds Loaned from Daphne = 1768
New Patrons = 177
Volunteer Hours = 140
Exams Proctored = 8
Reference Questions: 465
Children's Programs Attendance = 252
Teen Programs Attendance = 49
Adult Programs Attendance = 124
Meeting Room Use = 550
New Items Cataloged = 946
Computer Users = 1457

7) Public Participation

Karen suggested that we add the book shop volunteer hours to the library volunteer hours or add another row to include that number. She suggested that the additional numbers would be substantial.

8) Other Business

None.

9) Adjourned

There was a motion to end the meeting by Dee. The meeting was adjourned by Ron at 5:00 pm.

Respectfully submitted by T. Young, September 29, 2008

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF AUGUST 28, 2008
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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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
Frank Martin
Jeff Carrico, Chairman
Larry Chason, Vice Chairman
Cathy Barnette, Councilwoman
Chief "Bo" White

*Mayor Small requested to excused at 6:30 p.m.

Members Absent:

Ed Kirby

Staff Present:

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

Staff Absent:

Missty Gray, Attorney

The first order of business is the call to order. Please let the record reflect that all members are present. The next order of business is approval of the minutes.

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APPROVAL OF MINUTES:

The minutes of July 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?

Ms. Barnette: Mr. Chairman, the minutes contained in the packet are not the minutes from the July 24, 2008 meeting, but rather those of June 26, 2008.

Chairman: The minutes included in the packet are those of June 26, 2008 so the Commission will consider the approval of the July 24, 2008 on the next Planning Commission agenda.

OLD BUSINESS:

The first order of business under old business is final plat review for Yancey Branch Woods Subdivision, Phase II.

FINAL PLAT REVIEW:

File SDF08-04:

Subdivision: Yancey Branch Woods, Phase II

Location: Northwest of Whispering Pines Road and East of U. S. Highway 98

Area: 4.86 Acres +, (13) lots

Owner: YBW II, L.L.C. - Bruce White

Engineer: Hutchinson, Moore & Rauch - Ray Moore

Chairman: The application for Yancey Branch Woods Subdivision, Phase II has been withdrawn by the project engineer. The next order of business is final plat review for Indigo Place Subdivision.

FINAL PLAT REVIEW:

File SDF08-06:

Subdivision: Indigo

Location: Northwest of the intersection of Whispering Pines Road and Parker Lane

Area: 2.34 Acres +, (5) lots

Owner: Indigo Place Development - Hans Van Aller

Engineer: Hutchinson, Moore & Rauch - Ray Moore

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An introductory presentation was given by Mr. Ray Moore, representing Hutchinson, Moore & Rauch, requesting final plat review of a two-point three four acre subdivision consisting of five lots located Northwest of the intersection of Whispering Pines Road and Parker Lane. Actually, it contains six lots, if you include the common area, utilities, driveway and drainage area. I will be happy to answer any questions you may have.

Ms. Barnette: Where will be the location of the garbage pickup for the subdivision?

Mr. Moore: The garbage cans will be taken out to Parker Lane.

Mayor Small: We have a lot of private drives in the City of Daphne of which we do garbage pickup.

Chairman: Do any of the Commissioners have any questions or comments? Has the owner of the subdivision provided the City of Daphne with a maintenance bond for this project?

Mr. Moore: No sir. This is a private street.

Mrs. Dickson: Mr. Chairman, yes sir we do. I tried to return the maintenance bond to the contractor/owner Ammons & Blackmon, but Mr. Ammons said that since this was such a small infrastructure project amount that he posted a bond for the improvements which included utilities. He requested that I hold it for the Utilities Department.

Mr. Moore: That is right. I forgot about that.

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 Mr. Chason and Seconded by Mr. Terry to approve the final plat for Indigo Place Subdivision. The Motion carried unanimously.

Chairman: Mayor Small has requested that the Chair change the order of the Planning Commission agenda so the zoning amendment review can be heard first under new business so he may be excused early. Therefore, the first order of business under new business is a zoning amendment review for Ashley Gates - Brookfield, L.L.C.

PETITIONS:

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
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ZONING AMENDMENT:

File Z08-07: Ashley Gates - Brookfield, L.L.C.

Reference: Ashley Gates Apartments, Phases I & II

Location: Southeast of the intersection of Main Street and Van Avenue

Area: 13.21 Acres + and 5.40 Acres +, respectively

Owner: Ashley Gates-Brookfield, L.L.C. - John Blanchard, Manager

Agents: Davis & Fields - Meredith Turpin and Hatch Mott
MacDonald - John Peterson

Present Zoning: B-2 Proposed Zoning: R-4, Multi-Family

An introductory presentation was given by Ms. Meredith Turpin, representing Davis & Fields, P.C., requesting rezoning of an eighteen-point six two acre parcel from a B-2, General Business, to an R-4, High Density Multi-Family Residential, zoning located at the intersection of Van Avenue and Main Street. The owner of the subject property is Ashley Gates - Brookfield, L.L.C. for Ashley Gates Apartments, Phases One and Two. The present owners of the subject property are requesting rezoning to bring the current use into compliance with the zoning of the property. At the time of approval and construction of the units, a multi-family residential use was allowed to be constructed in a B-2, General Business, zone. Since this time, this portion of the ordinance has been amended; therefore, in the event of a natural disaster such as a fire or a hurricane destroyed over fifty percent of the facility, my clients would have to appeal to the Board of Zoning Adjustments in to rebuild. If the zoning amendment were approved, the use would be compatible with the zoning and this would not be necessary. One of the concerns posed to me was the effect of the zoning change on adjacent business districts. To address the concerns of the adjacent property owners, my clients are proposing to provide a ten-foot buffer zone along the boundaries of the the apartment complexes to remain as an undisturbed B-2, General Business, 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 do not support the creation of a B-2, General

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Business, zoned buffer abutting the properties along Main Street. It makes since along that portion of the properties on U. S. Highway 98. The Downtown Redevelopment Authority wants to maintain the Olde Towne Daphne District.

Chairman: Do any of the Commissioners have any 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 main concerns were the preservation of the non-buffer requirements along the properties on U. S. Highway 98 and the addition of a buffer on the Northern portion of the property against Lot 2 of Van Avenue Subdivision.

Mr. Manaumee, an attorney: He represented four of the eight residents of the subdivision and himself. He requested the placement of a buffer along the Southern portion of Lot 2 of Van Avenue Subdivision in the event that the residents requested the rezoning of their property in the future to allow a multi-use or B-2, General Business, use which is allowed in the district. f there is not a buffer along the Southern property line of the subdivision abutting Ashley Gates Apartments, a thirty-foot buffer would be required between a residential and business district and without the placement of this buffer, we would not support this request.

Ms. Hearst supported the presentation given by Mr. Manaumee.

Mr. Nelson: I am requested the placement of a buffer along the properties on U. S. Highway 98 so that a thirty-foot buffer is not required to be placed on my properties at Van Avenue and U. S. Highway 98 if a business were to be constructed.

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

Chairman: Do any of the Commissioners have any further questions or comments? He closed public participation.

A Motion was made by Mr. Chason and Seconded by Ms. Barnette for the affirmative recommendation by the Planning Commission to the City Council of Daphne requesting rezoning of an eighteen point six two acre parcel from a B-2, General Business, to an R-4, High Density Multi-Family Residential, zoning located at the intersection of Van Avenue and Main Street.

Said owner of the subject property is Ashley Gates - Brookfield,

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L.L.C., contingent upon the revision of the zoning amendment plan being revised to reflect a ten-foot B-2, General Business, zone to remain along the Northern property line of the site along U.S. Highway 98 and a portion of the East property line (as shown on the revised drawing and reflected in the revised legal description). The Motion carried unanimously. Reference: Ashley Gates Apartments, Phases One and Two.

Mayor Small requested to excused at 6:30 p.m.

NEW BUSINESS:

The next order of business is an administrative presentation for a revision to the City of Daphne ordinance regulating erosion and sediment control for residential and non-commercial land disturbance.

ADMINISTRATIVE PRESENTATION:

An introductory presentation was given by Ms. Ashley Campbell, Site Containment Officer, requesting a revision to the City of Daphne Ordinance No. 2006-82. This is a proposed revision to the existing ordinance which allows me to permit and regulate erosion and sediment control for residential dwellings and non-commercial land disturbance, not covered by a Community Development Site Disturbance Permit for any land disturbing activity of one thousand square feet or more. The ordinance has been given to the City Attorney and Associate Attorney for review and revisions prior to the submission to 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 for a recommendation to the City Council for this ordinance.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Terry **for the affirmative recommendation by the Planning Commission to the City Council of Daphne of a revision to the City of Daphne Ordinance No. 2006-82 regulating erosion and sediment control for residential dwellings and non-commercial land disturbance. The Motion carried unanimously.**

The next order of business is an administrative presentation requesting revised master plan review for Madison Place Subdivision.

An introductory presentation was given by Mr. Joe Bullock, representing Engineering Development Services, requesting revised

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master plan review for Madison Place Subdivision. Due to the fact that we were unable to obtain an agreement with the property owner to the North, we had to revise our master plan. In the original request the adjacent property owners were concerned about the impact on their subdivision. The main concerns were one access point from Parker Lane into the third and fourth phases of Madison Place Subdivision, additional traffic, and a secondary access for construction traffic. We have revised our master plan to reflect a secondary access exiting into Phase Two of Daphne Commercial Park. We have discussed this proposal with the owners of Daphne Commercial Park and Madison Place Subdivision and have received approval from both parties. 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 Ms. Phelps **to approve the revised master plan for Madison Place Subdivision. The Motion carried unanimously.**

The next order of business is an administrative presentation to discuss the Land Use and Development Ordinance revision, deletion or amendment thereof, for Article XXII, Section 22-2, Reversionary Clause.

An introductory presentation was given by Mr. Eady, the Director of Community Development, of the proposed revision to Article XXII, Section 22-2, Reversionary Clause. The options are to amend this section as outlined in the document given to the Planning Commission (enclosure provided) or to delete it in its entirety. I will be happy to answer any questions you may have.

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

Mr. Chason: The Planning Commission elected at the work session for the Land Use and Development Ordinance to place this item on the agenda in order for them to review the options given and through the action of the Commission decide for staff what amendment would be placed in the draft of the new Land Use book.

Ms. Barnette and Ms. Phelps: Commented that this proposal would be considered a reasonable compromise to prohibit rezoning based on speculation and never following through.

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

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A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Chason **to approve the proposed revision to Article XXII, Section 22-2, Reversionary Clause, as presented and it shall become effective and in force upon adoption of the new Land Use and Development Ordinance. The Motion carried. Mr. Terry opposed.**

The next order of business is an administrative presentation to request the release of two hundred and seventy thousand dollar landscape bond for the Bellaton Subdivision, Phase II.

Chairman: The item will be withdrawn because a representative is not present.

The next order of business is an administrative presentation requesting revised master plan review for Eastern Shore Christian Center.

An introductory presentation was given by Mr. Tim Lawley, representing Hutchinson, Moore & Rauch, requesting master plan review for Eastern Shore Christian Center located Southeast of the intersection of County Road 13 and Lawson Road. There has been no change to the master plan, with the exception of the addition of the landscape buffer along the Southern property line as requested by the Planning Commission at site preview. 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. Chason and **Seconded** by Mr. Terry **to approve the master plan for Eastern Shore Christian Center. The Motion carried unanimously.**

The next order of business is site plan review for Eastern Shore Christian Center.

SITE PLAN REVIEW:

File S08-20:

Site: Eastern Shore Christian Center

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Location: Southeast of the intersection of County Road 13 and Lawson Road
Area: 4.52 Acres +
Owner: Eastern Shore Christian Center - Tony LeGear
Engineer: Hutchinson, Moore & Rauch - Tim Lawley

An introductory presentation was given by Mr. Tim Lawley, representing Hutchinson, Moore & Rauch, requesting site plan review of a new sanctuary, basketball court, and other future facilities located on the Southeast of the intersection of County Road 13 and Lawson Road. There will be no site lighting in this phase of the development. We have revised the storm water drainage for the site and added a landscape buffer along the Southern property line. I will be happy to answer any questions you may have.

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

Mr. Eady: Mr. Don Gardner, the owner of Krystal Ridge Subdivision, has required the installation of a fence in lieu of a landscape buffer. A six-foot fence is required by the ordinance, but he told me if the representative for the church would consider the installation of an eight-foot fence that he would pay the difference.

Ms. Phelps: I would like to see a sidewalk to be installed along County Road 13.

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 Mr. Chason and **Seconded** by Mr. Terry **to approve the site plan for Eastern Shore Christian Center, contingent upon the placement of a six-foot fence in lieu of a landscape buffer and the sidewalk curving to the right-of-way of County Road 13 for connectivity. The Motion carried unanimously.**

The next order of business is site plan review for Staples.

File S08-21:

Site: Staples

Location: Northeast of the intersection of County Road 64 and U.

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Area: S. Highway 98, 1802 Highway 98
4.71 Acres +
Owner: Staples GGP, L.L.C. - John Coleman
Engineer: Hutchinson, Moore & Rauch - Doug Bailey

An introductory presentation was given by Mr. Doug Bailey, representing Hutchinson, Moore & Rauch, requesting site plan review of a renovation of the existing Staples facility located Northeast of the intersection of County Road 64 and U. S. Highway 98. Previously this site was the location of the Scotty's facility. In 2000, Staples purchased the site and added landscaping and parking islands for beautification. The area to the South used to be as a storage area. The rear of the facility is used as a thrift store for Sister Julie. The proposed renovation of Staples will reduce the size of the existing Staples office space, provide additional office space for tenants, upgrade and add to the exterior of the building, provide revised landscaping for the site, result in a net decrease in impervious area, and require the removal of the nonconforming sign. The sign will be removed and replaced with a monument sign on both street frontages, U. S. Highway 98 and County Road 64. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? He requested Mr. Bailey address the request by Mr. Chason to make the two entrances on County Road 64 into a right out only ingress/egress.

Mr. Bailey: The owner addressed the configuration in a letter addressed to the Planning Commission. The East entrance is for trucks making deliveries and the ingress/egress easement near U. S. Highway 98 is a part of the agreement that went with sale of the out parcel the auto parts store.

Chairman: He requested Mr. Bailey consider the request to make the two entrances on County Road 64 a right-out only ingress/egress or a right-in only.

Mr. Bailey: On behalf of the owner, I will agree to a right-in/right-out only ingress/egress on the Eastern portion of the property.

Ms. Barnette: She requested Mr. Bailey to address storm water drainage for the site and the comments of the Site Containment Officer.

Mr. Bailey: Those issues have been addressed.

Ms. Barnette: She commented on the poor condition and dead trees presented located on the site along U. S. Highway 98.

Mr. Bailey: He agreed to add landscaping along the West side of the front of the property along U.S. Highway 98 and replace the dead trees.

Chairman: Do any of the Commissioners have any further questions or

THE CITY OF DAPHNE
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REGULAR MEETING OF AUGUST 28, 2008
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Chason and **Seconded** by Ms. Barnette **to approve the site plan for Staples, contingent upon the making the entrance located on the Eastern portion of the property owned by Staples a right-in and right-out only ingress/egress easement and an additional landscaping requirement along the Western, front, portion of the property along U.S. Highway 98. The Motion carried unanimously.**

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

ATTORNEY'S REPORT:

Mr. Ross, attorney: an update on the Lamar Sign litigation pending in Federal Court. The Federal Court Judge has made a decision to remove it from the Federal Court docket and return it to State Court. It was determined that since the pending litigation with Lamar Signs and Baldwin County is being heard in State Court that it would be deemed appropriate to have this case heard there also. They felt that the issue could be better addressed by the State Court. Discussion has occurred among the City Council members, Mayor Small, and Lamar Signs, with no agreement could be reached so the case is still pending, but now it will be heard by State rather than Federal Court.

ADJOURNMENT:

Chairman: Do any of the Commissioners have any questions or comments? He requested that staff consider the creation of architectural review and provide the information to the Planning Commission.

Ms. Barnette: The Downtown Redevelopment Board is working on that now for the Olde Towne Daphne District.

Ms. Phelps: I would like to see it be addressed in the entire City of Daphne, not just old town Daphne.

Chairman: Do any of the Commissioners have any further 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 7:45 p.m.

Respectfully submitted by:

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Jan Dickson, Planning Coordinator

APPROVED: September 28, 2008

Jeff Carrico, Chairman

THE CITY OF DAPHNE
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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 6:00 p.m.

CALL OF ROLL:

Members Present:

Don Terry
Frank Martin
Larry Chason, Vice Chairman
Cathy Barnette, Councilwoman
Chief "Bo" White
*Ed Kirby

Members Absent:

Fred Small, Mayor
Victoria Phelps, Secretary
Jeff Carrico, Chairman

Staff Present:

William H. Eady, Sr., Director of Community Development
Jan Dickson, Planning Coordinator
Nancy Anderson, GIS Technician
Adrienne Jones, Planner
Jay Ross, Attorney
Ashley Campbell, Site Containment Officer

Staff Absent:

Missty Gray, Attorney
Erick Bussey, Associate Attorney

*Ed Kirby asked to be excused at 7:05 p.m.

The first order of business is the call to order. Please let the record reflect that Mayor Small, Mr. Carrico, and Ms. Phelps are not present.

The next order of business is approval of the minutes.

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APPROVAL OF MINUTES:

The minutes of July 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?

Vice 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. Barnette and **Seconded** by Mr. Kirby **to approve the minutes of the July 24, 2008 regular meeting. The Motion carried unanimously.**

The minutes of August 28, 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?

Vice 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. Barnette and **Seconded** by Mr. Terry **to approve the minutes of the August 28, 2008 regular meeting. The Motion carried. Mr. Kirby abstained.**

Mr. Kirby: I abstain due to my absence at the meeting.

NEW BUSINESS:

The next order of business is election of officers.

ELECTION OF OFFICERS:

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Kirby **to retain the same officers and set the election of officers for the October regular Planning Commission meeting. The Motion carried unanimously.**

The next order of business is to set a work session for the City of Daphne Land Use and Development Ordinance revisions.

Discussion of meeting date availability of the attendance of the members for October 15 or 16, 2008.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Kirby **to set a work session for Wednesday, October 22, 2008 at 8:00 a.m. in the Council Chambers at City Hall. The Motion carried unanimously.**

The next order of business is site plan review for Lot 4, Daphne

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Commercial Park, Phase One.

SITE PLAN REVIEW:

File S08-24:

Site: Lot 4, Daphne Commercial Park, Phase One

Location: Northwest of the intersection of Whispering Pines Road and Pollard Road

Area: 0.63 Acres +

Owner: The Oxford Group - Rance Reehl

Engineer: Frank Dagley & Associates - Patrick Tolbert

An introductory presentation was given by Mr. Patrick Tolbert, representing Frank Dagley & Associates, requesting site plan review requesting for the construction of commercial office/warehouse facility located Northwest of the intersection of Whispering Pines Road and Pollard Road on lot 4 of Daphne Commercial Park, Phase One. This is a spec building which is being constructed by the owner of the lot. The building being constructed on this lot mirrors the site plan that was presented for lot 3 of the subdivision. I also have addressed all of the utility comments. I will be happy to answer any questions you may have.

Vice 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 site plan for Lot 4, Daphne Commercial Park, Phase One. The Motion carried unanimously.**

The next order of business is final plat review for the Estates of Tiawasee Subdivision.

FINAL PLAT REVIEW:

File SDF08-07:

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Subdivision: The Estates of Tiawasee

Location: West of Tiawasee Boulevard off of County Road 13
Area: 49.84 Acres +, (38) lots
Owner: Woodland Bay Group - Gary McKnight
Agent: Art Rigas
Engineer: McCrorry & Williams, Inc. - Daryl Russell

An introductory presentation to be given by Mr. Art Rigas, the representative for Mr. Gary McKnight the owner, requesting final plat review of a fifty-acre subdivision consisting of thirty-eight lots located Northwest of County Road 13 just West of the existing Tiawasee Trace Subdivision. I can appreciate your position because I have been in your shoes. At one time I was the city engineer, and I have served as the member of the City of Daphne Planning Commission. We have a couple of issues still outstanding. We have posted a bond for the site for the guaranty for the maintenance of the streets, drainage, and utilities. We stated out with a minimum plan for landscaping and have enhanced it according to the City of Daphne Landscape and Development Ordinance. The erosion on site was damaged caused by the hurricane and the installation of the irrigation lines. The construction entrance from Pollard Road is being addressed by the engineer, and I believe it has been accepted by Ashley, the Site Containment Officer. The area near Pollard Road entrance entered into an old dirt pit and crossed the creek. We have installed rip rap and gravel to bring it back up to where it was. The landscape architect, Mr. Kent Broom, is here to say what has and will be done. I will be happy to answer any questions you may have.

Mr. Daryl Russell, representing McCrorry & Williams: The erosion control items have been addressed. The remainder of the punch list items and the landscaping have been included in the cost estimate and are covered by the cashier's checks that were given to the City of Daphne. Mr. Broom, the landscape architect, is here to address the landscape plan. I will be happy to answer any questions you may have.

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

Mr. Kirby: I applaud you for your efforts for going above and beyond on the landscaping and irrigation, but the landscape plan is a part of the approval process and we do not have one.

Mr. Kent Broom: I do apologize in not having the plan, but I must make an inventory of what is currently located in the subdivision and prepare a plan that addresses putting landscaping in the location of

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the detention pond and other areas of the subdivision. At this time, the plan is not ready.

Vice Chairman: Mr. Russell, are the remaining items in compliance? The City of Daphne is in receipt of a cost estimate in the amount of forty-one thousand nine hundred and eight dollars for which you presented two cashiers' checks in an amount one hundred and fifty times the cost of the improvements. Is that correct? So it is my understanding that the two items outstanding are the completion of the Pollard Road entrance and the landscaping.

Ms. Campbell, Site Containment Officer: I have visited the site. Grading and seeding has been done to correct the Pollard Road entrance. There are still some minor erosion problems around the inlets and irrigation areas.

Mr. Kirby: Mr. Eady, are you satisfied that Mr. Broom will submit a landscape plan to satisfy the regulations?

Mr. Eady: If Mr. Broom said it was Easter, then I would go home and start dying eggs.

Vice 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 Chief White **to approve the final plat for the Estates of Tiawasee Subdivision. The Motion carried unanimously.**

The next order of business is the preliminary/final plat for the resubdivision of lots 1 & 2, Ephraim Subdivision.

PRELIMINARY/FINAL PLAT REVIEW:

File SDPF08-13:

Subdivision: Resubdivision of Lots 1 & 2, Ephraim Subdivision

Location: On Wilson Avenue
Area: 4.68 Acres +, (5) lots
Owner: Johnny Ephraim & Charles Harris
Surveyor: Geo Surveying - Matt Kountz

An introductory presentation was given by Mr. Matt Kountz, representing Geo Surveying, requesting preliminary/final plat review of a four-point six eight acre subdivision consisting of five lots

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located on Wilson Avenue. I have addressed the comments from the work session and have relocated the easement to the West side of the subdivision. I will be happy to answer any questions you may have.

Vice Chairman: Do any of the Commissioners have any questions or comments? Is the easement a part of the Northern lot as the access for the flag lot? 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.

Vice Chairman: Can you identify yourself for the record?

Ms. White: I am the adjacent property owner which was a part of the subdivision that you gave final approval in July for Mr. Ephraim. That plat was approved and recorded with the easement on the East side, and now it is been moved to the West side of the property. If you move this easement, you will be putting me in a bind because I have already constructed my driveway on lot 3 which runs onto this easement.

Vice Chairman: Mr. Ross, can you vacate and relocate the easement that was on the original plat.

Mr. Ross: I will review it and confer with Mr. Eady.

