

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

- 1. CALL TO ORDER**
- 2. ROLL CALL/INVOCATION /
PLEDGE OF ALLEGIANCE**
- 3. APPROVE MINUTES:** Council meeting minutes / November 15, 2010
Council Work Session Minutes / November 29, 2010

PUBLIC HEARING:

1. Amending the Land Use Ordinance / Table of Permitted Uses / Add a bowling alley and Entertainment Center as a use allowed upon Planning Commission approval in a B-1, Local Business District / **Ordinance 2010-69**
2. Amending the Land Use Ordinance / Table of Permitted Uses / For the designation of a convenience store by right in a B-1, Local Business District, as a use allowed upon Planning Commission approval / **Ordinance 2010-70**

4. REPORT STANDING COMMITTEES:

- A. FINANCE COMMITTEE / Boulware**
- B. BUILDINGS & PROPERTY - Lake**
Review minutes / November 1st
- C. PUBLIC SAFETY – Palumbo**
- D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Palumbo**
- E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding**
Review minutes / October 18th

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

- A. Board of Zoning Adjustments – Jones**
Re-appoint:
 - a.) Glen Swaney / Term to end May 2013
 - b.) Willie Robison / Term to end November 2013
- B. Downtown Redevelopment Authority – Barnette**
Review minutes / November 22nd
- C. Industrial Development Board – Yelding**
- D. Library Board – Lake**
Review minutes / October 7th
- E. Planning Commission – Barnette**
Review minutes October 28th
 - 1.) Set Public Hearing date for January 3, 2011 to consider:
 - a.) **Rezone:** Plan B Investments
Located: Northeast of the intersection of Parker Lane and Whispering Pines Road
Northwest of Madison Place Subdivision
Present Zoning: R-3, High Density single Family Residential District
Requested Zoning: R-4, High Density Single Family Residential District
Recommendation: **Recommend Approval** / Unanimous

- b.) **Rezone:** MPWS, LLC
Located: Southwest corner of Lawson Road and County Road 13
Present Zoning: B-1, Local Business District
Requested Zoning: B-2, General Business District
Recommendation: *Unfavorable* / Eight members present / Seven members voted in the affirmative and one dissented

- F. Recreation Board – Reese
- G. Utility Board - Scott

6. REPORTS OF OFFICERS:

- A. Mayor’s Report
 - a.) AIG Baker Development Agreement: Sixth Amendment and Supplement / Resolution 2010-110
 - b.) **MOTION:** To execute any documents with CimCo Refrigeration, LLC which are necessary for the placement and operation of the temporary skating rink at Jubilee Square
- B. City Attorney’s Report

C. Department Head Comments

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) Street Acceptance / Oldfield Subdivision, Phase One /Resolution 2010-107
- b.) Street Acceptance / Caroline Woods Subdivision, Phase Two A /Resolution 2010-108
- c.) Street Acceptance / Dunmore Subdivision, Phase Two, Part B /Resolution 2010-109
- d.) AIG Baker Development Agreement: Sixth Amendment & Supplement. . . . /Resolution 2010-110

ORDINANCES:

2ND READ

- a.) Hwy 98 Median Engineering/Agreement with ALDOT. /Ordinance 2010-68

1ST READ

- b.) Amending the Land Use Ordinance Table of Uses and Conditions / Bowling Alley & Family Entertainment Center. /Ordinance 2010-69
- c.) Amending the Land Use Ordinance Table of Uses and Conditions / Convenient Store. /Ordinance 2010-70
- d.) Fiscal Year 2011 Budget. /Ordinance 2010-71

9. COUNCIL COMMENTS

10. ADJOURN

**CITY OF DAPHNE
CITY COUNCIL MEETING**

ROLL CALL

CITY COUNCIL:

CALL VOTES

COUNCILMAN YELDING

PRESENT__ ABSENT__ __

COUNCILWOMAN BARNETTE

PRESENT__ ABSENT__

COUNCILMAN LAKE

PRESENT__ ABSENT__ __

COUNCILMAN BURNAM

PRESENT__ ABSENT__ __

COUNCILMAN SCOTT

PRESENT__ ABSENT__ __

COUNCILMAN BOULWARE

PRESENT__ ABSENT__ __

COUNCILMAN PALUMBO

PRESENT__ ABSENT__ __

MAYOR

MAYOR SMALL

PRESENT__ ABSENT__ __

CITY CLERK:

DAVID L. COHEN

PRESENT__ ABSENT__

CITY ATTORNEY:

CITY ATTORNEY JAY ROSS

PRESENT__ ABSENT

MINUTE NOTES:

**CITY COUNCIL MEETING
MINUTES**

NOTES:

COMMITTEE RECOMMENDATIONS

**NOVEMBER 15, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

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

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Invocation was given by Councilman Reese.