Mr. Kountz: The relocation of the easement was requested by Ms. Harris with the understanding that the other easement would be vacated at a later date. I told her that she would have to discuss this with Ms. White since her drive way was on a portion of this easement. The easement may have been moved and Ms. White was not told.

Mr. Chairman, may I speak?

Ms. Harris: At the time that the drive way was constructed it encroached onto my property. The easement was shown on the deeds and the plat at the time of the presentation of the Ephraim Subdivision. We relocated it because of the location of the drive way and the ditch in the rear of the property.

Vice Chairman: He closed the public hearing. Do any of the Commissioners have any questions or comments? Ms. Harris, we are going to have to table this issue until Mr. Ross has reviewed the vacation of the easement and its relocation to the West side of the property.

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This will give us sufficient time to address Ms. White's concerns.

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

Ms. Barnette: She commented on the meeting date and stated Ms. Harris may have to waive the thirty-day meeting requirement for a subdivision review.

Vice Chairman: If the application is not acted on in thirty-days, then the subdivision would be denied.

Mr. Kirby: No sir. If the application is not acted on in thirty-days, the application would be approved.

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

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

A Motion was made by Ms. Barnette and **Seconded** by Mr. Kirby **to table the preliminary/final plat for the Resubdivision of Lots 1 & 2, Ephraim Subdivision. The Motion carried unanimously.**

Vice Chairman: Ms. Harris, do you agree to waive the thirty-day meeting requirement for the subdivision?

Ms. Harris: Yes sir.

The next order of business is preliminary/final plat review for Handy Lock Self Storage Subdivision.

File SDPF08-14:

Subdivision: Handy Lock Self Storage

Location: Northeast of the intersection U. S. Highway 98 and County Road 64

Area: 5.03 Acres +, (2) lots

Owner: Eastern Shore Self Storage - Jim Horne

Engineer: Hutchinson, Moore & Rauch - Casey Goolsby

An introductory presentation was given by Mr. Casey Goolsby, representing Hutchinson, Moore & Rauch, requesting preliminary/final plat review of a five-point zero three-acre subdivision consisting of two lots located Northeast of the intersection U. S. Highway 98 and County Road 64. The property is two lots now, and we are reconfiguring

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The boundaries. The concern at the pre-meeting was how the second lot would have access to County Road 64. There are three accesses and one of them is shared by Handy Lock. Hutchinson, Moore & Rauch has not been working on the site plan for whatever they are planning to put on lot 2, but we know that Mr. Eady is working to coordinate the accesses that are there now. I will be happy to answer any questions you may have.

Vice 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. Mr. Goolsby, if I heard you correctly the property has a frontage of three hundred and thirty feet? In that three hundred and thirty feet, did you say there are three accesses on County Road 64, and two of which are located on lot 2?

Mr. Goolsby: Yes sir.

Vice Chairman: I understand lot 2 is going to be a restaurant. They are not going to alter the structure, but they going to make some enhancements to the parking. Is that correct?

Mr. Goolsby: Hutchinson, Moore & Rauch is not working on that site plan.

Vice Chairman: Here is the problem that I have with this. We do not have a site plan application, and we are not going to get one.

Mr. Eady: We are too. One was delivered to me today.

Ms. Dickson: The site plan application will be reviewed in October.

Ms. Barnette: Are you trying to remove one of the accesses?

Vice Chairman: Actually, I am trying to get it down to one.

Mr. Terry: Mr. Eady, what are you going to be looking for on the site plan?

Mr. Eady: I will be looking for proper access. I do not know exactly what that is going to be right now because that will be determined by the traffic and parking requirements. The drainage is really not a problem because it is flat. The little bit of storm water that is present on the site will drain to the front of the property; therefore, I do not think that detention will be needed. They have

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some landscaping in place, but they will need some additional landscaping added to the site.

Mr. Terry: Do you foresee any deceleration lanes or anything like that?

Mr. Eady: I do not think so. It would have to be one hundred and fifty feet long and that would get into the drive way of the house next door. I do not think that it would be worth the cost to do it because you already have three lanes on County Road 64 anyway.

Mr. Terry: Thank you, Mr. Eady.

Vice Chairman: Mr. Goolsby, is there anyone here from Handy Lock?

Mr. Goolsby: No sir.

Vice Chairman: Can you please tell me why they are unwilling to let them use their access?

Mr. Goolsby: The main reason is when a large eighteen wheeler or moving van is placed at the gate waiting for the owner of the contents to give them access to the storage facility that access would be blocked for that period of time. There is eighty feet from the gate to the property line. If a large truck pulled in the driveway to park at the gate, then there would be no way to for a car to get in or out to go to the restaurant.

Mr. Eady: The restaurant's operating hours are only going to be eleven to two during the day.

Vice Chairman: Of course, the concern is what if it is another use later since it is zoned B-2, general business, once it is subdivided and the access is available.

Mr. Kirby: This is strictly a two-lot subdivision, and Mr. Eady is already working on the site plan. Don't you think that we should deal with the subdivision and not the future possible site plan?

Vice Chairman: I do Mr. Kirby, but it is that we just another project later on tonight on the same stretch of highway with one hundred and sixty-five foot lots. With everything that we are doing on that highway we are going to be adding to an existing problem. I do not blame anybody for not wanting to be a part of the solution. Everybody sees it for the mess that it is. I am anxious to take steps to correct it. Staples feels the way that they feel, and I do not blame them. I

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would probably take the same position if I were in their shoes. I think this Planning Commission needs to take a proactive action with the City Council to ask for a traffic study and a resolution to this problem. What's to say that this lot is not subdivided, resubdivided, the house is torn down, and then we have two more accesses added.

Mr. Kirby: That leads us back to site plan approval.

Vice Chairman: That is fine, but this is what I think needs to be done.

Mr. Terry: Mr. Kirby, the reason that I was asking about the ingress and egress was the people doing the restaurant. They can't do it if the traffic is a part of the site plan. In fairness to them, I was trying to let them know if it is subdivided what would be expected of them.

Mr. Kirby: I do realize that there is a problem there. The problem is not with Handy Lock. It is Whitney Bank and Target. I do not know if there is any way we can go back to Target and say you are going to have to change your access. Although I do realize that there is a problem, I do not think that the subdivision is the time to address that problem.

Vice Chairman: Twenty-five or thirty years ago with the parcels along U. S. Highway 98 South of Interstate 10 were subdivided and each parcel got their access. The problem accumulated to the point that there was so many cars they could not enter the highway, and they went back and had to construct a service road. This road, County Road 64, is in a lot of ways mimics that road, U. S. Highway 98. We have approved more than five thousand lots in the Belforest area, and those people have only one way to come to Daphne and that is on County Road 64. I am comfortable with my position if someone would like to make a motion to go forward. 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 Ms. Barnette and **Seconded** by Mr. Kirby **to approve the preliminary/final plat for Handy Lock Self Storage Subdivision. Mr. Chason voted nay. The Motion carried.**

Mr. Ross: Was that six?

Ms. Dickson: That was my very next question. You have to have six affirmative votes.

Mr. Ross: So it did not pass?

Vice Chairman: We only have five affirmative.

Ms. Dickson: Can you explain that to him because he is new?

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Vice Chairman: The motion did not carry because you need six affirmative votes for the subdivision to be approved, and you only had five.

Correction: The Motion failed.

Ms. Dickson: You could resubmit it for October meeting.

The next order of business is the preliminary/final plat review for Laurel Springs Subdivision.

PRELIMINARY/FINAL PLAT REVIEW:

File SDPF07-24:

Subdivision: Laurel Springs

Location: Southeast of the intersection of Whispering Pines and Pollard Roads
Area: 25 Acres +, (2) lots
Owner: Luther Jr. & Sharon Milstead
Agent: The Gateway Companies - Mitchell Davenport

An introductory presentation was given by Mr. Mitchell Davenport, representing the Gateway Companies, requesting revised preliminary/final plat review of a twenty-five acre subdivision consisting of two lots located Southeast of the intersection of Whispering Pines and Pollard Roads. The certification for the county engineer's signature was omitted from the original plat which was approved and recorded. Now the signature block has been added, and we are asking for approval of the amended plat. I will be happy to answer any questions you may have.

Vice 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 revised preliminary/final plat for Laurel Springs Subdivision. The Motion carried unanimously.*

The next order of business is an administrative review for Bellaton Subdivision, Phase II.

ADMINISTRATIVE PRESENTATION:

An introductory presentation was given by Mr. Trae Corte, representing Country Club Development, requesting the release of the two hundred and seventy thousand dollar landscape bond for Bellaton Subdivision, Phase II.

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

Ms. Barnette: Have you addressed Ashley's concerns with regard to the detention pond?

Mr. Corte: Due to the fact that a portion of the lot extends to the water level of the pond, the covenants state that the property owner is responsible for maintaining that portion of the lot and that portion of the pond. We have turned this phase of the development over to the property owners' association.

Vice Chairman: Our solution to releasing the bond is to have the POA execute the detention pond agreement. It is an agreement with the City of Daphne and the POA which upon execution addresses who will be responsible for the maintenance of the bond.

Ms. Jones: I wanted to say for the record that I did send the form to the engineer, Engineering Development Services, and they sent me some information back to say that it is addressed in the covenants.

Vice Chairman: Do any of the Commissioners have any further questions or comments? I think that where we are is we are going to release your bond subject to them coming in to sign the form.

A Motion was made by Ms. Barnette and Seconded by Mr. Terry to approve the release of the two hundred and seventy thousand dollar landscape bond for Bellaton Subdivision, Phase II, contingent upon the property owners' association executing the detention pond maintenance agreement for Bellaton Subdivision. The Motion carried unanimously.

Mr. Kirby requested to be excused at 7:00 p.m.

The next order of business is an administrative review for Staples.

An introductory presentation was given by Mr. Doug Bailey, representing Hutchinson, Moore & Rauch, to discuss the conditional approval of the site plan review for Staples with regard to accesses onto County Road 64.

Mr. Bailey: At the previous Planning Commission meeting, we had site plan review for the Staples site plan and site improvement located Northeast of the intersection of County Road 64 and U. S. Highway 98. One of the conditions of the site plan approval was to turn the West entrance into a right-in and right-out only. We have been working on this project for two years with the renovation of the Staples site in conjunction with the Discount Auto Parts store site. The auto parts store does not own any portion of our site, but has the right of ingress and egress of which the attorney for Staples is concerned with. We understand that they are issues with County Road 64, and we

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REGULAR MEETING OF SEPTEMBER 25, 2008
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

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all know that, and we are willing to work with the City for a solution out there. We would like to move forward with the site plan approval and apply for a building permit this week or the next. This is what we are trying to accomplish. I will be happy to answer any questions you may have.

Vice Chairman: Mr. Bailey, first of all we certainly want to thank you for wanting to work with us on an outstanding problem. Would you please explain the relationship between the applicant and the owner of this property? Are they not one in the same?

Mr. Bailey: Yes there are.

Vice Chairman: Who is it that is not willing to come to the table?

Mr. Bailey: We know there are going to be objections from Staples. It is my understanding, according to that letter, that the Discount Auto Parts group has not been contacted. The owner does not think they will be willing to work with us on it.

Vice Chairman: My personal opinion is that this is a big problem. It is going to take the cooperation of quite a few people to accomplish this. I do want to say for what it is worth that in the copy of the lease that you sent to us from the attorney that represents Staples it says while Staples has certain rights to replace and reconfigure these access points, the access easement clearly provides the grantor shall not interfere with the easement rights stated herein. They have the right to replace and reconfigure these access points so Staples is a tenant there and is entitled to access just like Discount Auto Parts. The location of the access points is up to the owner of the property. Mr. Ross did you get a copy of this?

Mr. Ross: Yes I did, and I have read it.

Vice Chairman: Do you mind commenting on what you think about it?

Mr. Ross: It is a matter of interpretation. The attorney is speculating that there will be problems. You could provide an access point that would not restrict, but would otherwise reduce traffic on County Road 64. There are a lot of gray areas in the letter, but he hit a lot of good points. It is a lot of speculation as to what the auto parts store may or may not do for that matter. The letter is what it is, and that is it is just an opinion. I think that it is up to interpretation.

Mr. Bailey: I think that the easement is granted to Discount Auto more specifically as shown on the two-lot subdivision that was done. The

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parcel was sold, and the easements were granted to them for ingress and egress.

Mr. Ross: That is a good point.

Mr. Bailey: If we move it, then something will be done.

Vice Chairman: The motion was not to close it, but to make it a right-in and right-out only. I am still going to say the Planning Commission should make a recommendation to the City Council to at the very least develop a plan for that intersection. How can we go forward with additional retail space which will generate additional traffic without knowing how we are going to deal with this? As I said tonight, they could come back with a three-lot subdivision.

Vice Chairman: There are some large parcels along that highway which can be divided. It is already a problem. I think we need to do what we can to get Mr. Bailey's situation taken care of. I thought we had done that with a right-in and right-out only. I would say that if the City had agreed to do a traffic study of that intersection and the study was done and you wanted to change it, then I would support that. I am not and I do not think there is anybody in this room qualified to at this point to decide this. I do not want you to think we are forcing anything on you. It is going to have to be a matter of cooperation. I do not want Handy Lock to feel that way because I think it should be everybody has a responsibility to fix this problem. I think that it is the City's responsibility to take the lead in that. This is an administrative presentation so we are not voting on anything?

Ms. Dickson: He is asking for you to make a motion to revisit your site plan review motion and remove that requirement.

Vice Chairman: Next month?

Ms. Dickson: No sir. You can leave the condition for the landscaping that Ms. Barnette wanted, but he is asking to remove the right-in and right-out only condition.

Discussion whether or not there are enough members to vote on the site plan.

Mr. Eady: You have five members. That is enough to vote on a site plan.

Ms. Barnette: For the subdivision for Handy Lock, I thought it would be appropriate to grant it. We have required traffic studies in the past for difficult intersections. I do not know if Mr. Bailey has talked to anyone about this development and has any idea of the cost of the study.

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Mr. Bailey: We have not.

Ms. Barnette: As I see it, it would not be unreasonable to request a traffic study for this area of this intersection. Perhaps the City could partner with you on the cost. I agree there is a problem in that area, and it would be foolish to let any concerns about this site plan go by the wayside tonight. I think we should evaluate all of the points and make a decision as to how to move forward with construction. I do think we have some access issues. I would to see us move that way.

Vice Chairman: I agree with the concept of a traffic study. I do think we should ask Mr. Bailey to do it. I am not suggesting that if he did one that it would come out to favor his client. I think what we need to do is for the City to request a traffic study with the instructions to look at planning along that corridor to ensure that we keep that intersection open and safe. It is a poorly designed intersection to begin with and it deserves some attention. I think that the appropriate motion at this point is to ask the City Council to conduct a traffic study with the approval of Staples or the Handy Lock application.

Ms. Barnette: I do not think that the City of Daphne should bare the cost of the traffic study.

Vice Chairman: I do not mind sharing the cost, but I do not feel like it should be solely the City of Daphne.

Ms. Barnette: I do not mind sharing the cost, but I do not think that it should be solely the City of Daphne's study since there are pressures from development in this area. I do not think it is unreasonable to ask them to participate. I do not think we can move forward because we do not have an agreement from the City to participate in the study, and we cannot require them to do one.

Vice Chairman: If I am reading this survey right, there is approximately two thousand one hundred feet of frontage on County Road 64 which may include Advanced Auto Parts store, Staples development, and add another three hundred feet for Handy Lock which takes you to two thousand five hundred feet. This would take you to about one half mile down County Road 64. Certainly the owners along that one half of a mile would be willing to share the cost of the traffic study. My suggestion is that we make a motion to require that of the applicant that we have before us now, Staples, share in the cost.

Mr. Martin: The first entrance should not be able to go out and go in because that is where the bottle neck is.

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Vice Chairman: We are talking about the one on the East side next to the auto parts which is the first one.

Mr. Martin: That is the one that backs up when people are trying to get on U. S. Highway 98.

Vice Chairman: There is no doubt that we have to give some attention to this intersection. If we are ready to make a motion on Mr. Bailey's request, then we can go forward with that.

Mr. Bailey: Would the study include the front portion that is located on U. S. Highway 98?

Vice Chairman: I think that is a good question, but I think that the immediate problem is on County Road 64. I think it would include at least two thousand five hundred feet to the East and the West of the traffic light from U. S. Highway 98.

Ms. Barnette: I believe that the exit to the North located on U. S. Highway 98 is an exit only anyway.

Vice Chairman: You can go in that way also. A traffic signal may be the solution to the problem.

Mr. Bailey: I think that is too close.

Vice Chairman: We have two thousand six hundred feet to work with.

Mr. Bailey: How are you going to control that as a right-in and right-out only?

Vice Chairman: We may have to mark it there. I do not know the answer to your question, but I know that we are going to have to stop it because it is a real problem. I am saying that the recommendation from the Planning Commission to the City Council is that order a traffic study. We have to have the results of the study in order to answer your questions.

Ms. Jones: I have a comment and a question. My first question is for Mr. Ross. Would denying them the right to access to an easement that is already established be an exaction or a condemnation on their property?

Mr. Ross: That would not be a bad argument for invert condemnation. I guess it would be a theory. There are a lot of questions there. There is no simple answer, but good question.

Ms. Jones: My comment is in order for the Planning Commission to do anything and vote on what you are going to do, and then a recommendation to the City Council for the traffic study.

Vice Chairman: The first order of business is to deal with Mr.

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Bailey's question.

Mr. Bailey: Am I allowed to withdraw the request at this time?

Vice Chairman: Yes.

Ms. Barnette: Can I ask a question of the Planning Department staff? Is it not possible to approve the process of the site plan moving forward with the landscape changes if they agree to do the traffic study? Couldn't we require the access on County Road 64 shown on the site plan come back to us for review, but allow them to move forward while the study is going on?

Mr. Bailey: If my client moves forward with permitting and cannot get the cooperation of the other people with the right-in and right-out only, we would be doing a traffic study without the other parties affected.

Vice Chairman: The purpose of the traffic study is for a planning tool. If the results of the study are that we acted appropriately, then you can take that and do what you want to do with it. You have not been told no by the auto parts store. They think there may be ramifications so they want to remove the restriction. It is the basis on which we approved the site plan. I can't imagine we would reverse that. It is your request. We can take a vote or you can withdraw it. We can see if we can get a motion to take this matter, traffic study, to the City Council. We have a problem here, and we want to see how we are going to fix it. This is a state and a local highway so it is going to have to be the same cooperation that we got from the old Walmart at malfunction junction. This is malfunction junction junior. We are not going to get there unless we start at some point. We are going to go to the City Council. If they say no, then come back in here and ask for your request.

Mr. Bailey: It is not that we do not want to do the right-in and right-out only. What we are trying to do is start construction by pulling the site disturbance and building permits. We do not want to begin construction and then get a civil action from Discount Auto Parts Store that kills the project by placing a stop work order on the property. If it came out that we could not do that, then you would have issued a building permit under false pretenses.

Vice Chairman: At this point, we do not know whether or not the auto parts store would support this effort. Now we have a tremendous amount of traffic exiting off of U. S. Highway 98 through this parking lot to avoid this intersection.

Mr. Bailey: I saw your truck the other day.

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Vice Chairman: I have followed someone and had someone has been behind me. It is a problem, and you have to ask the question. I would suggest that you withdraw the request if that is what you plan to do.

Mr. Bailey: I wish to withdraw the request and preserve the previous approval given at the August meeting.

Vice Chairman: You have got that.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Terry *to encourage the City Council to develop a traffic study for the intersection of U. S. Highway 98 and County Road 64. The Motion carried unanimously.*

Vice Chairman: I would like to say that I would love for you, Ms. Barnette, to present it during that portion of the City Council meeting. When they want to know what we are doing, I would be happy to volunteer to come to that meeting to explain what our concerns are. We are not trying to hold Staples or Handy Lock. We are just trying to do what is best as far as planning is concerned.

The next order of business is Planning Commission discussion.

PLANNING COMMISSION DISCUSSION:

Mr. Eady: Mr. Chairman, what was the valid reason for denying the Handy Lock Subdivision?

Vice Chairman: Safety concerns with the number of accesses on County Road 64. They have stated that they currently have three accesses on the Handy Lock site.

Mr. Eady: Not on the part that is being subdivided.

Vice Chairman: There is a big piece of land that is being subdivided into two pieces, and it has three accesses.

Mr. Eady: It is just a subdivision. The drive way discussion will come later. You cannot deny a subdivision based on speculation.

Vice Chairman: It is not speculation.

Mr. Eady: It is for the piece that you assume will be subdivided later, more and more. We do not know that.

Vice Chairman: The reason for denial is safety concerns for the number of accesses on County Road 64.

Mr. Eady: I am not talking about Staples. I am talking about Handy Lock.

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Vice Chairman: I am talking about the subdivision for Handy Lock.

Mr. Eady: Five voted for it and one against so what is the reason for it.

Vice Chairman: Do you want me to state it one more time?

Mr. Eady: I just do not understand.

Vice Chairman: I guess we will talk about it later. I feel comfortable with my vote.

Mr. Eady: It is the division of two parcels. I could understand if it were a site plan. It is just a subdivision of two lots.

Mr. Chairman, may I say something.

Vice Chairman: What is your name ma'am, please?

My name is Michelle Young. We are buying the property from Handy Lock. I just wanted to say that for many, many years this for two parcels until a few years ago. There has always been the access to the parcel that is there. I do not understand why now you want to take away the access to that parcel now.

Vice Chairman: As it stands, there are two many accesses out there, including the Staples project access which we made a right-in and right- out only. You are entitled to use your accesses until such time the site plan is presented. You bought the highway, and you bought the access. Does that answer your question?

Ms. Young: No. On the survey it is shown as two pieces of property.

Vice Chairman: We denied the subdivision. The property is one large rectangle, and you are removing a chunk out of the corner of the property.

Ms. Young: It is a separate parcel.

Vice Chairman: Then why are they wanting to do a subdivision?

Ms. Young: Because we are only purchasing two hundred feet of that parcel.

Vice Chairman: Then that is a subdivision.

Ms. Young: But that parcel has always had this access. How are we going to have an access?

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Vice Chairman: From the highway where you turn off to enter into the property. I did not say that you were not going to have it. I expressed a concern about the number. The rest of the Planning Commission probably does not agree with me. There is going to be a study done to determine whether or not we need a deceleration lane, a service road, an access every one hundred and fifty-five feet, or a traffic light. We have identified a problem and unfortunately that falls within that area. We are not going to the City to ask for some direction. You can go to City Council.

Ms. Young: I just feel like you are taking away an access to a piece of property.

Vice Chairman: No ma'am.

Ms. Barnette: Just in case I am hearing what you are saying. All we did tonight is to not authorize your subdivision which is the little square. Everything that is on that property right now will remain on that property so the access points there is not affected by the action taken here tonight. What it does is disables you from taking the boundary lines and closing on the sale for that building. If you lease it or do whatever you want to do with it, you would not be the land owner until this issue resolved. The site would remain the same.

Ms. Young: I understood that, but the only reason that it was denied is because it would only be accepted if agree to not have access to the property.

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

ATTORNEY'S REPORT:

Mr. Ross, attorney: no report. Just that I will work with Mr. Eady on the issue with the Ephraim Subdivision and report back to you on or before the work session.

ADJOURNMENT:

Vice Chairman: Do any of the Commissioners have any further 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 7:39 p.m.

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Respectfully submitted by:

Jan Dickson, Planning Coordinator

APPROVED: October 23, 2008

Larry Chason, Vice Chairman

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REVERSIONARY CLAUSE OPTIONS

★ **Leave As Is**

★ **Remove Completely**

★ **Amend Reversionary Clause
(Establish Procedures for Administration)**

★ **Leave As Is**

Any parcel or parcels of land rezoned to another zoning classification under the amendment authority of this Ordinance shall revert back to the prior zoning classification after one (1) year from the date of approval if said land is not being used for the permitted use for which it was rezoned. An extension of such time may be granted by the City Council upon written request by the applicant and recommendation of the Planning Commission.

★ **Remove Completely**

~~Any parcel or parcels of land rezoned to another zoning classification under the amendment authority of this Ordinance shall revert back to the prior zoning classification after one (1) year from the date of approval if said land is not being used for the permitted use for which it was rezoned. An extension of such time may be granted by the City Council upon written request by the applicant and recommendation of the Planning Commission.~~

★ **Amend Reversionary Clause**

Any parcel or parcels of land rezoned under the amendment authority of this Ordinance shall revert back to the prior zoning classification after the prescribed time period provided in Section (XYZ) Time Limits from the date of approval if one of the following has not occurred on site within the rights-of-way:

- a. installation of water mains and connections; or
- b. installation of sanitary sewers and laterals; or
- c. installation of storm sewers, drainage facilities, and drainage structures.

If the development is to be constructed in stages, one of the above-listed installations shall occur in the first phase of development to preclude reversion of the entire property to the previous zoning classification.

The Planning Commission, upon recommendation of the Director of Community Development, shall recommend to the City Council the reversion period as prescribed below.

Presentation Information Reversionary Clause Options

Time Limits

Any recommendation other than as provided below shall be accompanied by a justification thereof. The justification shall be clearly stated in the public hearing and shall be made part of the motion to approve the property's zoning.

a. Single family residential districts

Up to 5 acres ~ 2 years
Over 5 acres ~3 years

b. Multi-family apartment, town house, condominium or PUD

Up to 150 units ~2 years
Over 151 units ~ 3 years

c. B-1, B-2, B-3, or C/I zone district:

No more than 3 acres~2 years
More than 3 acres~3 years

ADMINISTRATION

Reversion Procedure

The Director of Community Development shall inspect the site to determine whether development has occurred sixty days (60) prior to the scheduled reversion of any property. The Department of Community Development shall notify the property owner as listed in the Baldwin County Tax record (if different from original owner) of an upcoming public hearing regarding the reversion of the property's zoning. Notice shall be provided via certified mail.

Fees:

Extension of reversionary period
Advertisement fee \$25.00
Notice to the Public \$5.50 per letter or United States Postal Cost for Certified Mail

Enforcement and records: Community Development

Penalty: Revert to previous zoning district

Extension:

The applicant must provide a written request for an extension of the reversionary period to the Director of Community Development at least 30 (thirty) days before the scheduled reversion date. Justification shall be clearly stated regarding the project's commencement and the proposed schedule of construction.

ADDITIONAL PROCEDURES

For zoning map add note to disclaimer: All zoning approved after __/__/__ (the effective date of this ordinance) shall be subject to a specified reversionary period. Please contact the Department of Community Development to verify zoning.

For City Council Ordinance: add note to all zoning ordinances.

"This zoning classification is subject to a ___ year reversionary provision. ___ years from the date this ordinance is enacted, if site development has not commenced for the purpose listed herein, the zoning shall be null and void and the property shall revert to the prior zoning district. Refer to Section 22-2 of the Land Use and Development Ordinance for further detail."

To: Office of the City Clerk
From: William H. Eady, Sr., Director of
Community Development
Subj: Ashley Gates - Brookfield, L.L.C.
Zoning Amendment
Date: September 11, 2008

MEMORANDUM

At the regular meeting of the City of Daphne Planning Commission, August 28, 2008, eight members were present and the vote carried unanimously for the affirmative recommendation of the above-mentioned ordinance.

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)

Reference: rezoning of Ashley Gates Apartments, Phases I and II

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

Application Number: 208-07 Date Plat Submitted: July 28, 2008

Date Presented: August 28, 2008

Name of Owner: Ashley Gates-Brookfield, L.L.C.

Address: Post Office Box 241402 Montgomery, AL 36117 Telephone# 334-387-1168
(Street or P.O. Box) (City) (State) (Zip Code)

Name of Authorized Agent, if other than owner: Meredith L. Turpin, Esquire

Address: Post Office Box 2925 Daphne, AL 36526 Telephone# 621-1555 ext. 24
(Street or P.O. Box) (City) (State) (Zip Code)

Subdivision: None

Lot(s): _____ Unit _____

- 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: July 28, 2008).

Meeting Dates:

Planning Commission: August 28, 2008

City Council: _____

Reason(s) for requesting the Zoning Amendment:

This Property is zoned B-2 and is an existing Apartment Complex, therefore
to comply with the present land use, it needs to be Rezoned to R-4.



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 912 Van Avenue
Daphne, AL 36526
- b) Name of Subdivision See Legal Description
- c) Lot numbers involved in change N/A
- d) Total acreage of change Phase One 13.21 Acres, Phase Two 5.40 Acres
- e) Recorded in Map Book Slide No. 1815-A Page
- f) Owned in whole by the undersigned? No.
- g) If owned in part, name(s) of co-owner(s) :
Please see attached Exhibit "A"

2) Zoning change requested:

- a) Present classification of property B-2
- b) Reclassification desired R-4
- c) Character of neighborhood Mixed use (commercial & residential)

3) Certifications:

- a) Owner's Name Ashley Gates-Brookfield, L.L.C.
- b) Address Post Office Box 241402 MONTgomery, AL 36117
- c) Telephone Number 334-387-1168
- d) Date July 28, 2008

Joe D. Alexander
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.

July 26, 2008
Date

Jet D. Starbuck
Signature of Property Owner

ASHLEY GATES –BROOKFIELD, L.L.C.
ZONING AMENDMENT
from B2, General Business
to R4, High Density Multi-family Residential
(PROPERTY 18.2146 ACRES)

EXHIBIT "A"

LEGAL DESCRIPTION:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, T5S-R2E, BALDWIN COUNTY, ALABAMA, RUN THENCE SOUTH 2226.67 FEET TO A POINT ON A WESTWARD PROJECTION OF THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE; THENCE ALONG SAID WESTWARD PROJECTION AND ALONG THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE RUN N 89° 51' 14" E 858.28 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 89° 51' 14" E AND ALONG SAID SOUTH LINE OF VAN AVENUE RUN 266.00 FEET TO A POINT; THENCE RUN S 00° 15' 57" E 578.45 FEET TO THE NORTHWEST CORNER OF DAPHNE SQUARE, ACCORDING TO PLAT RECORDED IN MAP BOOK 10, PAGE 125 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE WEST BOUNDARY OF SAID DAPHNE SQUARE RUN S 00° 18' 31" E 704.83 FEET TO THE SOUTHWEST CORNER OF SAID DAPHNE SQUARE; THENCE RUN N 89° 39' 07" W 712.61 FEET TO A POINT; THENCE RUN N 00° 23' 48" E 509.33 FEET TO A POINT; THENCE RUN N 00° 29' 32" E 557.91 FEET TO A POINT; THENCE RUN N 89° 51' 14" E 434.28 FEET TO A POINT; THENCE RUN N 00° 40' 29" W 210.0 FEET TO THE POINT OF BEGINNING. CONTAINING 18.620 ACRES. THIS DESCRIPTION INCLUDES LOT 1 OF VAN AVENUE SUBDIVISION AS PER PLAT RECORDED ON SLIDE NO. 1815-A OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA.

THE FOLLOWING AREA IS TO RETAIN B-2 ZONING AS BUFFER FOR ADJACENT PROPERTY ZONED B-2:

LESS AND EXCEPT A 10 FOOT BUFFER STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, T5S-R2E, BALDWIN COUNTY, ALABAMA, RUN THENCE SOUTH 2226.67 FEET TO A POINT ON A WESTWARD PROJECTION OF THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE; THENCE ALONG SAID WESTWARD PROJECTION AND ALONG THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE RUN N 89° 51' 14" E 1114.28 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 89° 51' 14" E AND ALONG SAID SOUTH LINE OF VAN AVENUE RUN 10.00 FEET TO A POINT; THENCE RUN S 00° 15' 57" E 578.45 FEET TO THE NORTHWEST CORNER OF DAPHNE SQUARE, ACCORDING TO PLAT RECORDED IN MAP BOOK 10, PAGE 125 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE WEST BOUNDARY OF SAID DAPHNE SQUARE RUN S 00° 18' 31" E 704.83 FEET TO THE SOUTHWEST CORNER OF SAID DAPHNE SQUARE; THENCE RUN N 89° 39' 07" W 492.96 FEET TO A POINT; THENCE RUN N 00° 20' 53" E 10.00 FEET TO A POINT; THENCE RUN S 89° 39' 07" E 482.85 FEET TO A POINT; THENCE RUN N 00° 18' 31" W 694.73 FEET TO A POINT; THENCE RUN N 00° 15' 57" W 578.47 FEET TO THE POINT OF BEGINNING. CONTAINING 17,657 SQUARE FEET OR 0.4054 ACRE.

Ashley Gate's Apartments
Adjoining Property Owner's List

Tillman, Elbert Leon Jr & Nanett
P. O. Box 2388
Daphne, AL 36526

Conaway, Francis Etux Tommie
P. O. Box 1021
Daphne, AL 36526

1300 main Street LLC
1300 Main Street
Daphne, AL 36526

Conaway, Francis B Etux Tommie B
P. O. Box 1021
Daphne, AL 36526

Alves, J Hodge III Etux Allison
P. O. Box 123
Mobile, AL 36601

Leonard, John W & Ellen H
P. O. Box 353
Daphne, AL 36526

Hutchco Properties LLC
P. O. Box 361
Montrose, AL 36559

Alabama, State of
State of Alabama
Montgomery, AL 36104

Coastal Properties LLC
1290 Main Street Suite B
Daphne, AL 36526

Tellus Eight LLC
P. O. Box 10080
Gulfport, MS 39505

Parkway Pointe LLC
P. O. Box 1318
Gulf Shores, AL 36547

L M Smith Construction Co., Inc.
438 Begeman Road
Mobile, AL 36608

Wright, Elizabeth Etal Brown, PA
1112 Johnson Road
Daphne, AL 36526

The Sulcer Wood Corporation
c/o Badcock Furniture
1201 Hwy. 98
Daphne, AL 36526

HPJ Properties LLC
801 Captain O'Neal Drive
Daphne, AL 36526

Pruett, Donald E
P. O. Box 267
Montrose, AL 36559

HPJ Properties, LLC
801 Captain O'Neal Drive
Daphne, AL 36526

Ozark Pole & Timber Products Inc.
19137 Scenic Hwy 98
Fairhope, AL 36532

Nelson, Charles T
P. O. Box 834
Daphne, AL 36526

Nelson, Frances L
P. O. Box 22
Daphne, AL 36526

Maumenee, Benjamin C
P. O. Box 966
Fairhope, AL 36533

Long / Earle LLC
36510 Boykin Blvd.
Lillian, AL 36549

Johansen, George E
902 Van Ave.
Daphne, AL 36526

Lambert, Thomas G
P. O. Box 355
Daphne, AL 36526

Dees, J Anthony
115 Schooley Circle
Daphne, AL 36526

Beedy, Judson D
P. O. Box 2826
Daphne, AL 36526

Beedy, Pamela S
894 Van Ave.
Daphne, AL 36526

TO: FRED SMALL, MAYOR
CC: ROB MCELROY, UTILITIES BD

RICHARD MERCHANT, BUILDING OFFICIAL
CHIP MARTIN, FIRE MARSHAL

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF AUGUST 28, 2008 - 6:00 P.M. REPORT
COUNCIL CHAMBERS, CITY HALL

4. Presentation to be given by Mr. Trae Corte, representing Country Club Development, requesting the release of the two hundred and seventy thousand dollar landscape bond for Bellaton Subdivision, Phase II. **WITHDRAWN**

Presentation to be given by Mr. Tim Lawley, representing Hutchinson, Moore & Rauch, requesting master plan review for Eastern Shore Christian Center. **APPROVED**

B. SITE PLAN REVIEW:

1. **File S08-20: APPROVED**
- Site: Eastern Shore Christian Center**
- Location: Southeast of the intersection of County Road 13 and Lawson Road**
Area: 4.52 Acres ±
Owner: Eastern Shore Christian Center - Tony LeGear
Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson or Tim Lawley
2. **File S08-21: APPROVED**
- Site: Staples**
- Location: Northeast of the intersection of County Road 64 and U. S. Highway 98, 1802 Highway 98**
Area: 4.71 Acres ±
Owner: Staples GGP, L.L.C. - John Coleman
Engineer: Hutchinson, Moore & Rauch - Doug Bailey

C. PETITIONS:

ZONING AMENDMENT: APPROVED

1. **File Z08-07: Ashley Gates - Brookfield, L.L.C.**
- Reference: Ashley Gates Apartments, Phases I & II**
- Location: Southeast of the intersection of Main Street and Van Avenue**
Area: 13.21 Acres ± and 5.40 Acres ±, respectively
Owner: Ashley Gates - Brookfield, L.L.C. - John Blanchard, Manager
Agents: Davis & Fields - Meredith Turpin and Hatch Mott MacDonald - John Peterson
- Present Zoning: B-2 Proposed Zoning: R-4, Multi-Family**

6. **ATTORNEY'S REPORT**
7. **ADJOURNMENT**

ORDINANCE NO. 2008 - _____

**Ordinance to Rezone Property Located on the Southeast Corner of
Main Street and Van Avenue (13.21 and 5.40 Acres)
Ashley Gates Apartments, Phases I & II**

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from B-2, General Business District to R-4, High Density Multi-Family Residential District to, to said property is located on the Southeast Corner of Main Street and Van Avenue, being more particularly described as follows:

Legal Description:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, T5S-R2E, BALDWIN COUNTY, ALABAMA, RUN THENCE SOUTH 2226.67 FEET TO A POINT ON A WESTWARD PROJECTION OF THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE; THENCE ALONG SAID WESTWARD PROJECTION AND ALONG THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE RUN N 89° 51' 14" E 858.28 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 89° 51' 14" E AND ALONG SAID SOUTH LINE OF VAN AVENUE RUN 266.00 FEET TO A POINT; THENCE RUN S 00° 15' 57" E 578.45 FEET TO THE NORTHWEST CORNER OF DAPHNE SQUARE, ACCORDING TO PLAT RECORDED IN MAP BOOK 10, PAGE 125 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE WEST BOUNDARY OF SAID DAPHNE SQUARE RUN S 00° 18' 31" E 704.83 FEET TO THE SOUTHWEST CORNER OF SAID DAPHNE SQUARE; THENCE RUN N 89° 39' 07" W 712.61 FEET TO A POINT; THENCE RUN N 00° 23' 48" E 509.33 FEET TO A POINT; THENCE RUN N 00° 29' 32" E 557.91 FEET TO A POINT; THENCE RUN N 89° 51' 14" E 434.28 FEET TO A POINT; THENCE RUN N 00° 40' 29" W 210.0 FEET TO THE POINT OF BEGINNING. CONTAINING 18.620 ACRES. THIS DESCRIPTION INCLUDES LOT 1 OF VAN AVENUE SUBDIVISION AS PER PLAT RECORDED ON SLIDE NO. 1815-A OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA.

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WHEREAS, the Planning Commission of the City of Daphne on August 28, 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, November 17, 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 B-2, General Business District to R-4, High Density Multi-Family Residential 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

City of Daphne Recreation Board Minutes
2605 Hwy 98
Daphne, Al. 36526
September 10, 2008
6:00 pm

Members Present: Chairman Ed Nelson, Matt Cunningham, Kit Smith, Eric Smith and Rick Cleveland

Members Absent: John Peterson and Lynne Thompson-Yates

Advisory Staff Present: David McKelroy, Parks and Recreation Director, Councilman Gus Palumbo and Greg Burnam, Mayor Fred Small and Glenn Vickery.

Call to Order

The meeting was called to order by Chairman Ed Nelson at 6:06 pm.

Review and Approval of Minutes

Motion was made by Matt Cunningham and seconded by Eric Smith to approve the August 13, 2008 meeting minutes. Motion passed.

Public Participation

Ms. Dorothy Morrison, Daphne Beautification Committee, requested special attention be given to “Gator Alley” when cutting grass as to not damage or destroy certain plants and shrubs. After discussion, it was recommended by the Recreation Board that City of Daphne horticulturist, Marshall Parsons and his crew be responsible for this area.

Program Reports

Athletics David McKelroy reported for Charlie McDavid who was attending a Baldwin County Youth Football meeting. Youth football will have the BCYFA jamboree at Daphne High School on Saturday, September 13. 53 teams from 10 Baldwin county town/cities will participate in three age groups (7/8, 9/10 & 11/12). Daphne youth soccer will start play on Monday, September 15.

Community Activities Megan Matrone provided information on upcoming events. Brown Bag by the Bay, every Thursday from 11:30 to 1:30 at Mayday Park until October 30. Celtic Celebration, Veteran’s Day Parade and Christmas Parade.

Senior Adults Mary Jensen presented participation information and a monthly calendar for senior adult activities.

Old / New Business

Youth Social Programs Megan Matrone presented information regarding youth social programs for Daphne youth. A survey of Daphne youth will be conducted to determine what activities are desired.

Trione Park Project Construction options were discussed for the newly acquired property at the Trione Sports Complex. Ed Nelson, Kit Smith and Scott Hutchinson from HMR will attend the Council work session to inform the council and get direction from them.

New Sports Complex Council must act on the issue. Councilman Gus Palumbo discussed financing possibilities.

Operational Planning for New Sports Complex Chairman Ed Nelson ask Parks and Recreation Director David McKelroy to gather information about the additional operation expense of a new sports complex (personnel, equipment, operating expenses, etc).

2009 Budget Information Parks and Recreation 2009 budget was discussed. Placing all bay front properties under Lodging Tax Funds was discussed.

Dauphine Acres Park Site Cost estimates and preliminary design for a playground park were presented.

Land Use Ordinance Planning is in the process of updating all Daphne Land Use Ordinances.

Terms of Board Members Discussion was held with regard to the length of terms and times of expiration for board members. Chairman Ed Nelson presented a letter draft to council for consideration in an effort to clear any confusion on times and expiration of service to the board. A motion was made by Kit Smith and seconded by Rick Cleveland and passed for the Chairman Ed Nelson's letter to be forwarded to the City Council for their consideration.

Election of 2009 Officers A motion was made by Rick Cleveland and seconded by Eric Smith to re-appoint Ed Nelson chairman. Motion passed. A motion was made by Kit Smith and seconded by Matt Cunningham to re-appoint Eric Smith vice-chairman. Motion passed.

Recreation Board meeting time After discussion, a motion was made by Rick Cleveland and seconded by Kit Smith to move the meeting time for the Daphne Recreation board from 6:00 pm to 6:30 pm. Motion passed.

Adjourn

The meeting was adjourned at 7:30 pm.

Recreation Board Attendance FY 2008

Name	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept
Ed Nelson	X	X	X	X	X	X	X	X	X	X	X	X
Rick Cleveland		X	X		X		X			X		X
Matt Cunningham	X	X		X	X			X	X		X	X
John Peterson		X	X	X	X	X	X	X				
Eric Smith	X	X	X	X	X	X	X	X		X	X	X
Kit Smith	X	X	X	X		X		X	X			X
Lynn Thompson-Yates				X	X			X		X	X	
ADVISORS												
Glenn Vickery	X	X		X	X	X	X		X	X	X	X
Greg Burnam	X		X	X		X	X	X			X	X
Gus Palumbo	X		X	X		X		X	X		X	X
David McKelroy	X	X	X	X	X	X	X	X	X	X	X	X
Mayor Fred Small	X	X						X				X



Daphne Utilities

Draft MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ February 19, 2008 ♦ 5:00 p.m.

I. CALL TO ORDER

A February 19, 2008, special Board meeting for the Utilities Board of the City of Daphne was called to order by Chairman, Mr. Segalla, at 5:05 p.m.

II. ROLL CALL

Members Present: Robert Segalla, Chairman
Ron Scott, Vice Chairman
Fred Small, Mayor
Fenton E. Jenkins – arrived at 5:17 p.m.

Others Absent: Lon Johnston, Secretary Treasurer

Others Present: Rob McElroy – General Manager
Danny Lyndall – Operations Manager
Teresa Logiotatos – Finance Manager
Rebecca Williamson - Accounting Assistant
Lori Scharles – Executive Assistant

Others Absent: Jerry Speegle – Board Attorney
Drew Klumpp – Adm. Services Manager
Deloris Brown – Human Resources Manager
Melinda Immel, Engineer– Volkert
Ray Moore, Engineer – HMR

III. PLEDGE OF ALLEGIANCE

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

IV. NEW BUSINESS

a. **Release of the Utilities Board of the City of Daphne from the Swap Agreement with AMBAC on the 2000 Series Bond**

Mr. Scott questioned if this meeting was properly advertised, to which Mr. McElroy confirmed that it was. Chairman Segalla asked if the present Board members received and read the detailed information that Mr. McElroy had e-mailed the previous day on the downgrading of the Series 2000 Bond. Chairman Segalla stated that this downgrading was not a result of any action of the present Board members or Daphne Utilities employees. Mr. McElroy advised the Board that the Utilities bonds are re-examine every 6 months or sooner if changes in market conditions warrant.

A quick review of the three Options in order to avoid paying a higher interest on these bonds resulted in agreement of Option Three – to convert to a fixed rate without financing \$570K in fees to be paid from Daphne

Utilities cash reserves up front to AMBAC (which is the bond insurer) in order to release the swap agreement and not refinance this fee into the bond issue, and to refinance the bond issue alone at 3.64% fixed for twelve years resulting in a gross savings of 1.13M and a net savings of 563K including the fee payment.

V. BOARD ACTION

A. Resolution 2008-01 - Authorize The Release of the Utility From the Swap Agreement with AMBAC on the 2000 Series Bond

MOTION BY Mr. Scott to approve Resolution 2008-01. Seconded by Mayor Small.
AYE: SEGALLA, SCOTT, SMALL NAY: NONE OPPOSED ABSENT: JENKINS, JOHNSTON
MOTION CARRIED

VI. PUBLIC PARTICIPATION – None

VII. BOARD COMMENTS – None

VIII. ADJOURNMENT:

MOTION BY Mr. Scott to adjourn the meeting. Seconded by Mayor Small.
AYE: SEGALLA, SCOTT, SMALL NAY: NONE OPPOSED ABSENT: JENKINS, JOHNSTON
MOTION CARRIED

The meeting adjourned at 5:17 p.m.



Daphne Utilities

APPROVED MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ August 27, 2008 ♦ 5:00 p.m.

I. CALL TO ORDER

The August 27, 2008, regular Board meeting for the Utilities Board of the City of Daphne was called to order by Chairman Robert Segalla, at 5:04 p.m.

II. ROLL CALL

Members Present: Robert Segalla, Chairman
Ron Scott, Vice Chairman
Lon Johnston, Secretary Treasurer
Fred Small, Mayor
Fenton E. Jenkins

Others Absent:

Others Present: 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 – arrived at 5:09 p.m.
Lori Scharles – Executive Assistant
Voneka Nettles
Pam Kellum
Tammy Cannup
Tim Patton – Volkert
Melinda Immel – Volkert
Ray Moore – HMR

Others Absent:

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 July 23, 2008:

The Chairman requested one grammatical correction and no other additions, deletions, or corrections for the Minutes from the July 23, 2008, Daphne Utilities Board meeting were made. No comments were given.

MOTION BY Mr. Johnston to approve the Utilities Board of the City of Daphne minutes from the regular Board meeting conducted July 23, 2008; Seconded by Mayor Fred Small.