COUNCIL MEMBERS PRESENT: Bailey Yelding left at 7:55 p.m.; Cathy Barnette; John Lake; Kelly Reese; Ron Scott; Derek Boulware; August Palumbo.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; James White, Fire Chief; Tonja Young, Library Director; Richard Johnson, Public Works Director; Adrienne Jones, Planning Director; David Carpenter, Police Chief Kim Briley, Finance Director; Richard Merchant, Building Official; Margaret Thigpen, Civic Center Director; David McKelroy, Recreation Director; Vickie Hinman, Human Resource Director; Jane Robbins, Mayor's Assistant; Battalion Chief Joey Holasz, Fire Department; Dorothy Morrison, Beautification Committee; Tomasina Werner, Beautification Committee.

3. APPROVE MINUTES

**MOTION BY Councilman Yelding to approve the November 1, 2010 council meeting minutes.
*Seconded by Councilman Lake.***

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

**MOTION BY Councilman Scott to approve the November 8, 2010 Council Work Session minutes.
*Seconded by Councilman Lake.***

AYE Lake, Reese, Scott, Boulware, Barnette ABSTAIN Boulware, Palumbo

MOTION CARRIED

PRESENTATION: Scott Hunter / James & Associates

Mr. Hunter gave a presentation on the qualifications of his company to invest money for the city.

PRESENTATION: Kellie Meyers / Arthritis Foundation

Mrs. Meyers presented a list of requests for a post party for the Jingle Bell Run being held December 4, 2010.

MOTION BY Councilman Lake to approve the requests listed below for the Arthritis Foundation's Jingle Bell Run being held December 4, 2010:

1. Permission to use the City Hall lawn
2. Permission to run power from City Hall for the music (DJ) and inflatables in the children's area
3. Permission to cook and serve food and adult beverages on site
4. Permission to serve beer at the event pending the Foundation meeting insurance requirements (Liability insurance provided with the city as beneficiary)
5. Permission to have port-o-lets at the event
6. Permission to have signage along the race route and around the event / Yard signs
7. Permission to have music and announcements
8. Permission to have a health fair set up at the event
- 9.

Seconded by Councilman Scott.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

DISCUSSION: I-10 SERVICE ROAD

This will be discussed after Public Participation.

Council President Barnette announced that Resolution 2010-104 has been pulled from the agenda.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE – Boulware

The minutes for the Special Finance meeting held November 1st, and the regular meeting held November 8th are in the packet.

Treasurers Report / October 31, 2010

MOTION BY Councilman Boulware to accept the Treasurers Report as of October 31, 2010 in the amount of \$19,424,148.43. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Sales & Use Tax / September 30, 2010

Sales and Use Tax Collected for September 2010	- \$ 841,035
Sales and Use Tax Budgeted for September 2010	- \$ <u>859,320</u>
Under Budget (for September)	- \$ (18,285)

YTD Budget Collections Variance – Over Budget - \$ 225,965

**NOVEMBER 15, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

Ms. Briley noted that the total collected for FY 2010 is \$9,934,178.81 which is \$225,965.31 over budget, but down from FY 2009 collections by \$105,368.34.

Lodging Tax Collections, September 30, 2010

The Lodging Tax Collections report shows \$52,662.79 collected for September 2010 and \$643,461.54 collected for FY 2010.

The next meeting will be December 13th at 4:00 p.m. in the Executive Conference Room

MOTION: Set Work Session Date

MOTION BY Councilman Scott to set a Work Session date for November 29, 2010 at 6:30 p.m. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Back to the Finance Report

MOTION: To authorize the Mayor and Finance Director to work with Gardnyr Michael Capital, and Hand Arendall (legal counsel) to move forward with the restructuring and refunding of the 2002 Warrants

MOTION BY Councilman to authorize the Mayor and Finance Director to work with Gardnyr Michael Capital, and Hand Arendall (legal counsel) to move forward with the restructuring and refunding of the 2002 Warrants. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

The committee will have a special called meeting to discuss having alcohol at the Civic Center, and try to find a solution to the problem.

C. PUBLIC SAFETY COMMITTEE –

The committee did not meet in November, but the items on the agenda will be carried over to the December meeting.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

The committee did not meet in November, but the items on the agenda will be carried over to the December meeting.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding
Report on projects: the round-about project is almost complete there is just a few things that need to be finalized, the project around Bayside is finished, and the May Day Boat Ramp is finished, and a new project is about to begin at Whispering Pines Road from Pollard Road to Highway 98.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Mrs. Jones
No report.