AYE: SEGALLA, SCOTT, SMALL, JOHNSTON, JENKINS

ABSENT:

MOTION CARRIED

The agenda was rearranged in order to accommodate the early departure of Board member Mayor Small.

V. BOARD ACTION

a. *Revisions of Bylaws*

Chairman Segalla requested any comments or remarks regarding the Bylaws. Mr. Speegle stated he was uncertain if the wording of the paragraph was what the Board wanted. The Board decided to have it reworded to state that the governing body of the City of Daphne may elect the Mayor of the City of Daphne and one council member or two council members as directors and will address the topic again at the next Board meeting. Mr. Scott suggested that the wording in question should state that the Mayor should be on the Utilities Board. Chairman Segalla stated that he thought the option should be left up to the council or Mayor because the Mayor appoints the Planning Commission but the City Council appoints the members of the Utility Board. Mr. Johnston, while understanding Mr. Scott's point, he also agreed that it should be the option of the council. Mayor Small also agreed that it should be the first option of the Mayor to serve on the Utility Board. Mr. Speegle answered Mr. Scott's question of what the enabling legislation that gives this Board the right to determine the five members as the Alabama Code Statute that organizes the utilities board that has a provision stating that officers of the City can sit on the Board. He explained that the wording in question in that provision is the interpretation of "officers" and that it is difficult to phrase it correctly. Mr. Scott asked if Mr. Speegle could reword Article V to state that the members would "consist of officers of the City which would be the Mayor if he so agreed to serve and up to one council member or if the Mayor chose not to serve, a maximum of two council people." It was reiterated that the Board agreed to have the wording of Article V stated as it "would consist of officers of the City which would be the Mayor, if he so agreed to serve, and one council member or if the Mayor chose not to serve, a maximum of two council people." Mayor Small asked if the officers would be elected yearly. Mr. Speegle confirmed that they are required to be staggered for six-year terms, but the council members serve either their terms or as long as they are in office and he interpreted the Statute to state that if the council member is re-elected your six-year term is not up and continues for the length of the six-year term. Mr. Speegle stated that at the end of the six-year term re-appointment will be necessary.

b. *Resolution to Adopt "Sewer Only" Policy 2008-03*

Chairman Segalla called for a streamlined re-write of this Resolution. Mr. McElroy stated that he and Mr. Speegle have already discussed this issue and will submit at a later date.

c. *Motion to Accept Emergency Generator Procurement – Volkert Contract 408120-10*

Melinda Immel highlighted the details and explained that the Hazardous Migration Grant awarded to Daphne Utilities is 75% funded, 25% match. She further added that Volkert & Associates recommended the bid for the generators be granted to Energy Systems Southeast, LLC for a bid amount of \$147,197.00 of which Daphne Utilities would be accountable for roughly \$60,000 with the assistance of the Grant award.

MOTION BY Mr. Scott to accept the bid amount from Energy Systems Southeast LLC in the amount of \$147,197.00 for the Emergency Generators; Seconded by Mr. Johnston.

AYE: SEGALLA, SCOTT, SMALL, JOHNSTON, JENKINS

ABSENT:

MOTION CARRIED

d. *Resolution to Refinance 2000 Series Bond 2008-04*

Teresa Logiotatos highlighted the bond issue and introduced Larry Jackson to discuss the Standard and Poors Rating of Daphne Utilities. Mr. Larry Jackson of Gardnyr Michael Capital, Inc., further detailed the particulars of the rating from Standard and Poors.

MOTION BY Mr. Scott to adopt Resolution 2008-04 as shown in the supplement; Seconded by Mayor Small.

AYE: SEGALLA, SCOTT, SMALL, JOHNSTON, JENKINS

ABSENT:

MOTION CARRIED

Mrs. Logiotatos also stated that the Bond Purchase Agreement is required to be authorized in order to move forward with the bond issue.

MOTION BY Mayor Small for approval of the Bond Purchase Agreement dated August 27, 2008, in the amount of \$5,925,000.00; Seconded by Mr. Johnston.

AYE: SEGALLA, SCOTT, SMALL, JOHNSTON, JENKINS

ABSENT:

MOTION CARRIED

Mayor Small left the meeting at 5:36 pm.

VI. OLD BUSINESS

- a. **Park City Service Agreement** – On Hold
- b. Revision of Bylaws – discussed above.
- c. Items in Abeyance –
 1. Gas Franchise Agreement – no update.
 2. 19 Acres – no update.
 3. Daphne High School Stadium – Mr. McElroy explained that he spoke to a representative from the Baldwin County Board of Education who is researching the agreement.
 4. Capacity Fee Study – Call for work session – TABLED

VII. NEW BUSINESS –

- a. **Bond Rating Information**
Presented above by Mr. Larry Jackson from Gardnry Michael Capital Inc.
- b. **Resolution to Refinance 2000 Series Bond**
Addressed above by Mrs. Logiotatos.

VIII. BOARD ATTORNEY'S REPORT

Mr. Speegle had no further information to add to his report except to request direction on the City Proposed Franchise Agreement with Baldwin County Sewer. Chairman Segalla requested him to discuss the status with Daphne City Attorney Jay Ross on any development of this proposal and to monitor. Chairman Segalla also inquired as to the compilation of the Daphne Utilities properties to which Mr. Lyndall replied that he has that information available for review.

IX. FINANCIAL REPORT

Voneka Nettles reviewed the financial report with the Board. Mr. Johnston observed the water and sewer taps stability on the income statements. He also inquired as to the overtime and contract labor costs being overrun. Mr. McElroy explained the increase due to the extensive work at the Bass Pro Shop site. Mr. Johnston also asked for Mr. McElroy's comment on the consulting fees. Mr. McElroy explained that the increase is due in part to unforeseen projects, such as Elizabeth Yelding Park and the raw water line connection line between Well 1 and Well 2 during the City Hall expansion as well as the gas lights in front.

X. GENERAL MANAGER'S REPORT

- a. **GM Report**
Rob McElroy highlighted the General Manager's Report with the Board. He advised the board regarding approving an ad hoc committee to authorize the General Manager to make an offer on property for a Central Services location in the event time is of the essence but contingent upon Board approval. Mr. Johnston suggested authorizing Mr. McElroy to investigate and negotiate for the property subject to Board approval.

MOTION BY Mr. Johnston to authorize up to \$25,000 in earnest money for prospective land for Central Services facility as determined by the General Manager. Seconded by Mr. Jenkins.

AYE: SEGALLA, SCOTT, JOHNSTON, JENKINS

ABSENT: SMALL

MOTION CARRIED

Chairman Segalla passed along the favorable comments he was told by Mrs. Fran Terry who explained that Mr. McElroy had made a presentation to a Teachers Conference in June in Mobile.

b. **Operations Report**

Mr. Lyndall updated the Board on the hurricane preparations with regard to by-pass pumps. Chairman Segalla inquired as to the necessity to require a customer's social security number on the Application For Utility Service form. Drew Klumpp responded that it is necessary for collection purposes in the event that debt collection is required. Chairman Segalla asked what the safeguards are in place for that information. Mr. Klumpp explained that this information is used for internal use only and are aware of the security sensitivity of this information. Mr. Jenkins suggested employee training for privacy laws. Mr. Johnston asked about a relative policy in the employee handbook, to which Mrs. Brown responded that information in the employee handbook does address this issue.

Chairman Segalla suggested preparing a schematic for what happens to return water going into the plant and the different phases it goes into the Bay. Mr. McElroy explained that discussions have taken place on this to include with our website upgrade.

Melinda Immel had nothing further to add to her Volkert report. However Chairman Segalla noted the completion of the Highway 90 sewer project and to insure that the Harley Davidson shop would be connected to this new system. Mr. McElroy agreed and further added that Daphne Utilities continues to work with Volkert on refining a water model and water equity relative to consistent flows and pressure throughout the City of Daphne.

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

XI. BOARD ACTION – presented above

XII. PUBLIC PARTICIPATION –

Mrs. Karen Simmons addressed the Board requesting retiree insurance for her husband, Ray Simmons a former Daphne Utilities and City of Daphne employee. Chairman Segalla explained that Daphne Utilities will investigate the issue and will provide a letter of explanation. Chairman Segalla called for any additional comments, and then closed public participation.

XIII. BOARD COMMENTS – none.

XIV. ADJOURNMENT:

MOTION BY Mr. Johnston to adjourn the meeting.

AYE: SEGALLA, SCOTT, JOHNSTON, JENKINS

ABSENT: SMALL

MOTION CARRIED

Chairman Segalla re-opened the Public Participation for discussion for Susan Young regarding an adjustment on her account. Mrs. Canupp explained that she had handled this issue after speaking with Mr. McElroy regarding the adjustment and that she had left a voice message to this effect for Mrs. Young. Chairman Segalla explained that it appeared that this matter had been handled and if anything further was necessary that Mrs. Canupp would have it resolved.

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

AYE: SEGALLA, SCOTT, JOHNSTON, JENKINS

ABSENT: SMALL

MOTION CARRIED

The meeting re-adjourned at 6:10 p.m.

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

CITY OF DAPHNE PARADE PERMIT

ORGANIZATION:	<i>AML - Apollo's Mystic Ladies</i>
CONTACT PERSON:	<i>Michele Hanson</i>
ADDRESS:	<i>P. O. Box 3133 Daphne, AL 36526</i>
PHONE NUMBER (HOME): PHONE NUMBER (BUSINESS):	<i>747-1348</i>
TYPE OF PARADE:	<i>Mardi Gras</i>
DATE OF PARADE:	<i>February 13, 2009</i>
ROUTE TO BE TRAVEL	<i>From Daphne Civic Center down Main St. turn around @College Ave. to 6th St. and back to Civic Center.</i>
APPROXIMATE # OF PEOPLE & CARS	<i>38 units (approx. 500 people)</i>
START TIME/STOP TIME:	<i>6:45 pm</i>
STOP TIME:	<i>8:30 pm</i>
ASSEMBLY AREA/STREET:	<i>Daphne Civic Center /Main Street</i>
ASSEMBLY TIME TO BEGIN:	<i>5:30 pm</i>
DATE APPLIED FOR PERMIT:	
APPROVAL	
POLICE: Chief David B. Carpenter	<i>David Carpenter</i>
FIRE: Chief Bo White	<i>Bo White</i>
PUBLIC WORKS: Melvin McCarley	<i>Melvin McCarley</i>
City Council: <i>10/06/08</i>	
SPECIAL INSTRUCTIONS:	<i>Request rain date of Thursday, February 19, 2009. Same time and route.</i>
DATE ROUTED:	
NOTIFICATION OF APPROVAL:	



ALABAMA LEAGUE OF MUNICIPALITIES

President
MELVIN DURAN
Mayor, Priceville

Executive Director
PERRY C. ROQUEMORE, JR.
Montgomery

PO Box 1270 • 535 ADAMS AVE • MONTGOMERY, ALABAMA 36102
TELEPHONE: (334) 262-2566
FAX: (334) 263-0200

September 2008

MEMORANDUM

TO: All Newly Elected Mayors and Council Member

FROM: Perry C. Roquemore, Jr., Executive Director

The officers and staff of the Alabama League of Municipalities congratulate you on your election to serve on your municipal governing body for the next four years. Congratulations on your elections for the term of office beginning on November 3, 2008.

The League will provide you and your fellow municipal officials over the state with revised issues of our Handbook for Mayors and Council Members and Selected Readings for the Municipal Official. These books will be shipped to your Municipal Clerk at a later date for distribution to you and your fellow elected officials.

We would like to call your attention to the fact that the League will be sponsoring an **Orientation Conference for Elected Municipal Officials and Municipal Personnel in October, 2008**. Our previous Orientation Conferences were well received and they provided those in attendance with an excellent start in their terms of office.

We are enclosing a Registration Form and information for the 2008 Orientation Conferences. The \$125 registration fee covers registration, handout materials, lunch and refreshment breaks. Please send in registration information before October 3, 2008, so that we may give the caterer a guarantee for lunch. **Municipalities can legally pay for the official's expenses in attending this Conference.**

To avoid duplicate registrations, please check with your clerk to confirm whether registration forms have already been mailed in for you.

Class Size is LIMITED. Please register your officials and any personnel that will be attending as soon as possible. If a selected class is full, the registrant will be notified that a different date must be selected.

All Conference attendees will receive five (5) Basic, Advanced or Continuing Credit Hours in the Certified Municipal Official Training Program.

We look forward to seeing you at one of these Orientation Conferences and working with you during your term of office.

tl

PAYMENT OPTION FORM

Type of Payment:

Check enclosed. Make checks to:
Alabama League of Municipalities

Visa **American Express**

MC

Card # _____

Expires _____

Name on Card:

Billing Address: _____

Zip Code: _____

Signature:

Amount Paid: _____

**Please mail completed Registration Form and
Payment Option Form to:**

Alabama League of Municipalities
P. O. Box 1270
Montgomery, Alabama 36102

ALM use only:

Date: _____ Check #: _____

REGISTRATION INFORMATION

Registration forms and payment must be received five (5) calendar days prior to the date of the Orientation Conference. No on-site registrations will be accepted due to catering requirements and training material supplies.

Cancellation Policy:

Full refunds of the registration fee will be made if the registrant cancels 15 or more days prior to the meeting for which he or she is registered. If registrant cancels 10 to 15 days prior to the meeting, a refund of \$100 will be made — \$125 minus a \$25 cancellation fee. No partial refunds will be made for cancellations made less than ten (10) days prior to the meeting except for approved medical reasons. Substitutes will be allowed, but the substitute **MUST BE** an elected municipal official or municipal personnel.

The League reserves the right to cancel any session for which 20 or fewer participants are registered. Registrants for any cancelled session will be assigned to another session at the location of their choice or the registration fee will be refunded at the choice of the registrant.

Reasonable Accommodations:

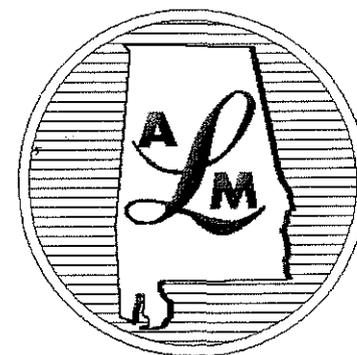
Reasonable accommodations will be made for persons with disabilities if requested at least 10 calendar days in advance. **Please contact Theresa Lloyd at 334-262-2566**

**FOR MORE INFORMATION
CONTACT LEAGUE HEADQUARTERS AT
334-262-2566**

www.alalm.org

THE ALABAMA LEAGUE OF MUNICIPALITIES

presents



2008

ORIENTATION CONFERENCE FOR ELECTED OFFICIALS AND MUNICIPAL PERSONNEL

*Space is on a first come, first
served basis so register early!*

**2008 ORIENTATION CONFERENCE
FOR ELECTED OFFICIALS &
MUNICIPAL PERSONNEL**

A one-day educational training session designed specifically for mayors, councilmembers and municipal personnel.

The cost of each regional session is \$125.00, which includes lunch and all handout materials.

Mayors and councilmembers are eligible to enroll in the League's Certified Municipal Official (CMO) Program, which consists of a series of continuing education programs designed for elected municipal officials who voluntarily wish to receive formal training in municipal government. (Enrollment information will be provided at the Orientation Conference.) Officials who complete 40 credit hours of training are awarded the professional designation of Certified Municipal Official. Those who have already received their CMO designation and complete an additional 40 credit hours of training are awarded the Advanced Certified Municipal Official designation.

Training sessions are conducted several times each year at various sites throughout the state. Additional hours may be earned by attending designated sessions during the annual League Convention and other approved events sponsored by the League and the National League of Cities. A limited amount of basic CMO credit may be obtained by attending other approved courses. The training program for the basic certification can be completed in as few as two calendar years. The CMO Program is an on-going project of the Alabama League of Municipalities to fulfill the education mandate contained in its Constitution.

For additional information on League programs, visit www.alalm.org

CMO CREDIT

This conference qualifies for five (5) hours of basic and advanced credit toward the designation of Basic or Advanced Certified Municipal Official. Officials who have completed both the Basic & Advanced CMO Programs will receive five (5) hours of continuing credit for attendance of this session.

PROGRAM

REGISTRATION WILL BEING AT 8:00 A.M. THE CONFERENCE WILL BEGIN AT 9:00 A.M. AND CONCLUDE AT 5:00 P.M.

- Role of the League in Government
- The Municipal Year Ahead
- Working with the State Legislature
- Role of the Mayor and Council
- League Special Programs
- Using the League's Legal Department
- Legal Powers of Municipalities
- Municipal Official Liabilities
- Open Meetings and Public Records
- Council Meeting Procedure
- Conflict of Interests/Ethics
- Revenue/Appropriation/Contract Powers
- Borrowing Powers/Budgeting, Auditing, Reporting

DATES AND LOCATIONS

- Birmingham:** October 20, 2008
The Wynfrey Hotel
- Montgomery:** October 27, 2008
Renaissance Montgomery Hotel & Spa at the Convention Center
- Huntsville:** October 27, 2008
Von Braun Center
- Mobile:** October 31, 2008
Arthur R. Outlaw Mobile Convention Center

*Space is limited.
Please register early!*

REGISTRATION FORM

2008 Orientation Conference

Please register me for the following session:

- Birmingham October 20
- Montgomery October 27
- Huntsville October 29
- Mobile October 31
- Registration fee of \$125 is enclosed.

Name and Title

City/Town

Mailing Address

City, State and Zip

Phone number

Email address

*Registrations must be prepaid.
Please see back of this form
for payment options.*

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

CITY OF DAPHNE

RESOLUTION 2008-45

Execution of Agreement for Cooperative Maintenance of Public Right of Way with Alabama Department of Transportation: Permit No. 9-2-1519.

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

1. That the City of Daphne, Alabama enter into an agreement with the State of Alabama, acting through the Alabama Department of Transportation for:

Maintenance of the roadside “along the south side of I-10 west of and adjacent to Eastern Shore Toyota Dealership, at milepost 38 approximately 1400 LF and 1600 LF west of AL 181 interchange on I-10” pursuant to City of Daphne Zoning Ordinance Article XXXVII, Sec. 37-14 Landscape Standard (c) Interstate 10 North Landscaping.

Which agreement is before the Council:

2. That the agreement be executed in the name of the City, by its Mayor, for and on its behalf;

3. That the signature of the Mayor be attested by the City Clerk and that the seal of the City be affixed to the agreement

BE IT FURTHER RESOLVED, that upon the completion of the execution of the Agreement by all parties, that a copy of such Agreement be kept on file by the City Clerk.

ADOPTED AND APPROVED, this 15th day of September, 2008.

GREG BURNAM,
COUNCIL PRESIDENT

Date & Time Signed:_____

FREDSMALL
MAYOR

Date & Time signed:_____

ATTEST:

DAVID L. COHEN,
CITY CLERK, MMC

**ALABAMA DEPARTMENT OF TRANSPORTATION
AGREEMENT FOR THE COOPERATIVE MAINTENANCE
OF PUBLIC RIGHT OF WAY**

Permit No. 9-2-1519 (08)

DIVISION NINTH DISTRICT II

THIS AGREEMENT, entered into this the ____ day of _____, 20____, by and between the Alabama Department of Transportation acting by and through its Transportation Director hereinafter referred to as the STATE and _____, in an effort to secure a more pleasing appearance on the roadside between along the south side of I-10 west of and adjacent to Eastern Shore Toyota Dealership, at milepost 38 approximately 1400 LF and 1600 LF west of AL181 Interchange

on Route I-10, the City of Daphne Zoning Ordinance Article XXXVII, Sec. 37-14 Landscape Standard (C) Interstate 10 North Landscaping agrees to maintain the vegetative cover in the right-of-way

_____ by means of mowing with a flail or rotary mower and hand trimming such that a clean and attractive appearance is obtained. Mowing operations shall be conducted when the height of the vegetative cover reaches NA inches. Reschedule mowing operations in accordance with the planned frequency. In the event that shrubs and/or minor trees are planted within the area, trimming around the plant materials shall be done in conjunction with mowing to obtain a clean and attractive appearance. Clippings or other incidental debris (such as branches, trash, etc.) shall be removed if mounting of the clippings or other incidental debris occurs.

In accepting the above, the Department of Transportation and club, group, business, or municipality agree to do the following:

1. The Department of Transportation will see that adequate sight distances are maintained for maximum public safety; otherwise the Department of Transportation reserves the right to remedy this situation in the most expedient manner.

2. The Department of Transportation is not responsible for the safety of the individual involved or taking part in this work during maintenance operations. Signs indicating "MEN WORKING" can be obtained from the Department of Transportation prior to work and must be returned after completion of work.

3. If Department of Transportation construction (repair of drainage and traffic structures, crossovers and other minor construction) is done in the subject area, it will be the responsibility of the Department of Transportation to establish a stand of vegetative cover if deemed necessary by the Department of Transportation and then the groups', clubs', business', or municipalities' responsibility to maintain the vegetative cover as stipulated herein. In the event of major construction in the subject area, this Agreement shall be voided at a time designated by the Department of Transportation.

4. All work shall be subject to the inspection and approval of the Alabama Department of Transportation. Description of the proposed work must accompany this and any associated proposal. If the maintenance is not conducted as specified herein, the Department of Transportation shall assume maintenance and this Agreement will be invalid. A copy of this Agreement must be kept by all parties that sign the Agreement. The State of Alabama does not grant applicant any right, title, or claim on any highway right-of-way.

5. The club, group, business or municipality agrees to store no equipment, branches, mounds of clippings or plant debris of any kind or any other material on the shoulders of pavement and in the case of multi-lane highways, in the median strips. The pavement will be kept free from waste (clippings, mud and other debris) and equipment.

6. The group, club, business or municipality shall be solely responsible for and hold harmless the Alabama Department of Transportation for any claim for damage done to existing private property, public utility, or the traveling public.

7. This Agreement is executed with the understanding that it is not valid until the club, group, business or municipality has complied with all existing ordinances, laws and zoning boards that have jurisdiction in the county, city or municipality.

8. Failure of the club, group, business or municipality to conform to the provisions of this Agreement will be cause to terminate this Agreement. Notification prior to termination will be made by the Department of Transportation.

9. To the fullest extent permitted by law, the APPLICANT shall defend, indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, and its agents, servants, employees and/or facilities from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from

performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the APPLICANT, anyone directly or indirectly employed by the APPLICANT or anyone for whose acts APPLICANT may be liable.

The term "hold harmless" includes the obligation of the APPLICANT to pay damages awarded against and legally recoverable from the State of Alabama, or the Alabama Department of Transportation, or its officers, agents, servants, and/or employees in both individual and official capacities whose acts or omissions that were the basis of the liability were performed within the course and scope of their employment.

The above conditions are agreed upon:

Name of Club, Group, Business or Municipality:

BY _____
Name and Title Date

BY _____
Name and Title Date

BY _____
Name and Title Date

Telephone Number

For the Alabama Department of
Transportation :

District Manager Date

Division Engineer Date

Maintenance Engineer Date

To: David Cohen, City Clerk
From: William H. Eady, Sr., Community Development
Director
Subject: Renaissance Center, Phase III
I-10 Right-of-Way
Date: September 22, 2008

MEMORANDUM

At the September 15, 2008 Council Meeting, Resolution number 2008-45 was presented for the above noted subject development.

There was some confusion about the path the request had taken.

The I-10 right-of-way landscaping for the Renaissance Center was approved by the Daphne Planning Commission along with the approval of the Renaissance Center, Phase III Subdivision on April 24, 2008.

After the approval the Engineer did not come back to the Planning Department for further handling.

Please place this on the October 6, 2008 City Council Agenda for consideration.

After it is accepted and the agreement with ALDOT is signed by the designated official, Mrs. Kim Briley will draw up an agreement with the developer for maintenance.

If any further information is requested, please advise.

Thank you.

WHE/hb

cc: Kim Briley

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF APRIL 24, 2008
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

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 main concerns were the buffering being provided for the residential neighborhood and storm water drainage.

Mr. Clements: The developer has constructed a privacy fence with phase one of the development as a buffer to the adjacent property owners. The addition of the second phase of the development consists of the construction of additional units, a club house and a swimming pool and will have no impact of the neighborhood.

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

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 Mr. Barnette and Seconded by Mayor Small to approve the preliminary/final plat for St. Charles Village Subdivision, Phases I & II. The Motion carried unanimously.

The next order of business is final review for the Renaissance Center Subdivision, Phase 3.

File SDF08-01:

*** Subdivision: The Renaissance Center, Phase III**

Location: On the North side of U. S. Highway 90 and Alabama Highway 181
Area: 42.13 Acres \pm , (14) lots
Owner: Renaissance, L.L.C.
Engineer: Jinright & Associates - Trey Jinright

An introductory presentation was given by Mr. Jinright, representing Jinright & Associates, requesting final plat review of a forty-two point one three acre subdivision consisting of fourteen lots located on the North side of U. S. Highway 90 and Alabama Highway 181. The owner has posted a letter of credit and a revised cost estimate for the proposed development and is requesting final approval. I will be happy to answer any questions you may have.

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

Mr. Kirby: In a case where a developer has just begun construction of a subdivision and is posting a performance bond, I would like to see the subdivision given another final review and a report to be given to the Planning Commission upon completion.

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF APRIL 24, 2008
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

Mr. Eady: Each development is given a final inspection prior to acceptance, but if you would like to have a report I will make one.

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 Mr. Kirby and Seconded by Mayor Small to approve the final plat for the Renaissance Center Subdivision, Phases III. The Motion carried unanimously.

The next order of business is site plan review for the Family Security Credit Union.

SITE PLAN REVIEW:

File S08-07:

Site: Family Security Credit Union

Location: On the West side of U. S. Highway 98, North of the former Ruby Tuesday building

Area: 1.36 Acres ±, (1) lots

Owner: Family Security Credit Union - Cole Sharp

Engineer: Engineering Development Services - John Pickens

An introductory presentation was given by Mr. John Pickens, representing Engineering Development Services, requesting site plan review of a banking facility to be located on the West side of U. S. Highway 98, North of the former Ruby Tuesday building. The comments from the Site Containment Officer have been addressed. The erosion control design has been revised, and the outfall structure has been relocated inside the boundaries of the property line. The proposed sign has been changed to a monument sign. I will be happy to answer any questions you may have.

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

Mr. Kirby: At the time you demolished all of the buildings on the site did you remove the existing nonconforming signs?

Mr. Pickens: I am not sure.

Mr. Kirby: The nonconforming signs will have to be removed prior to the issuance of a building permit.

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 Mr. Kirby and Seconded by Mayor Small to approve the site plan for Family Security Credit Union. The Motion carried unanimously.

The next order of business is site plan review for Johnson Road and U.S. Highway 98 - Drainage Request.

RESOLUTION NO. 2008-52
2008-Y-CELLULAR TELEPHONES/800 MHZEQUIPMENT

WHEREAS, The City of Daphne is required under section 41-16-20 of the Code of Alabama to secure competitive bids for items in excess of \$7,500; and

WHEREAS, The City of Daphne acknowledges that the cost for the CELLULAR TELEPHONES/800 MHZEQUIPMENT will exceed this amount; and

WHEREAS, Staff has reviewed the bids for the CELLULAR TELEPHONES/800 MHZ EQUIPMENT and determined that the bid as presented is reasonable; and

WHEREAS, Staff recommends the bid for the CELLULAR TELEPHONES/800 MHZ EQUIPMENT be awarded to_____.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept the bid of_____ in order that the City may select a plan by department/employee and retain the same benefits throughout the term of the contract (through November 8, 2009) as specified in BID SPECIFICATION NO: 2008-Y-CELLULAR TELEPHONES/800 MHZ EQUIPMENT.

APPROVED AND ADOPTED 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

CITY OF DAPHNE
BID OPENING MINUTES
BID DOCUMENT NO: 2008-Y-CELLULAR TELEPHONES/RADIO EQUIPMENT
SEPTEMBER 9, 2008 @ 11:30A.M. @ CITY HALL

Those present were as follows:
 Suzanne Henson Sr. Accountant
 Chip Martin Fire Marshal
 Captain Danny Bell Police

5 bid invitations were mailed/picked up , 3 sealed bids were received.
 Chip Martin opened the bids presented and the bids were read aloud as follows:

		ALLTEL		SOUTHERNLINC		NEXTEL/SPRINT	
Name of Plan	Plan Description	Exceptions/Comments	Cost	Exceptions/Comments	Cost	Exceptions/Comments	Cost
PLAN #1	Unlimited State Wide Two Way Radio only	No Charge	\$0.00	Unlimited Private	\$30.00	Add a phone plan	\$18.75
PLAN #2	400 Cell Mins, Unlimited State Wide Two Way Radio, Unlimited Nights and Weekends, Voicemail, Caller ID, Free Nationwide Cellular Long Distance	300 Min	\$25.60	2500 privat or group push to talk & 500 cell	\$36.00		\$29.99
PLAN #3	500 Cell Mins, Unlimited State Wide Two Way Radio, Unlimited Nights and Weekends, Voicemail, Caller ID, Free Nationwide Cellular Long Distance	N/A		2500 privat or group push to talk & 500 cell	\$38.00		\$33.75
PLAN #4	800 (or greater-list # minutes in plan) Cell Mins, Unlimited State Wide Two Way Radio, Unlimited Nights and Weekends, Voicemail, Caller ID, Free Nationwide Cellular Long Distance	700 Min	\$34.44	500 Group	\$45.00	1000 Min	\$44.99
PLAN #5	400 Anytime Minutes, Free Nationwide Cellular Long Distance, Free Nights and Weekends, Voicemail, Caller ID.	300 Min	\$25.60	500 Group	\$36.00		\$29.99
PLAN#6	Free Incoming 300 Anytime Cell Minutes, Free Nationwide Cellular Long Distance, Free Nights and Weekends, Voicemail, Caller ID, .	N/A		500 Group	\$45.00	400 with \$5 Free Incoming	\$34.99
PLAN#7	Free Incoming 500 Anytime Cell Minutes, Free Nationwide Cellular Long Distance, Free Nights and Weekends, Voicemail, Caller ID.	N/A		500 Group	\$45.00	500 with \$5 Free Incoming	\$38.75
PLAN#8	Free Incoming 800+ Anytime Cell Minutes, Free Nationwide Cellular Long Distance, Free Nights and Weekends Voicemail, Caller ID, .	N/A		500 Group	\$45.00	1,000 with \$5 Free Incoming	\$49.99
PLAN #9	Unlimited Blackberry Service, Unlimited Incoming Cellular Minutes, 300 Outgoing Cellular Minutes, Unlimited Nationwide Two Way Radio Minutes, Unlimited Nights and Weekends, Voicemail, Caller ID, Free Nationwide Cellular Long Distance		\$59.50		\$74.00		\$72.49
PLAN #10	POLICE/Public Safety Plan/Special Governmental plan (list details)	Options listed not comparable		Options listed not comparable		Options listed not comparable	
Coast to Coast Radio							
Text Messaging			\$3.00		3.99-9.99		start @ 3.75 (300)

CITY OF DAPHNE INTERNAL MEMO

DATE: SEPTEMBER 30, 2008

TO: KIMBERLY BRILEY, FINANCE DIRECTOR

RE: 2008-Y-CELLULAR PHONES/800 MHZ EQUIPMENT

**FROM: DEPARTMENT HEADS: CHIEF WHITE, FD / CHIEF CARPENTER, PD /
RICHARD MERCHANT, BI / MELVIN MCCARLEY, PW**

The cellular telephone bid submittals were reviewed and the bid was recommended to be awarded to Sprint/Nextel. The bid minute tabulation is attached showing Sprint/Nextel to have the lower cost for requested rate plans.

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2008-56**

**Zoning District Map
Revision to Appendix H of the City of Daphne
Land Use and Development Ordinance**

WHEREAS, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on July 24, 2008, favorably recommended to the City Council of the City of Daphne certain amendments to the Zoning District Map approved and adopted by the Daphne Land Use and Development Ordinance No. 2002-22, referenced in Appendix H “Exhibit A” thereof and amended by Ordinance No. 2003-06, Ordinance No. 2005-11, Ordinance No. 2006-24, Ordinance No. 2006-73 and Ordinance No. 2007-15, and Ordinance 2007-48; and

WHEREAS, said amendments are necessary due to various rezoning and annexation requests which have been approved since the adoption of Ordinance No. 2002-22, Ordinance 2003-06, Ordinance No. 2005-11, Ordinance No. 2006-24, Ordinance No. 2006-73 and Ordinance No. 2007-15, and Ordinance 2007-48; and

WHEREAS, due notice of said proposed zoning map amendments has been provided to the public as required by law through publication and open display at the City of Daphne Public Library and City Hall; and

WHEREAS, a public hearing regarding the proposed Zoning District Map amendments was held by the City Council on September 15, 2008; and

WHEREAS, the City Council of the City of Daphne after due consideration and upon recommendation of the Planning Commission believe it in the best interest of health, safety and welfare of the citizens of the City of Daphne to amend said Zoning District Map as recommended; and

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

SECTION I: ZONING DISTRICT MAP

The Zoning District Map referenced hereto as Exhibit “A” shall be the official zoning map of the City of Daphne, Alabama and shall be further designated in Appendix H of Exhibit A of the City of Daphne Land Use and Development Ordinance, as set forth in Ordinance No. 2002-22 and its amendments.

SECTION II: REPEALER

Ordinances Nos. 2002-22, Appendix H "Exhibit A", 2003-06, 2005-11, 2006-24, 2006-73, 2007-15, and 2007-48 are specifically repealed and any Ordinance(s), parts of Ordinance(s) or Resolution(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

SECTION III: EFFECTIVE DATE

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THE ___ DAY OF _____, 2008.

**GREG BURNAM,
COUNCIL PRESIDENT**

Date and Time Signed: _____

**FRED SMALL,
MAYOR**

Date and Time Signed: _____

ATTEST:

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

CITY OF DAPHNE

*ZONE & STREET
MAP EDITS*

January 1, 2008 – July 1, 2008



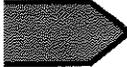
The Jubilee City

*Prepared by: Nancy Anderson, GIS Technician, City of Daphne Community Development
July 16, 2008*

CITY OF DAPHNE ZONE MAP & STREET MAP CHANGES
January 1,2008 – July 1, 2008

This report corresponds to the Zone & Street map edits for the period of January 1, 2008 – July 1, 2008. The red numbers on the left-hand margin of this report serve as a key to the map & should be used to identify the particular edit on the map. These edits are further identified on the map by stick-on arrow indicators, with the corresponding assigned number written in a circle above or beside the arrow.

The date displayed at the end of each line of this report is either the date of the Planning Commission Meeting, in which the project was approved or the date the City Council signed the approval ordinance or resolution for the given project.



SUBDIVISIONS:

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- #02) **FAMILY SECURITY CREDIT UNION** – W. side of Hwy 98 – 1 lot, 1.36 Acres +/- 04/24/2008
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ANNEXATIONS:

- #06) **Ordinance # 2008-15**–Milstead Annexation–Pollard Rd S of Whispering Pines-5.5 Acres 02/18/08
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STREET ACCEPTANCE:

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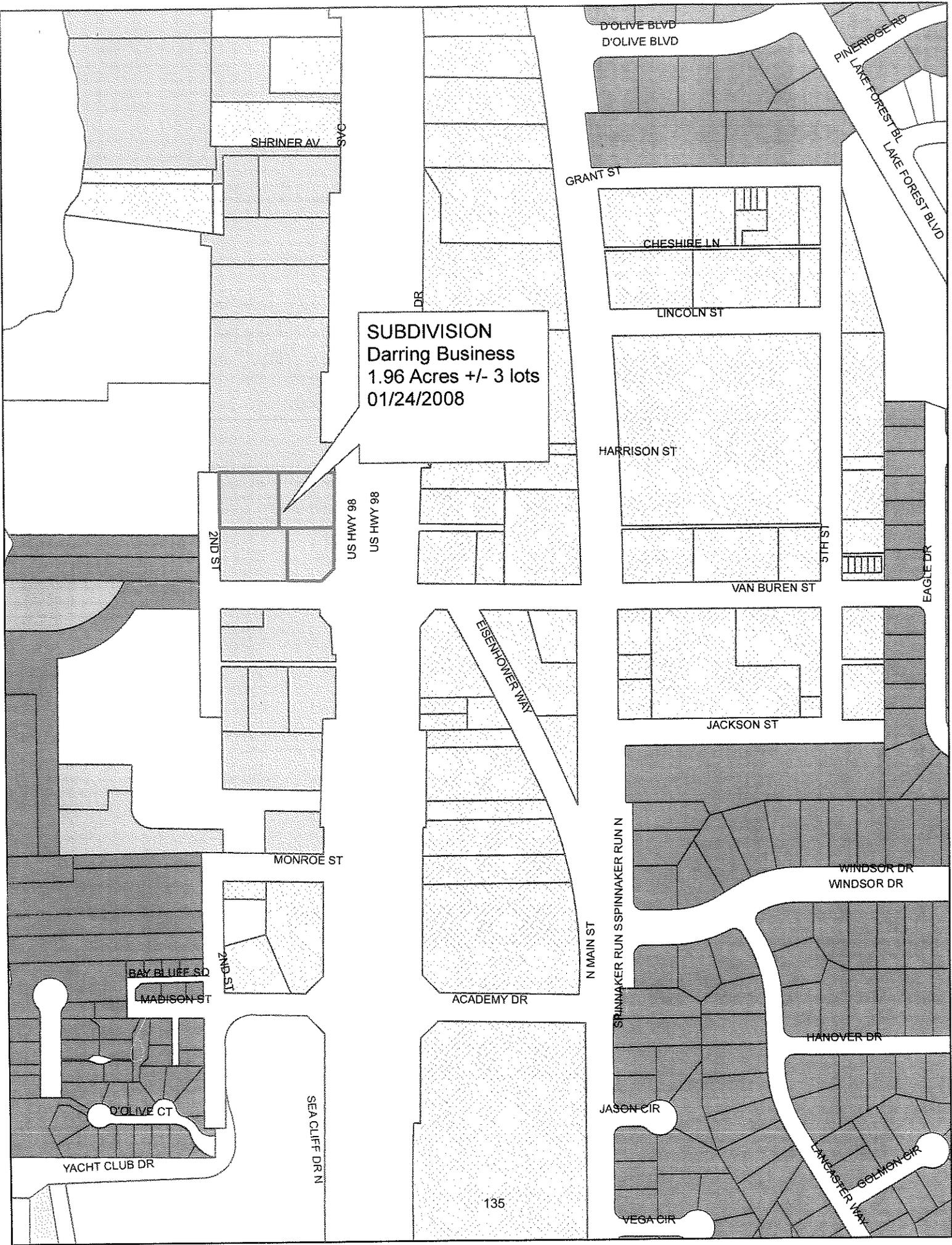
REZONE:

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- #10) **Ordinance # 2008-06** – Windscape Apts.– from B-2 to R-4 - City Council 01/23/2008
- #11) **Ordinance # 2008-07** – Klaas Property – from B-2 to R-4 - City Council 01/23/2008