B. Downtown Redevelopment Authority – Barnette
No report. The next meeting will be Monday at 5:15 p.m. in the Executive Conference room.

C. Industrial Development Board – Yelding
No report.

D. Library Board – Lake
No report.

E. Planning Commission – Barnette
The minutes for the September 23rd meeting are in the packet.

MOTION BY Councilman Yelding to set a Public Hearing date for **December 20, 2010** to consider:

- a.) **Rezone: Big Sandy / 0.72 acres**
Located: Southeast of the intersection of U.S. Highway 98 and Johnson Road
Present Zoning: B-2, General Business
Requested Zoning: R-4, High Density Multi-Family Residential District
Planning Commission Recommendation: Unanimous Favorable

- b.) **Rezone: TDG Lake Forest, LLC / 2.92 acres & 3.39 acres**
Located: Southeast of Van Buren Street and North Main Street
Present Zoning: B-1, Local Business and R-3, High Density Single Family Residential District
Requested Zoning: R-4, High Density Multi-Family Residential District
Planning Commission Recommendation: Unfavorable / Six members present / Five members voted in the affirmative and one dissented. A supermajority is required for a favorable recommendation

Seconded by Councilman Scott.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

F. Recreation Board – Reese
No report.

G. Utility Board – Scott

**NOVEMBER 15, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

The minutes for the August 25th and September 29th meetings are in the packet. The next meeting will be the last Wednesday of the month at 5:00 p.m. Councilman Scott reported that Mr. Ross and Mr. Speegle are close to getting the property issues worked out.

Mr. Ross stated that the proper procedure is to take it to the Buildings and Property Committee first, and then come to council.

6. REPORTS OF THE OFFICERS:

A. Mayor's Report

- a.) Parade Permit / Apollo's Mystic Ladies / Mardi Gras / February 25, 2011 / Rain Date March 3, 2011

MOTION BY Councilman Scott to approve the Parade Permit for Apollo's Mystic Ladies Mardi Gras / February 25, 2011 / Rain Date March 3, 2011. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

B. City Attorney Report

No report.

C. Department Head Comments

Richard Johnson – Public Works Director – reminded everyone that the holidays are challenging, and that there would not be any garbage pickup on Thursday or Friday. If a citizen's garbage pickup day is Thursday or Friday of next week the garbage pickup would be the Wednesday before Thanksgiving. He said that they had some complaints regarding Veterans Day.

Councilman Palumbo asked Mr. Johnson if he would get them an update on the delinquent garbage fee collections.

Vickie Hinman – Human Resource Director – reported that the posting for the Revenue Officer position closed last Friday, and they have been sent to the Finance Director for review.

David McKelroy – Recreation Director - reported that the Christmas Parade will be December 3rd at 6:30 p.m., and the Tree Lighting and Christmas Open House will be at 5:30 p.m. If the Daphne High School Trojans are into the Super 6 Playoffs then the Christmas Parade would be on December 2nd with approval from council.

MOTION BY Councilman Scott to suspend the rules to consider a motion to approve the Christmas Parade contingency date of December 2, 2010 in the event that Daphne High School is in the State Finals. *Seconded by Council Palumbo.*

ROLL CALL VOTE

Yelding	Aye	Boulware	Aye
Lake	Aye	Palumbo	Aye
Reese	Aye	Barnette	Aye
Scott	Aye		

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to approve the Christmas Parade contingency date of December 2, 2010 in the event that Daphne High School is in the State Finals. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Mr. McKelroy invited everyone to come out the home game where Daphne will be hosting Wetumpka. He also reported that Daphne basketball starts tonight.

Adrienne Jones – Planning Director – reported that the Planning Commission meets Thursday.

David Cohen – City Clerk – reported that the Industrial Development Board will meet Monday.

7. PUBLIC PARTICIPATION

Mr. Rod Drummond – Ridgewood Drive – spoke regarding of burglaries in the neighborhood, the rash of alarm companies coming the their homes, the sound system that seems not to be working, the interest rate for the bond issue, and he asked for a list of the Volunteer Firefighters.

Mr. John Steadman – TimberCreek – spoke against supporting the I-10 Service Road.

Councilman Palumbo asked that Mr. Steadman’s written comments submitted to him be entered into the record. (*Written comments are spread out upon these minutes.*)

Mrs. Tomasina Werner –109 Brentwood Drive – spoke against supporting the I-10 Service Road.

Mr. David Chalk – President of the TimberCreek Home Owners Association - spoke against supporting the I-10 Service Road.