*City of Daphne Map
Edits*

SUBDIVISIONS

January 1, 2008 – July 1, 2008



SUBDIVISION
Darring Business
1.96 Acres +/- 3 lots
01/24/2008

SHRINER AV

D'OLIVE BLVD
D'OLIVE BLVD

PINERIDGE RD
LAKE FOREST BL
LAKE FOREST BLVD

GRANT ST

CHESHIRE LN

LINCOLN ST

HARRISON ST

VAN BUREN ST

EAGLE DR

2ND ST

US HWY 98
US HWY 98

5TH ST

EISENHOWER WAY

JACKSON ST

MONROE ST

SPINNAKER RUN SPPINNAKER RUN N

WINDSOR DR
WINDSOR DR

2ND ST

ACADEMY DR

N MAIN ST

BAY BLUFF SD
MADISON ST

HANOVER DR

D'OLIVE CT

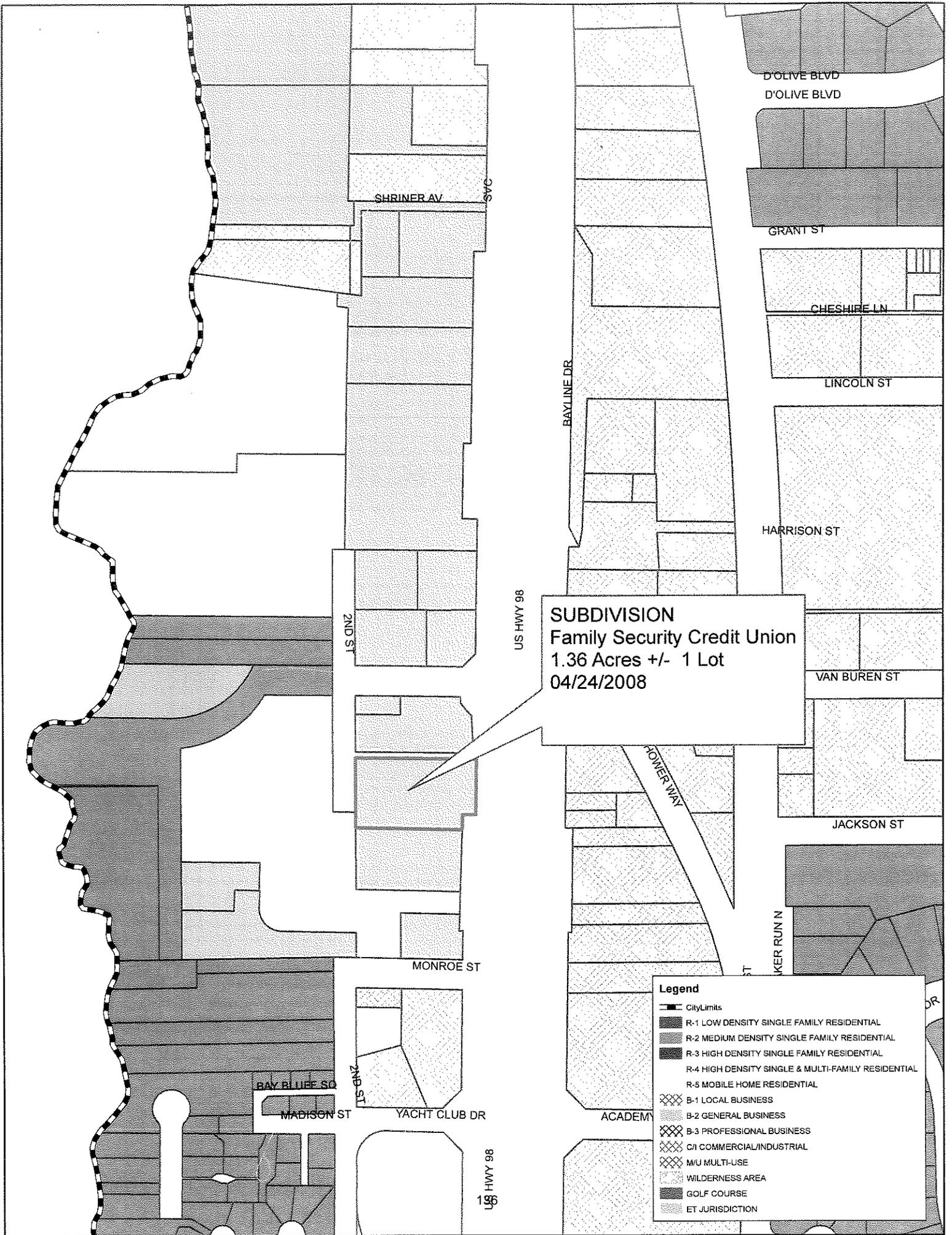
YACHT CLUB DR

SEA CLIFF DR N

JASON CIR

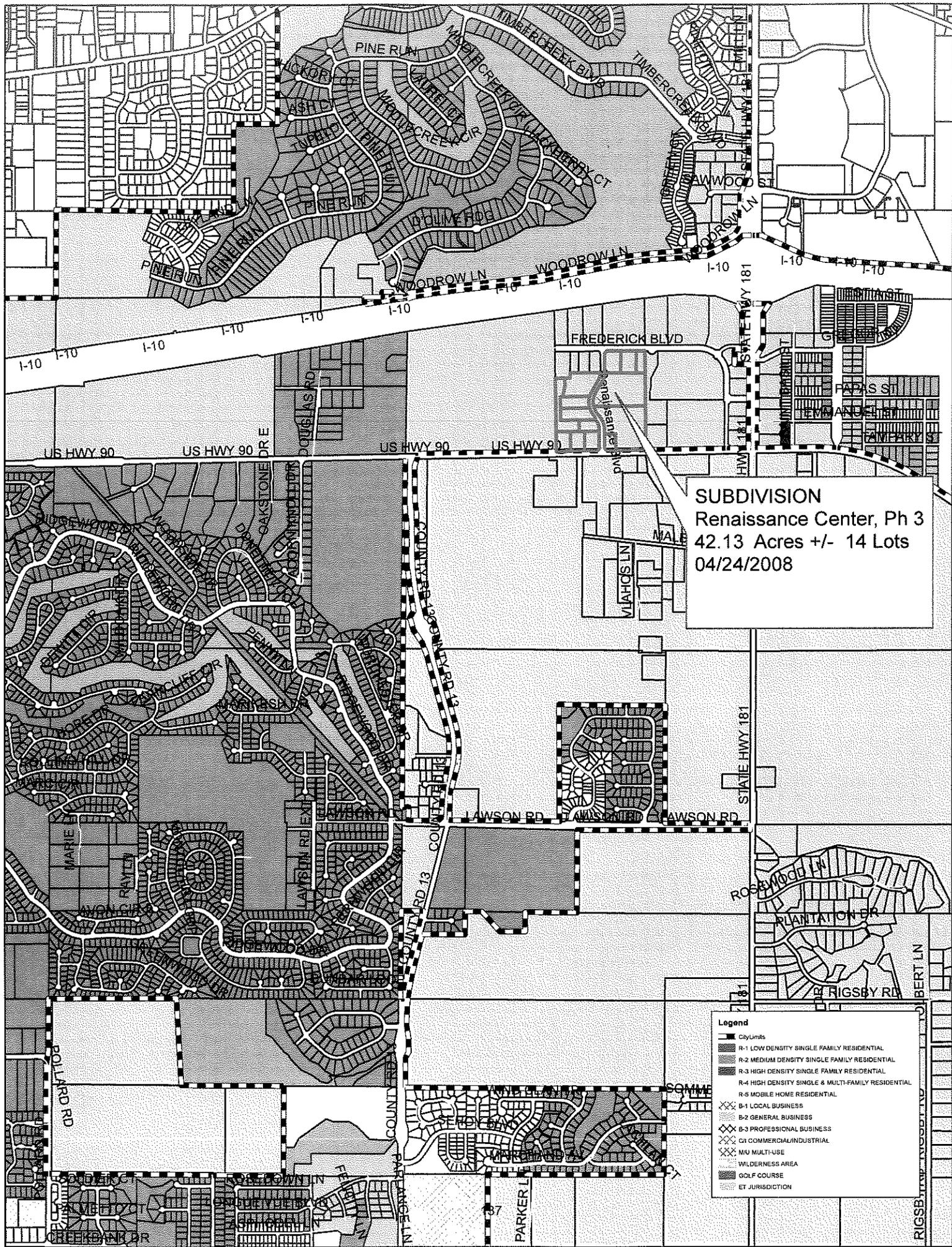
DAYCATER WAY
GOLDEN CIR

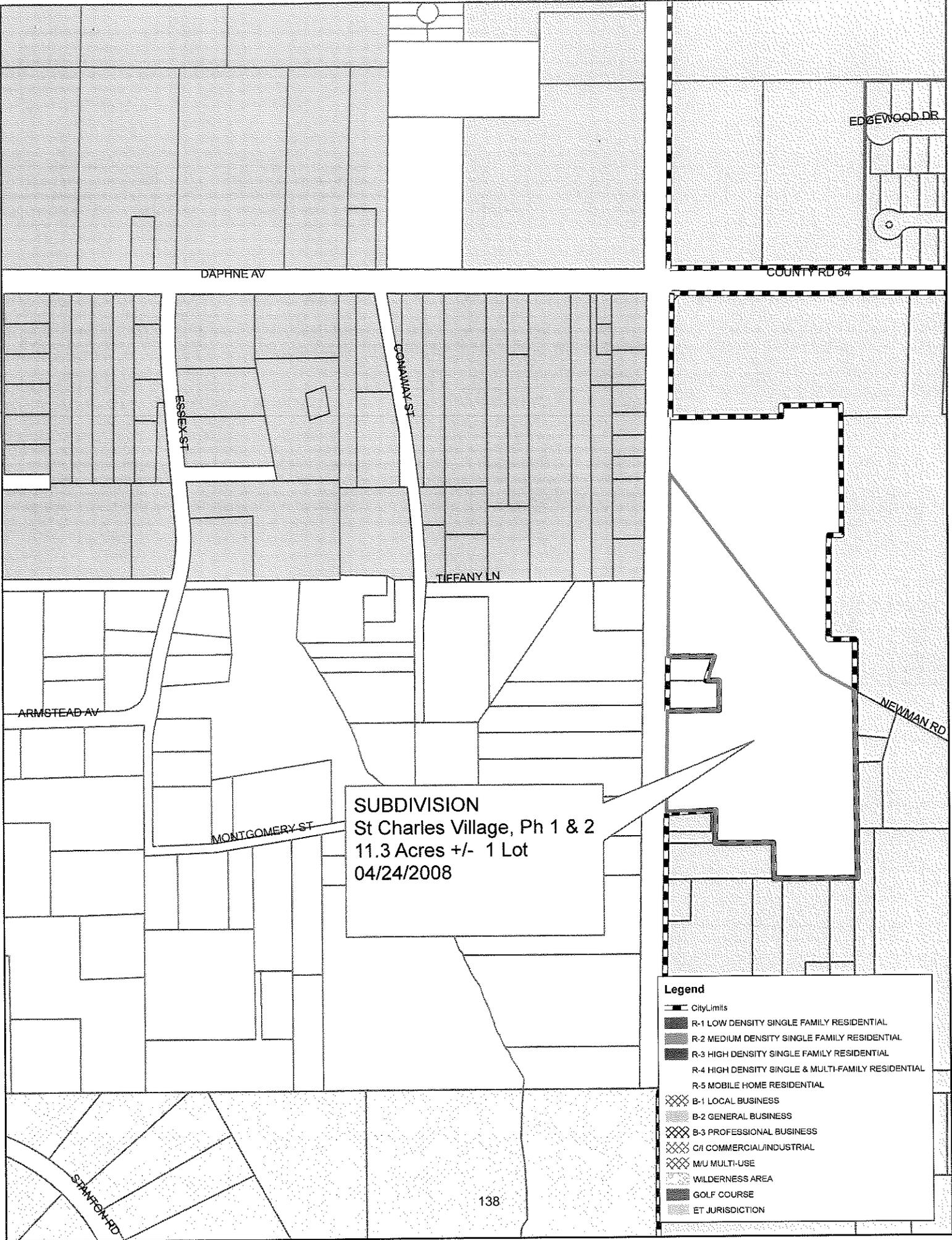
VEGA CIR



SUBDIVISION
 Family Security Credit Union
 1.36 Acres +/- 1 Lot
 04/24/2008

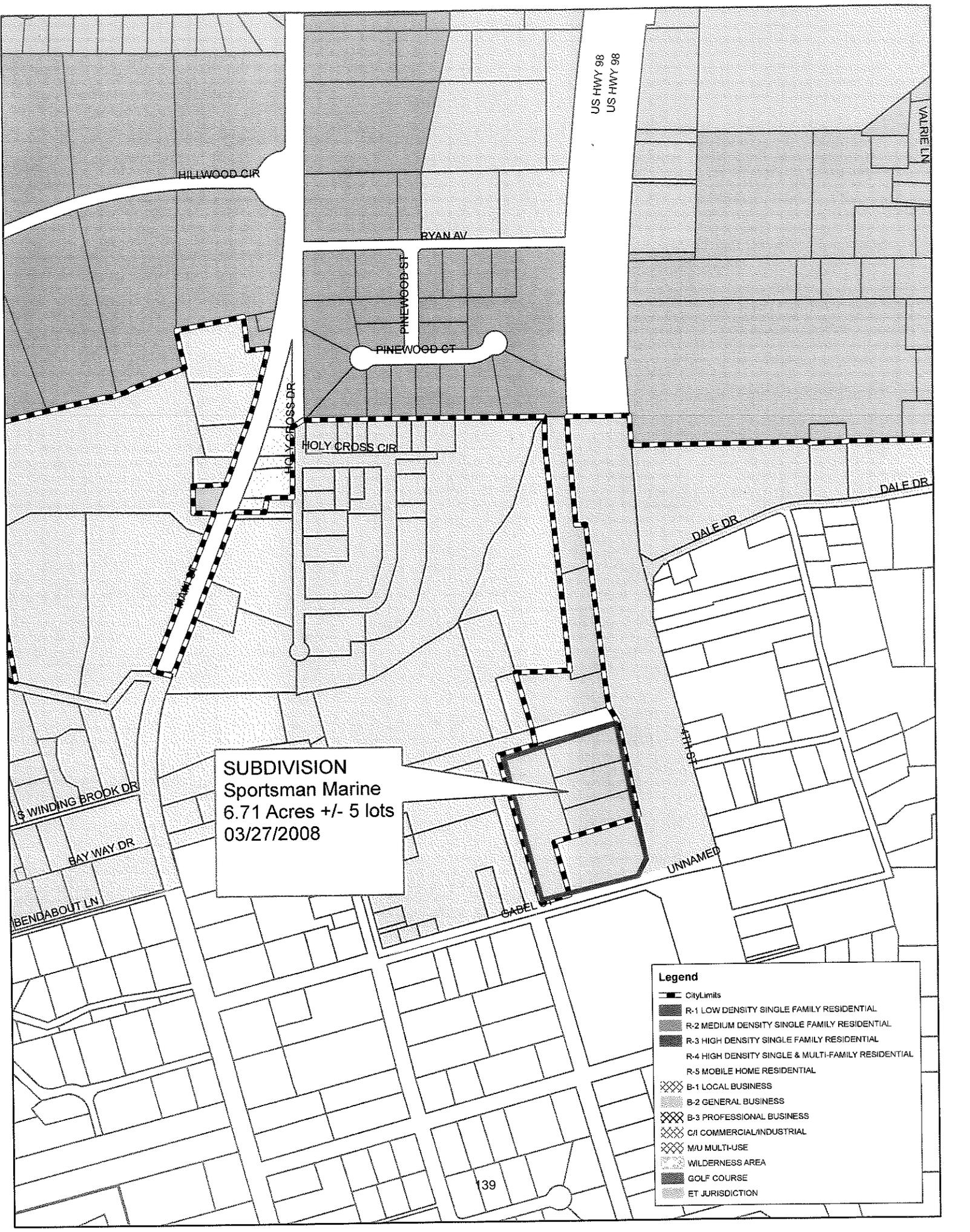
- Legend**
- CityLimits
 - R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
 - R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
 - R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
 - R-4 HIGH DENSITY SINGLE & MULTI-FAMILY RESIDENTIAL
 - R-5 MOBILE HOME RESIDENTIAL
 - B-1 LOCAL BUSINESS
 - B-2 GENERAL BUSINESS
 - B-3 PROFESSIONAL BUSINESS
 - C/I COMMERCIAL/INDUSTRIAL
 - M/U MULTI-USE
 - WILDERNESS AREA
 - GOLF COURSE
 - ET JURISDICTION





SUBDIVISION
 St Charles Village, Ph 1 & 2
 11.3 Acres +/- 1 Lot
 04/24/2008

- Legend**
- City Limits
 - R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
 - R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
 - R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
 - R-4 HIGH DENSITY SINGLE & MULTI-FAMILY RESIDENTIAL
 - R-5 MOBILE HOME RESIDENTIAL
 - B-1 LOCAL BUSINESS
 - B-2 GENERAL BUSINESS
 - B-3 PROFESSIONAL BUSINESS
 - C/I COMMERCIAL/INDUSTRIAL
 - M/U MULTI-USE
 - WILDERNESS AREA
 - GOLF COURSE
 - ET JURISDICTION



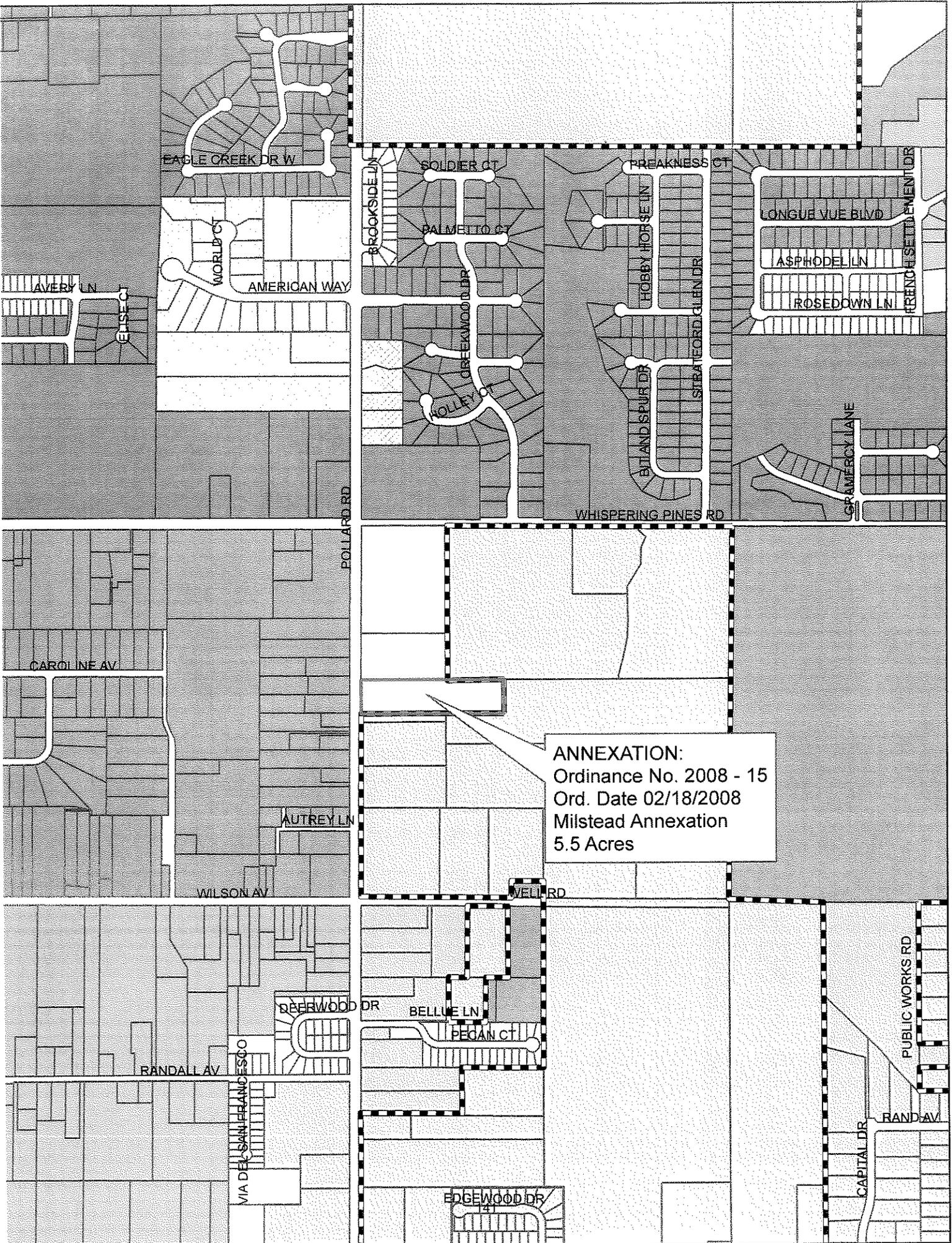
SUBDIVISION
 Sportsman Marine
 6.71 Acres +/- 5 lots
 03/27/2008

- Legend**
- City Limits
 - R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
 - R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
 - R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
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 - B-1 LOCAL BUSINESS
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 - B-3 PROFESSIONAL BUSINESS
 - C/I COMMERCIAL/INDUSTRIAL
 - M/U MULTI-USE
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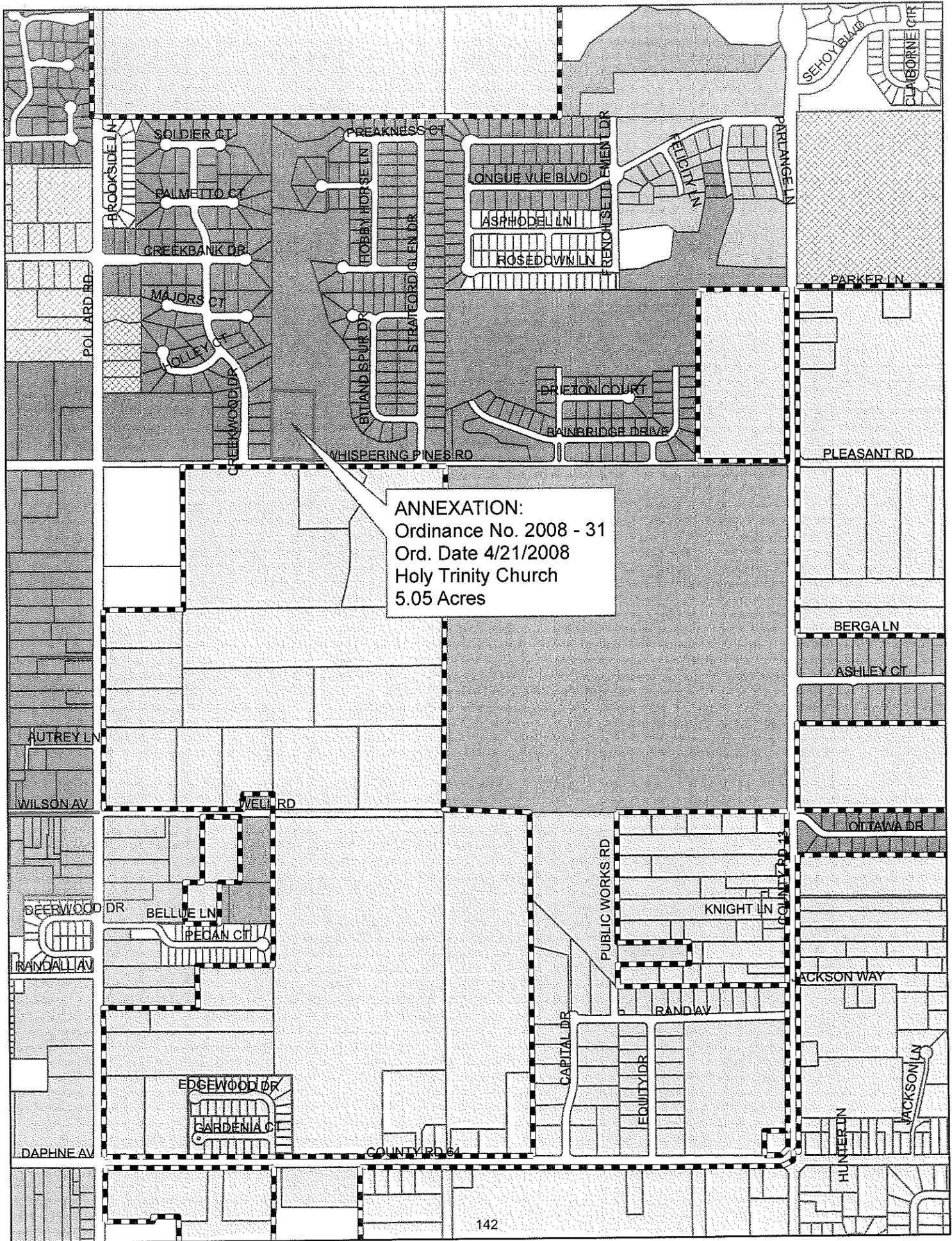
*City of Daphne Map
Edits*

ANNEXATIONS

January 1, 2008 – July 1, 2008



ANNEXATION:
Ordinance No. 2008 - 15
Ord. Date 02/18/2008
Milstead Annexation
5.5 Acres

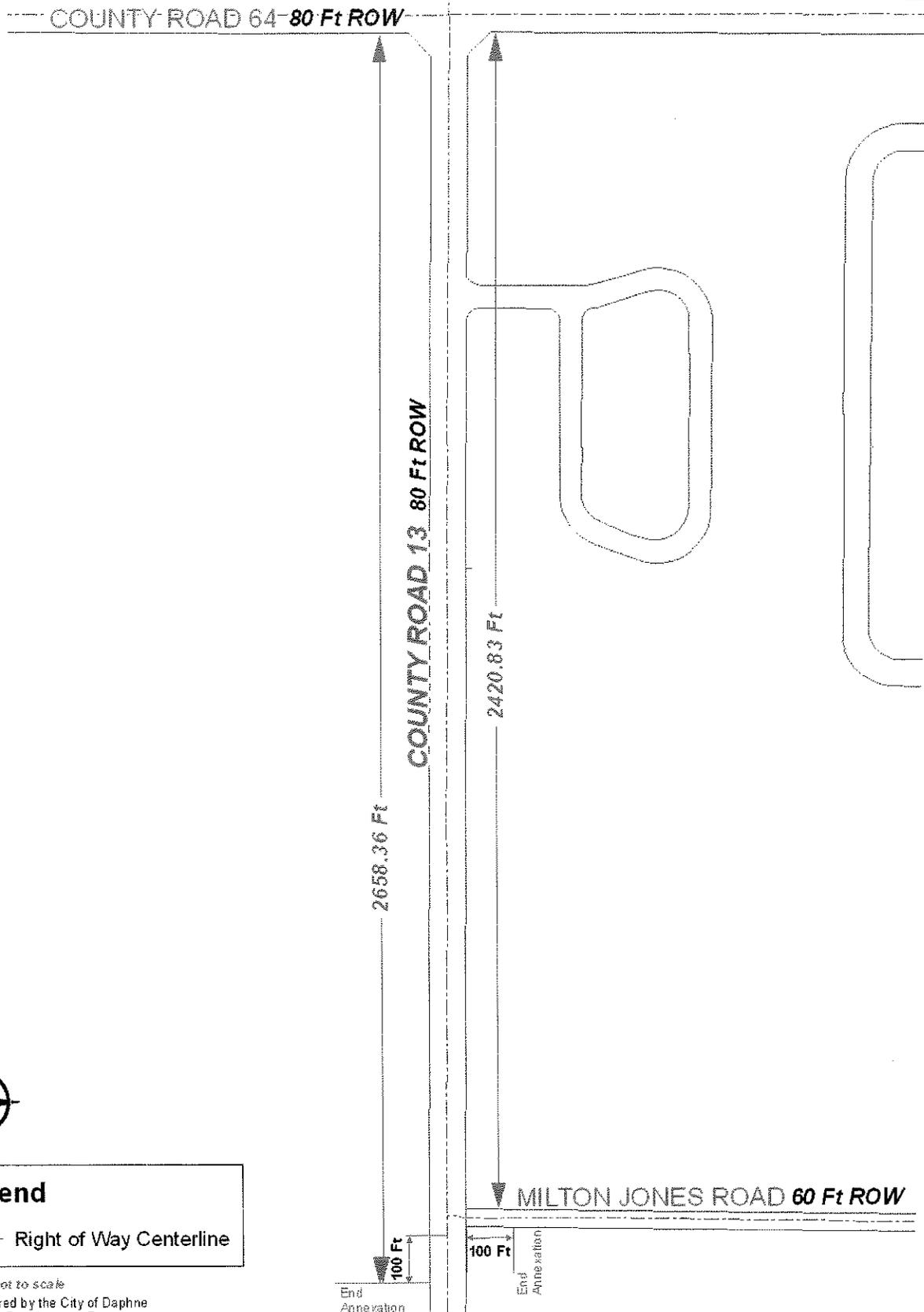


ANNEXATION:
Ordinance No. 2008 - 31
Ord. Date 4/21/2008
Holy Trinity Church
5.05 Acres

*City of Daphne Zone Map
Edits*

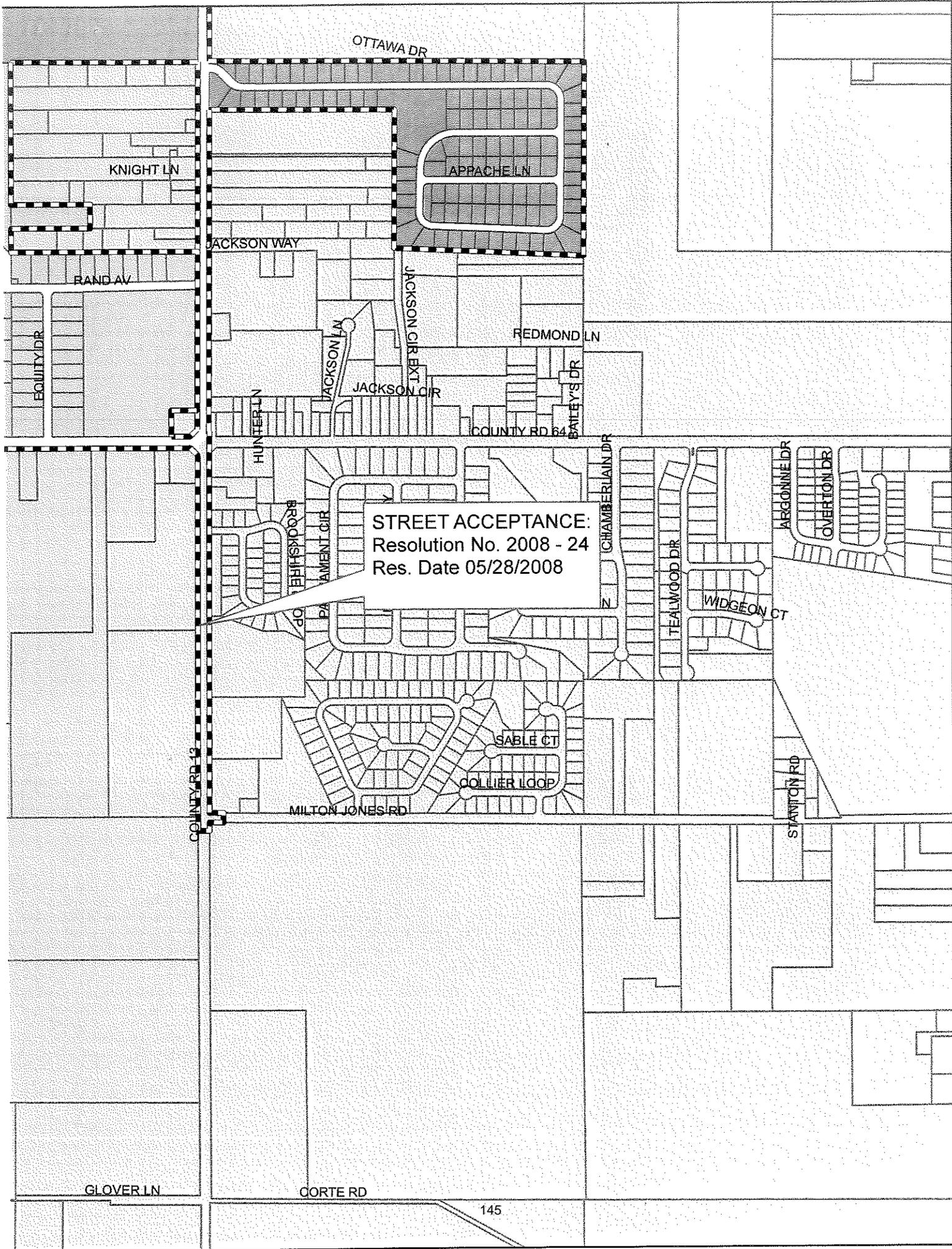
*STREET
ACCEPTANCE*

Proposed County Road 13 Segment Annexation From County Road 64 to Milton Jones Road



Legend
 ----- Right of Way Centerline

Drawing not to scale
 Map prepared by the City of Daphne
 Community Development Department
 4/24/2008



OTTAWA DR

KNIGHT LN

APACHE LN

JACKSON WAY

RAND AV

EQUITY DR

REDMOND LN

JACKSON CIR EXT

JACKSON CIR

COUNTY RD 64

BAILEY'S DR

HUNTER LN

JACKSON LN

STREET ACCEPTANCE:
Resolution No. 2008 - 24
Res. Date 05/28/2008

CHAMBERLAIN DR

ARGONNIE DR

OVERTON DR

BROOKSHIRE LOOP

PALMAMENT CIR

TEALWOOD DR

WIDGEON CT

SABLE CT

COLLIER LOOP

COUNTY RD 13

MILTON JONES RD

STANTON RD

GLOVER LN

CORTE RD

145

*City of Daphne Map
Edits*

REZONE

January 1, 2008 – July 1, 2008

RE-ZONE
Ordinance No. 2008 - 05
Ord. Date 01/23/2008
from R-3 to B-1

TRIONE AV

BRYER AV

DAPHNE CT

FALKENBERRY LN

COLLEGE AV

HALLS LN

HALLS LN

BONITA AV

DELACHASE CT

PERCH ST

BASS ST

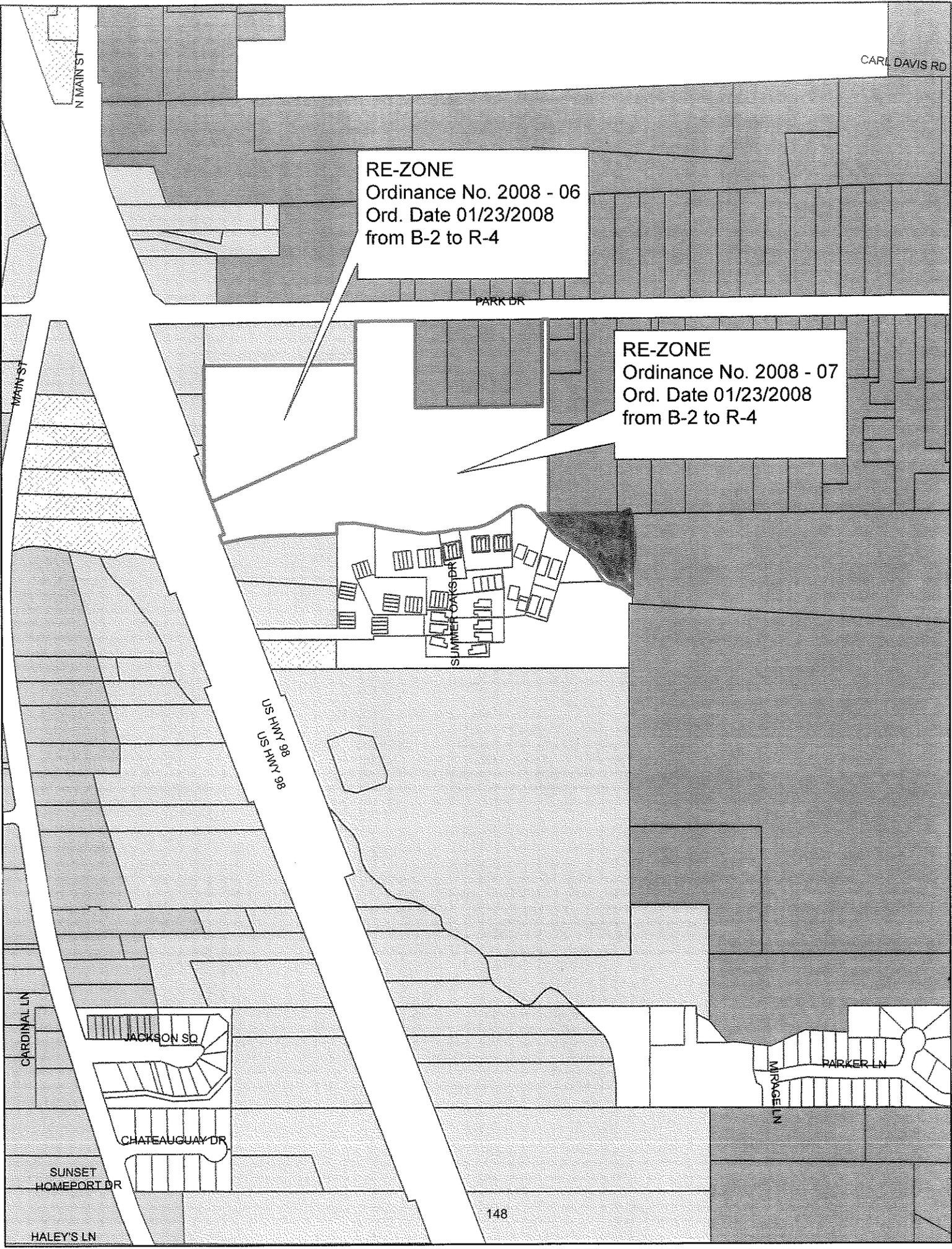
VAN AV

VAN AV

US HWY 98

US HWY 98

STANTON RD



CARL DAVIS RD

RE-ZONE
Ordinance No. 2008 - 06
Ord. Date 01/23/2008
from B-2 to R-4

RE-ZONE
Ordinance No. 2008 - 07
Ord. Date 01/23/2008
from B-2 to R-4

PARK DR

SUMMER OAKS DR

US HWY 98
US HWY 98

N MAIN ST

MAIN ST

CARDINAL LN

JACKSON SQ

CHATEAUGUAY DR

SUNSET
HOMEPORT DR

HALEY'S LN

MIRABEAU LN

PARKER LN

148

CITY OF DAPHNE

*ZONE & STREET
MAP EDITS*

January 1, 2008 – July 1, 2008



The Jubilee City

*Prepared by: Nancy Anderson, GIS Technician, City of Daphne Community Development
July 16, 2008*

CITY OF DAPHNE ZONE MAP & STREET MAP CHANGES
January 1,2008 – July 1, 2008

This report corresponds to the Zone & Street map edits for the period of January 1, 2008 – July 1, 2008. The red numbers on the left-hand margin of this report serve as a key to the map & should be used to identify the particular edit on the map. These edits are further identified on the map by stick-on arrow indicators, with the corresponding assigned number written in a circle above or beside the arrow.

The date displayed at the end of each line of this report is either the date of the Planning Commission Meeting, in which the project was approved or the date the City Council signed the approval ordinance or resolution for the given project.



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*City of Daphne Map
Edits*

SUBDIVISIONS

January 1, 2008 – July 1, 2008

SHRINER AV

BYC

D'OLIVE BLVD
D'OLIVE BLVD

PINERIDGE RD
LAKE FOREST BL
LAKE FOREST BLVD

GRANT ST

CHESHIRE LN

LINCOLN ST

SUBDIVISION
Darring Business
1.96 Acres +/- 3 lots
01/24/2008

HARRISON ST

2ND ST

US HWY 98
US HWY 98

5TH ST

VAN BUREN ST

EAGLE DR

EISENHOWER WAY

JACKSON ST

MONROE ST

2ND ST

BAY BLUFF SD
MADISON ST

ACADEMY DR

N MAIN ST

SPINNAKER RUN SSPINNAKER RUN N

WINDSOR DR
WINDSOR DR

D'OLIVE CT

SEA CLIFF DR N

HANOVER DR

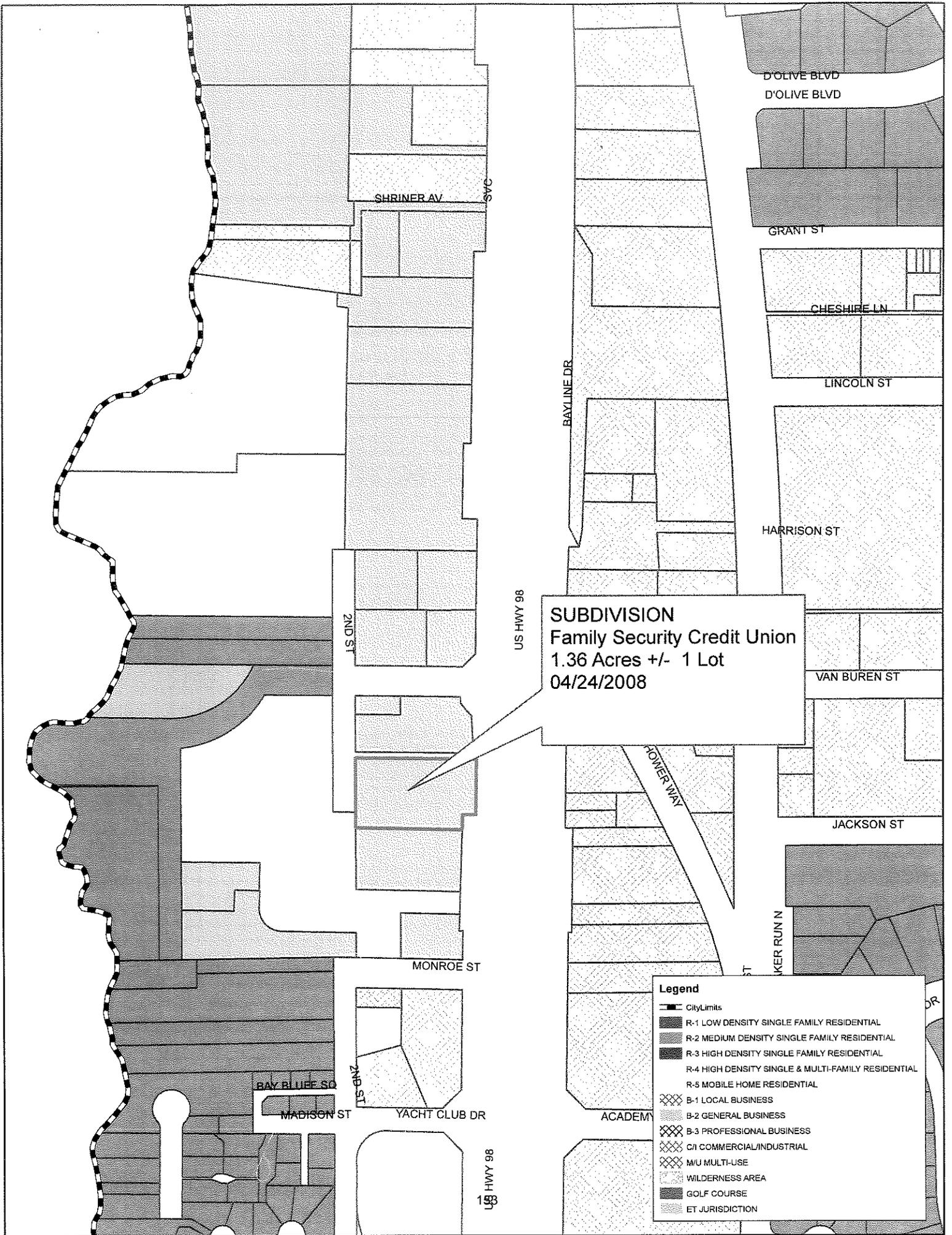
YACHT CLUB DR

JASON CIR

LANCASTER WAY
GOLDEN CIR

VEGA CIR

152



SUBDIVISION
 Family Security Credit Union
 1.36 Acres +/- 1 Lot
 04/24/2008

- Legend**
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 - B-3 PROFESSIONAL BUSINESS
 - C/I COMMERCIAL/INDUSTRIAL
 - M/U MULTI-USE
 - WILDERNESS AREA
 - GOLF COURSE
 - ET JURISDICTION

SHRINER AV

D'OLIVE BLVD

GRANT ST

CHESHIRE LN

LINCOLN ST

HARRISON ST

VAN BUREN ST

JACKSON ST

MONROE ST

BAY BLUFF SQ

MADISON ST

YACHT CLUB DR

ACADEMY

POWER WAY

BAYLINE DR

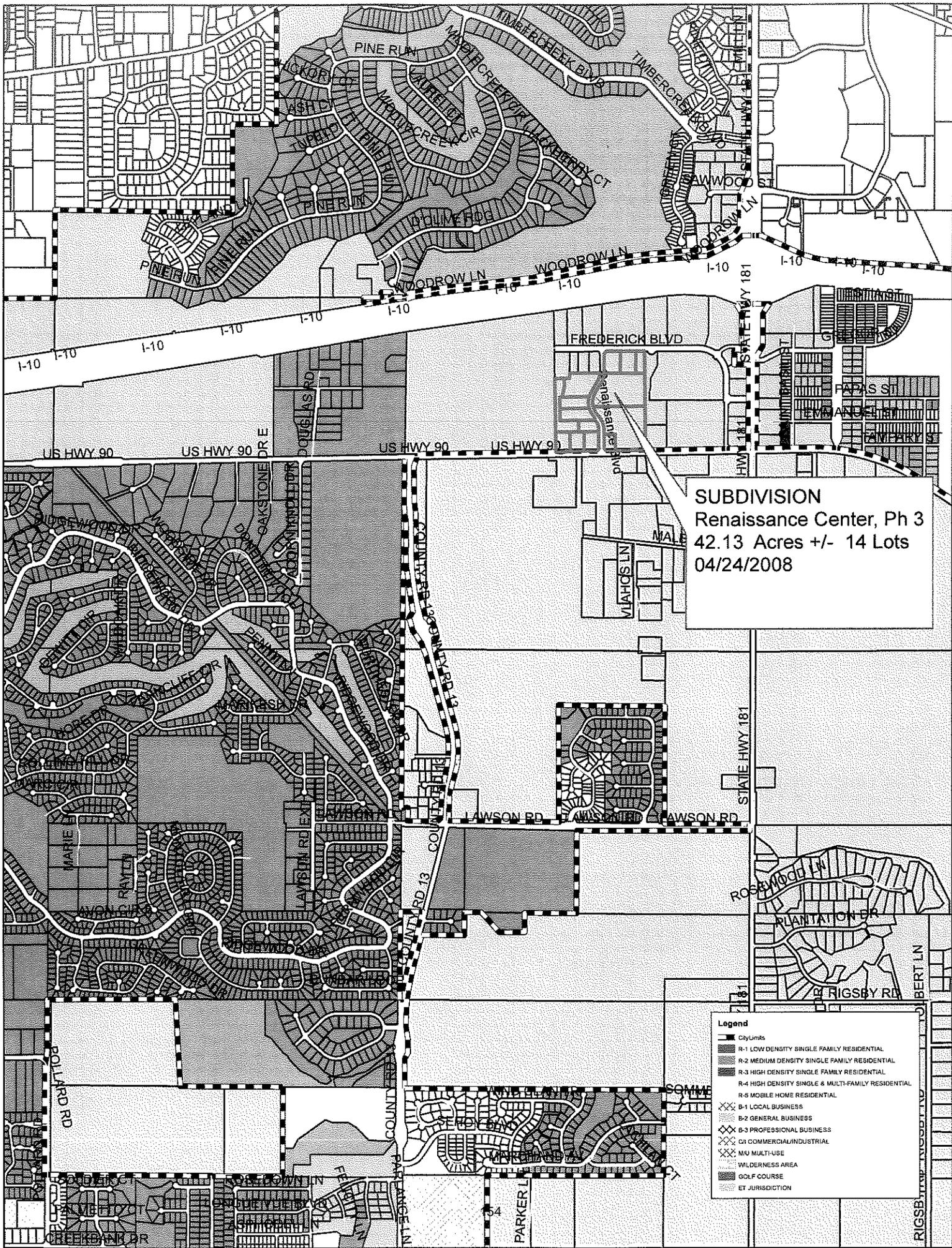
US HWY 98

US HWY 98

2ND ST

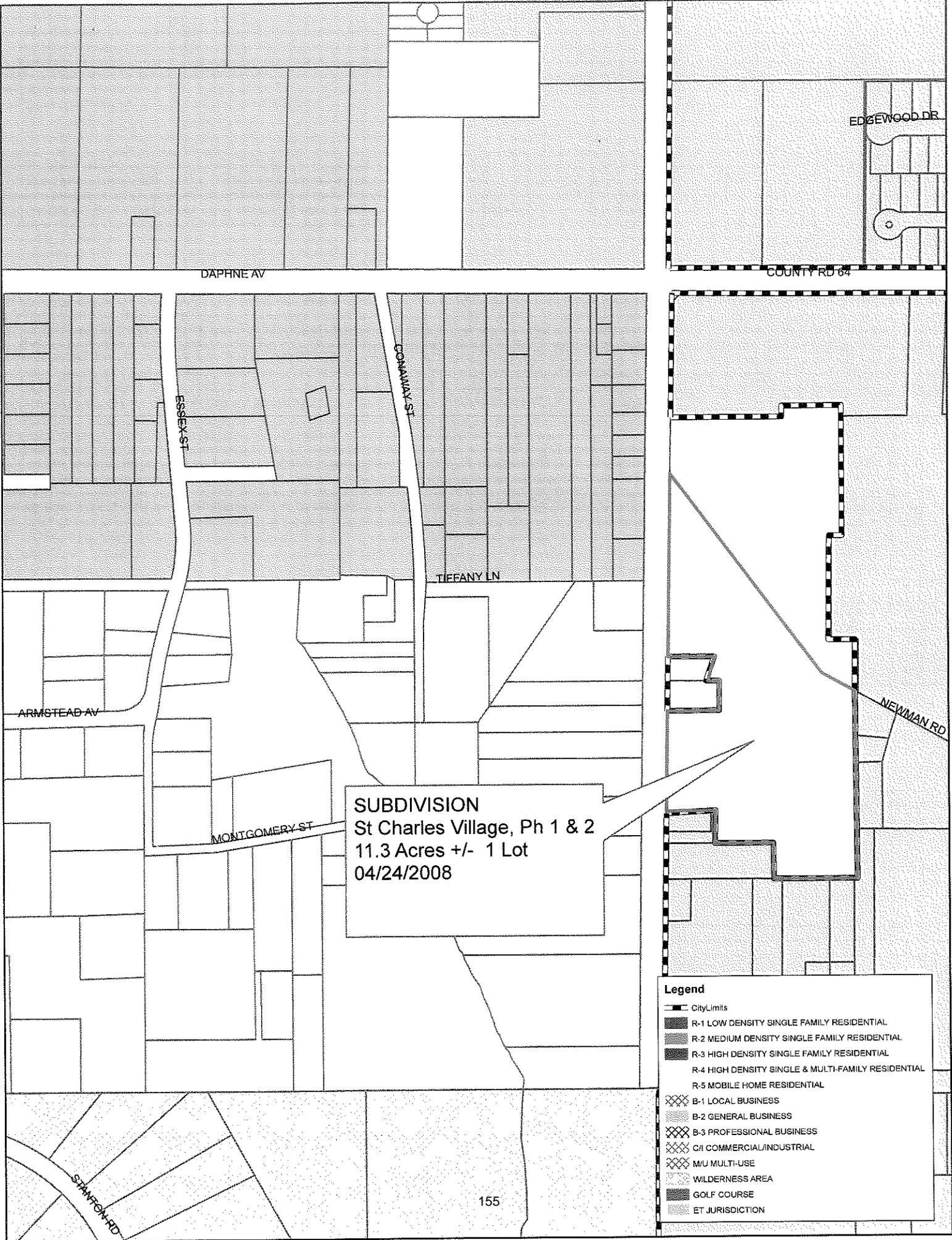
15-GAN ST

SVC



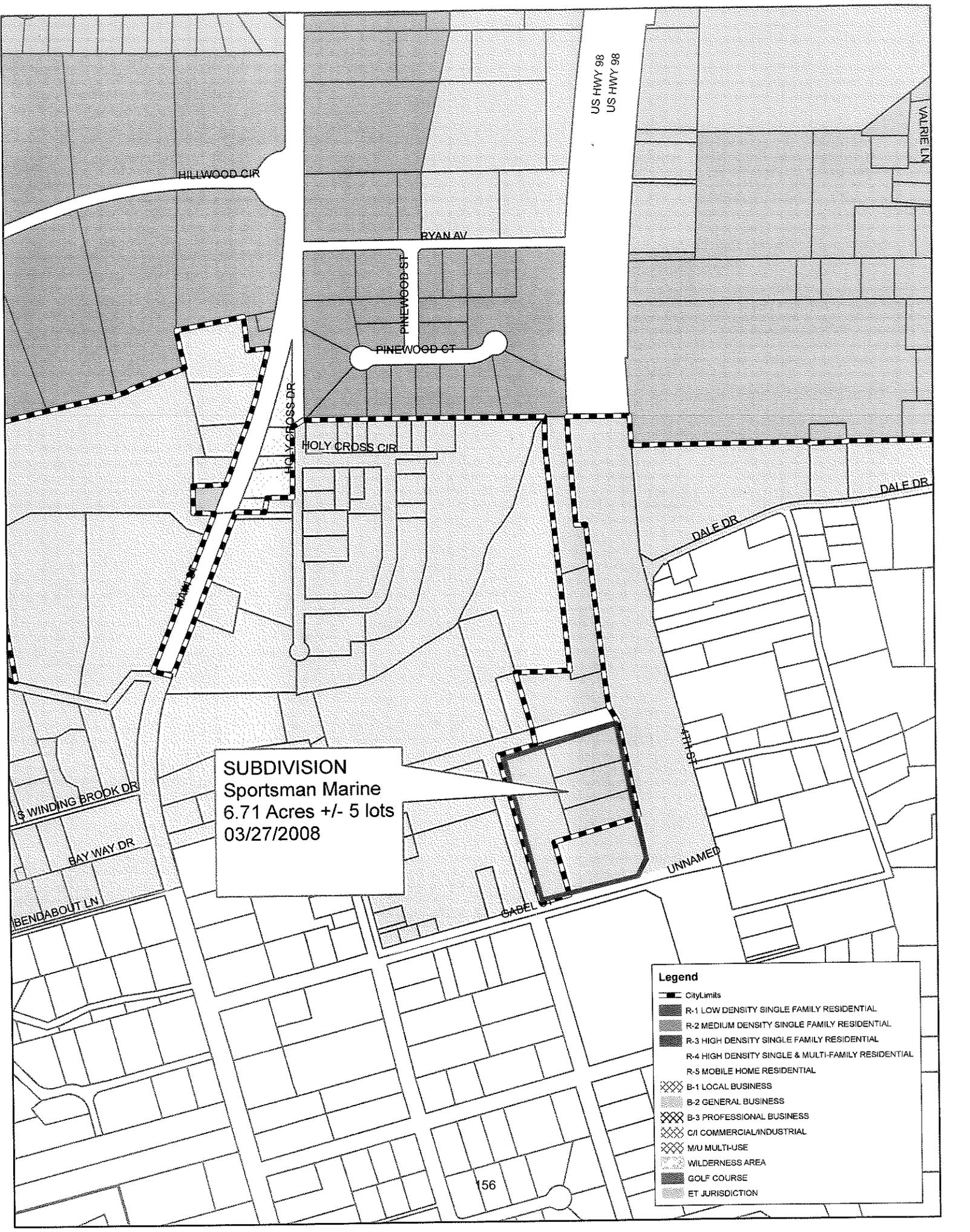
SUBDIVISION
Renaissance Center, Ph 3
42.13 Acres +/- 14 Lots
04/24/2008

- Legend**
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 - R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
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 - R-5 MOBILE HOME RESIDENTIAL
 - B-1 LOCAL BUSINESS
 - B-2 GENERAL BUSINESS
 - B-3 PROFESSIONAL BUSINESS
 - CI COMMERCIAL/INDUSTRIAL
 - MU MULTI-USE
 - WLD WILDERNESS AREA
 - GC GOLF COURSE
 - ET JURISDICTION



SUBDIVISION
 St Charles Village, Ph 1 & 2
 11.3 Acres +/- 1 Lot
 04/24/2008

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 - C/I COMMERCIAL/INDUSTRIAL
 - M/U MULTI-USE
 - WILDERNESS AREA
 - GOLF COURSE
 - ET JURISDICTION



SUBDIVISION
 Sportsman Marine
 6.71 Acres +/- 5 lots
 03/27/2008

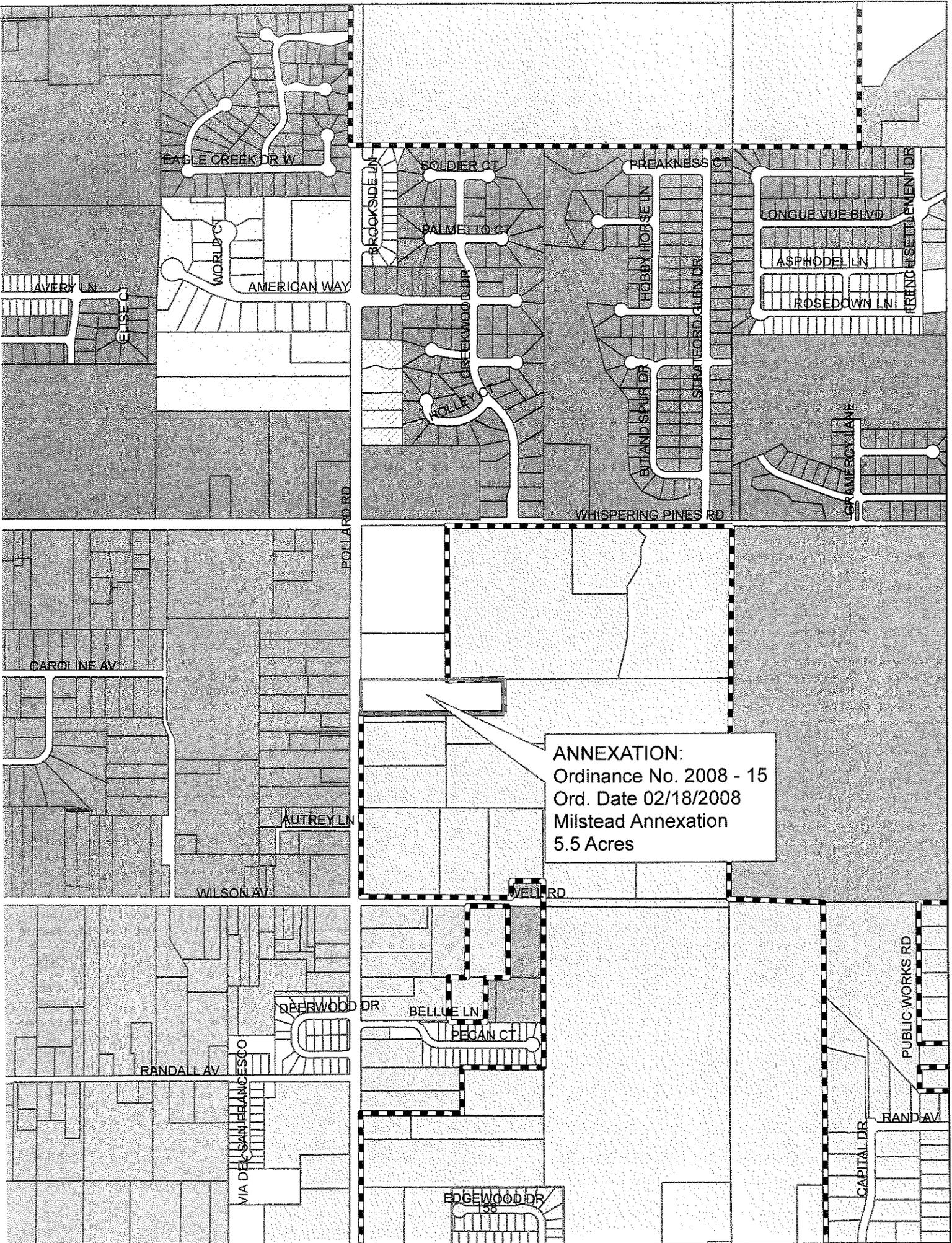
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 - R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
 - R-4 HIGH DENSITY SINGLE & MULTI-FAMILY RESIDENTIAL
 - R-5 MOBILE HOME RESIDENTIAL
 - B-1 LOCAL BUSINESS
 - B-2 GENERAL BUSINESS
 - B-3 PROFESSIONAL BUSINESS
 - C/I COMMERCIAL/INDUSTRIAL
 - M/U MULTI-USE
 - WILDERNESS AREA
 - GOLF COURSE
 - ET JURISDICTION

156

*City of Daphne Map
Edits*

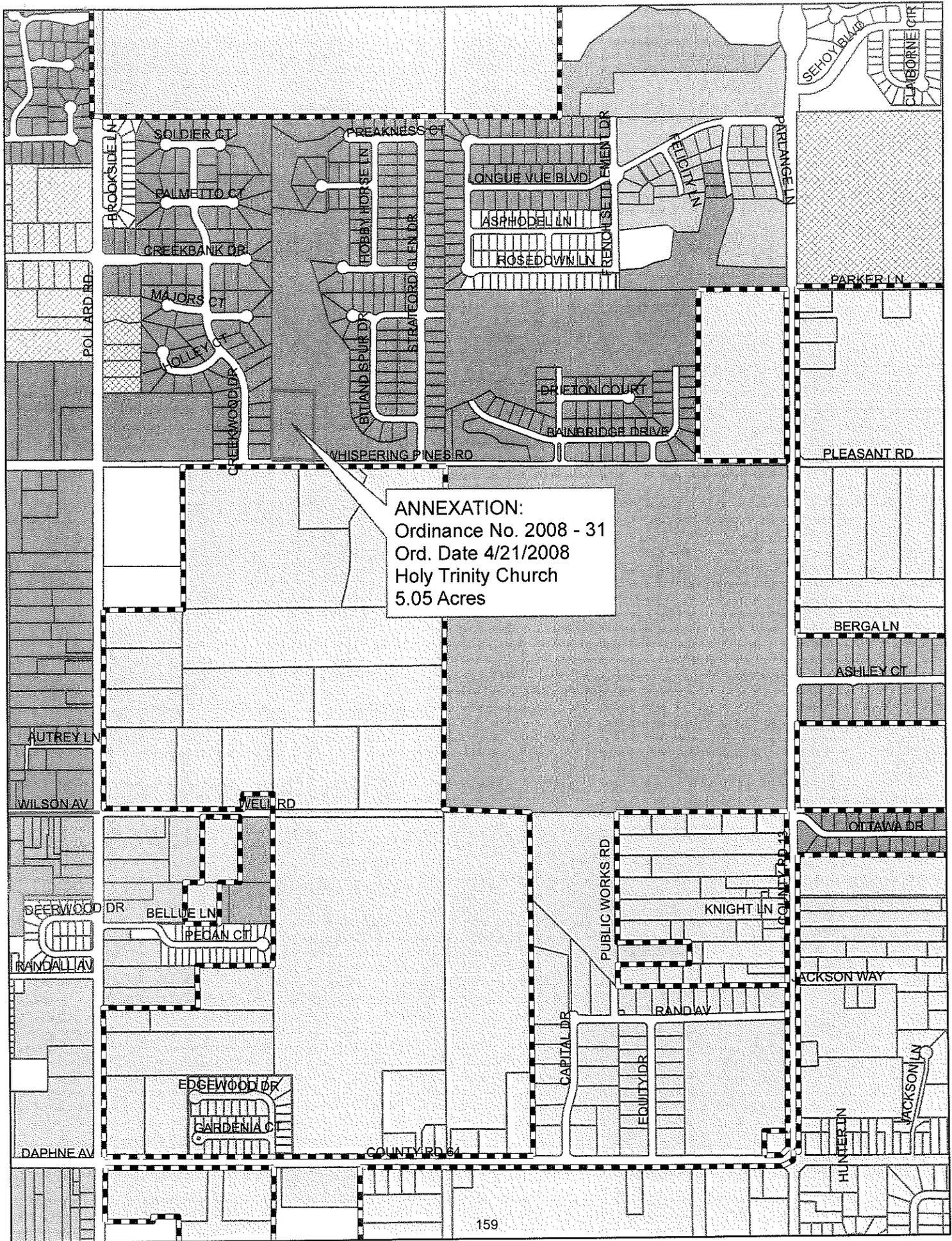
ANNEXATIONS

January 1, 2008 – July 1, 2008



ANNEXATION:
Ordinance No. 2008 - 15
Ord. Date 02/18/2008
Milstead Annexation
5.5 Acres

EDGEWOOD DR
138

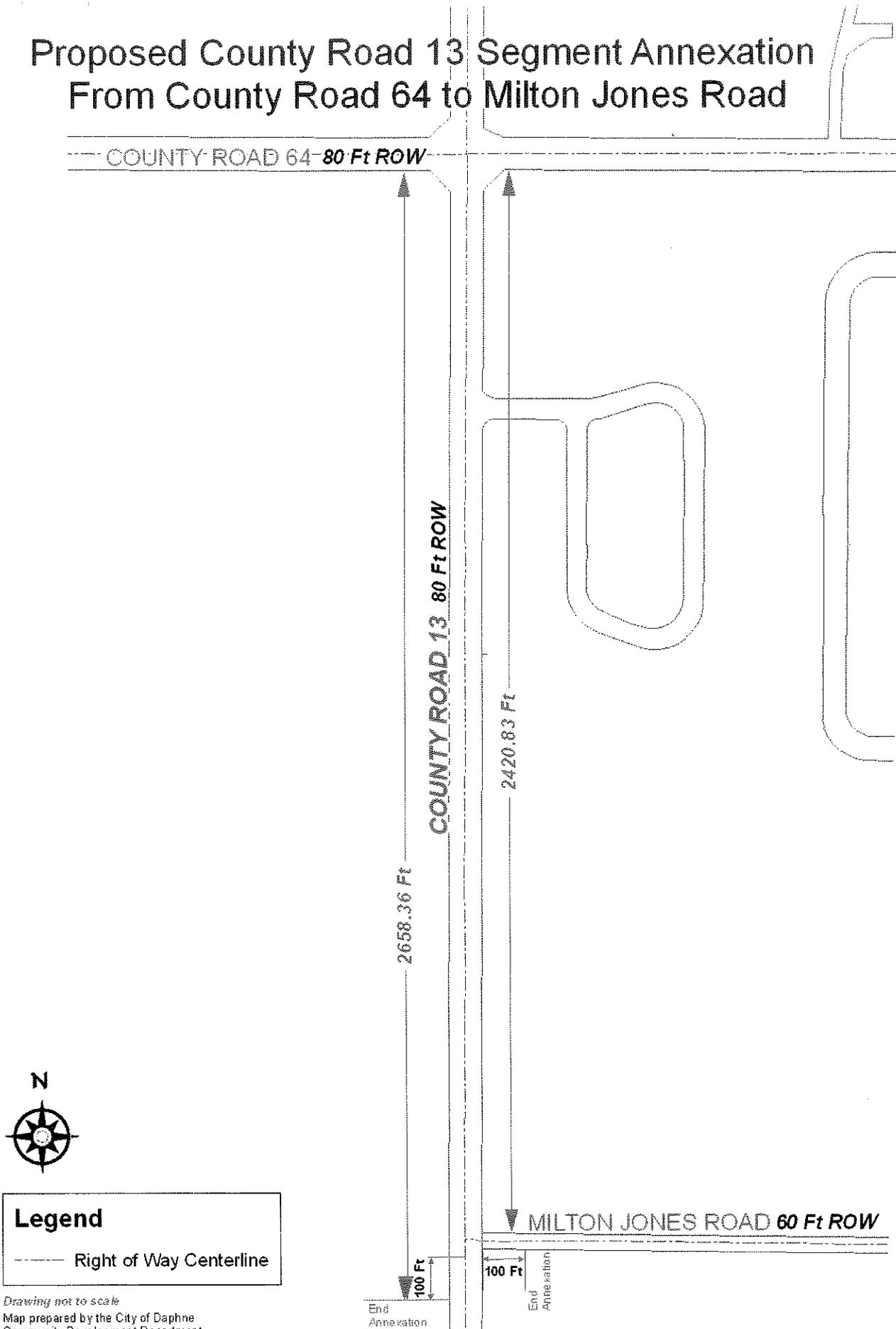


ANNEXATION:
Ordinance No. 2008 - 31
Ord. Date 4/21/2008
Holy Trinity Church
5.05 Acres

*City of Daphne Zone Map
Edits*

*STREET
ACCEPTANCE*

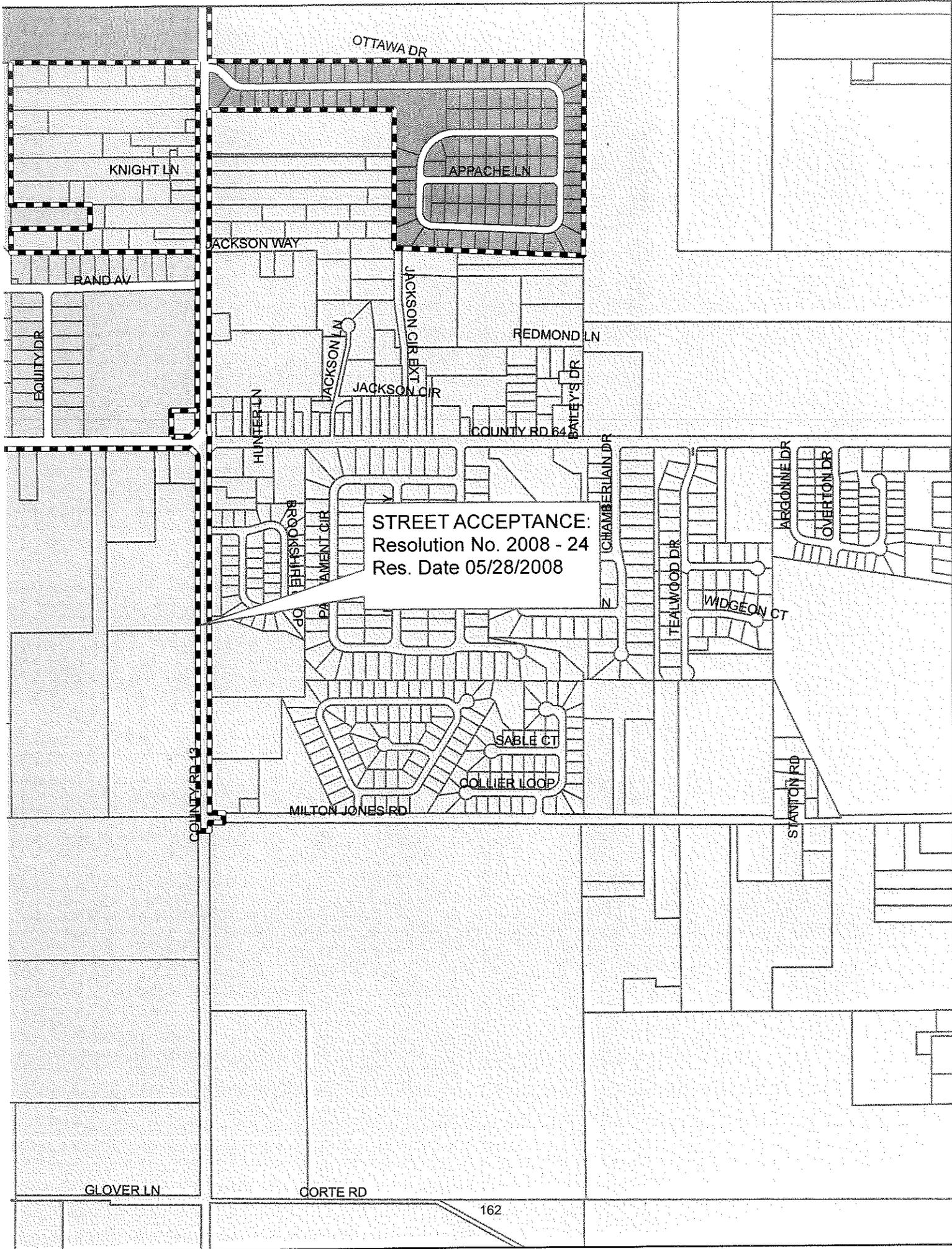
Proposed County Road 13 Segment Annexation From County Road 64 to Milton Jones Road



Legend

----- Right of Way Centerline

Drawing not to scale
Map prepared by the City of Daphne
Community Development Department
4/24/2008



OTTAWA DR

KNIGHT LN

APACHE LN

JACKSON WAY

RAND AV

EQUITY DR

REDMOND LN

JACKSON CIR EXT

JACKSON CIR

COUNTY RD 64

BAILEY'S DR

HUNTER LN

JACKSON LN

STREET ACCEPTANCE:
Resolution No. 2008 - 24
Res. Date 05/28/2008

CHAMBERLAIN DR

ARGONNE DR

OVERTON DR

BROOKSHIRE LOOP

PALMAMENT CIR

TEALWOOD DR

WIDGEON CT

SABLE CT

COLLIER LOOP

COUNTY RD 13

MILTON JONES RD

STANTON RD

GLOVER LN

CORTE RD

*City of Daphne Map
Edits*

REZONE

January 1, 2008 – July 1, 2008

RE-ZONE
Ordinance No. 2008 - 05
Ord. Date 01/23/2008
from R-3 to B-1

TRIONE AV

BRYER AV

DAPHNE CT

FALKENBERRY LN

COLLEGE AV

HALLS LN

HALLS LN

BONITA AV

DELACHASE CT

PERCH ST

BASS ST

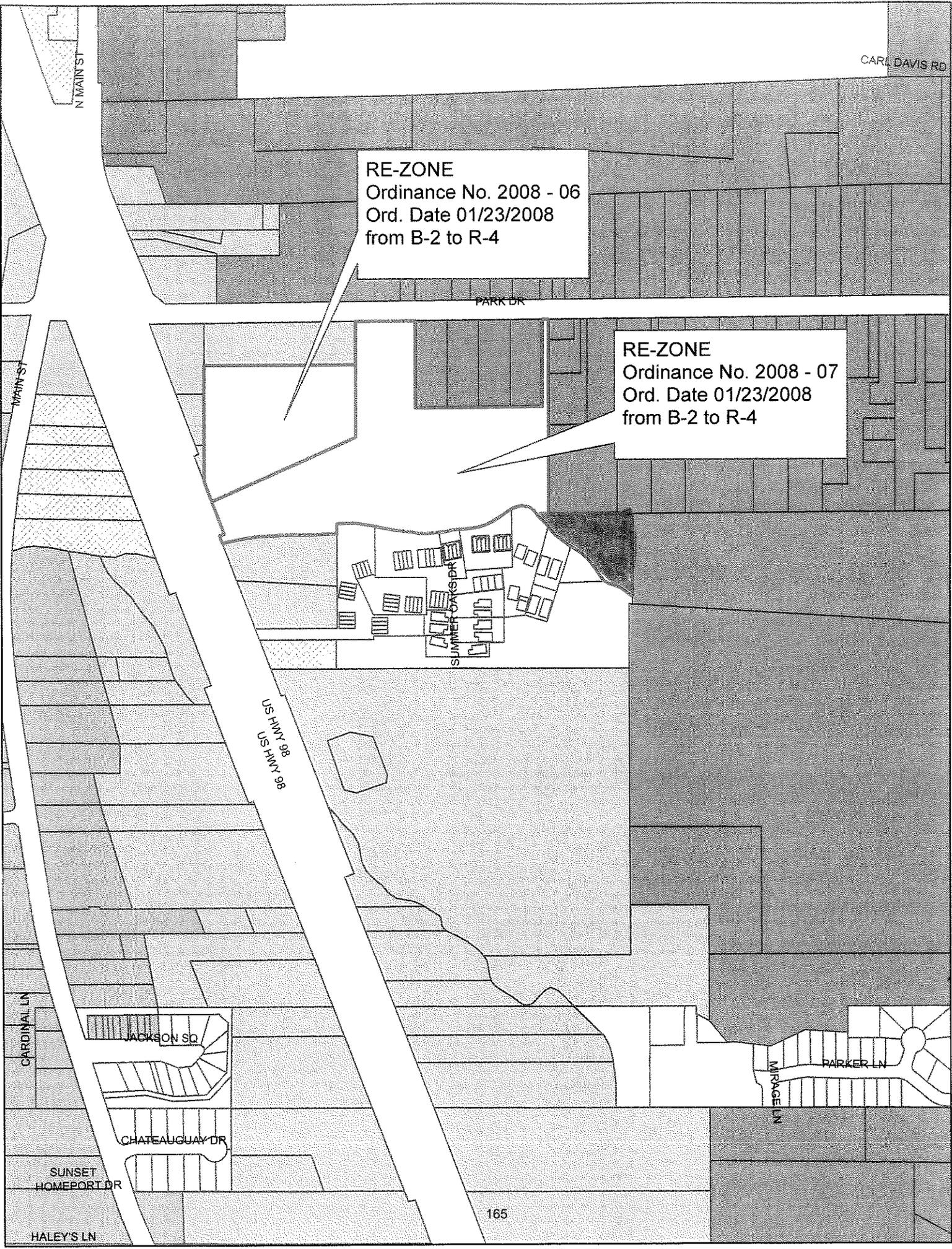
VAN AV

VAN AV

US HWY 98

US HWY 98

STANTON RD



CARL DAVIS RD

RE-ZONE
Ordinance No. 2008 - 06
Ord. Date 01/23/2008
from B-2 to R-4

RE-ZONE
Ordinance No. 2008 - 07
Ord. Date 01/23/2008
from B-2 to R-4

PARK DR

SUMMER OAKS DR

US HWY 98
US HWY 98

MAIN ST

N MAIN ST

CARDINAL LN

JACKSON SQ

CHATEAUGUAY DR

SUNSET
HOMEPORT DR

HALEY'S LN

MIRABEAU LN

PARKER LN

ORDINANCE 2008-58

An Ordinance Extending Fiscal Year 2008 Budget Authority

WHEREAS, the Fiscal Year 2009 budget has not been approved and adopted by the Daphne City Council; and

WHEREAS, Fiscal Year 2009 began October 1, 2008; and

WHEREAS, it is necessary to extend the authority of the Fiscal Year 2008 budget in order to continue essential departmental operations until such time as the Fiscal Year 2009 budget is approved and adopted.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Daphne, Alabama, that departmental operations shall continue under the authority of the Fiscal Year 2008 budget until such time as the Fiscal Year 2009 budget is adopted.

Greg Burnam,
Council President
Date & Time Signed:_____

Fred Small,
Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk, MMC