Mrs. Frieda Romanchuk - 30615 Laurel Court - spoke against supporting the I-10 Service Road.

Mr. Chester McConnell - 8803 Pine Run – spoke against the developments around I-10, because of the storm water runoff that runs into D’Olive Creek.

Mr. John Davis – 30757 Pine Court – spoke against supporting the I-10 Service Road.

Mr. Ian Walters – Daphne – spoke against supporting the I-10 Service Road.

Mr. Tom O’Hare – TimberCreek – spoke against supporting the I-10 Service Road.

MOTION BY Councilman Palumbo in response to the motion of the current Baldwin County Commission requesting financial assistance and support to complete the I-10 Service Road project, the City of Daphne City Council hereby re-affirms the previously adopted Resolution 2010-37 of April 19, 2010 (attached) and does not support financially or in any other way the construction of this roadway; and further urges that all attempts to build such roadway be abandoned. *Seconded by Councilman Lake.*

Councilman Scott requested a brief recess to discuss a legal matter with the City Attorney regarding his being a county employee, he would like to know if he should recuse himself from the vote.

Council President Barnette said that this is a parliamentary inquiry with the City Attorney, and she granted the recess.

MOTION BY Councilman Scott to table Mr. Palumbo's motion, and continue to let the process go forward so they can look at both sides, because there are conflicting opinions. The folks from TimberCreek have done a fine job of presenting their argument. As with most attorneys, they can argue virtually either side of an issue, and he read, for the record, what the other side of the argument is putting forth:

- 1.) Improving the environment
 - a.) Filling in some very high erodible areas
 - b.) Repairing over 840 linear feet of D'Olive Creek from I-10 to US Hwy 90
 - c.) Securing land between I-10 and US Hwy 90 and placing under a Conservation Easement to permanently allow repair to and control a buffer to D'Olive Creek
 - d.) Dredging Lake Forest Lake
 - e.) Providing detention north of I-10
- 2.) Traffic and Public Safety
 - a.) Reducing traffic on local roads, US Hwy 90, US Hwy 98, AL Hwy 181, US Hwy 31 and I-10
 - b.) Connecting the local shopping complex's with a lower speed
 - c.) Improving Public Safety and roadway system
- 3.) Dredging will also provide a source of fill material and reduce impacts to local borrow pits
- 4.) Provide additional economic benefits to the cities and county
- 5.) Provide assistance to hurricane evacuation by bypassing the potential I-10 congestion, and Providing access to the local north bound routes such as AL Hwy 225, Jimmy Faulkner, etc.

No Second.

MOTION FAILS

VOTE ON MAIN MOTION

AYE Yelding, Lake, Reese, Boulware, Palumbo

NAY Scott

MOTION CARRIES

NOTE: Councilman Yelding left at 7:55 p.m.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

- a.) Bid Award: Daphne Fire Department Training Facility /
Ladas Construction /Resolution 2010-99
- b.) Bid Award: Civic Center Electronic Signage/Modern Signs. /Resolution 2010-100
- c.) Bid Award: Cellular Telephones/800 MHZ Equipment /
Sprint Solutions, Inc. /Resolution 2010-101
- d.) Street Acceptance: Dunmore Subdivision, Phase Two, Part A /
Fionn Loop. /Resolution 2010-102
- e.) Bid Award: Trione Sports Complex Concessions & Bathroom
Facilities /Resolution 2010-103
- f.) EPA STAG Grant: Storm Water Structure Inventory Database /Resolution 2010-104
- g.) Investment Account Manager & Additional Investment /Resolution 2010-105
- h.) Declaring Certain Property Surplus & Authorize the Mayor
to Dispose of Such Property /Resolution 2010-106

MOTION BY Councilman Scott to waive the reading of Resolution 2010-99, 2010-100, 2010-101, 2010-102, 2010-103, 2010-105 and 2010-106. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2010-99. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2010-101. *Seconded by Councilman Palumbo.*

AYE Reese, Scott, Boulware, Palumbo, Barnette NAY Lake

MOTION CARRIED

MOTION BY Councilman Lake to adopt Resolution 2010-100. *No second.*

MOTION FAILS

MOTION BY Councilman Boulware to adopt Resolution 2010-102. *Seconded by Councilman Scott.*

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

MOTION BY Councilman Boulware to adopt Resolution 2010-103. *Seconded by Councilman Reese.*

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

Resolution 2010-104 was pulled from the agenda earlier in the meeting.

MOTION BY Councilman Lake to adopt Resolution 2010-105. *Seconded by Councilman Palumbo.*

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

MOTION BY Councilman Boulware to adopt Resolution 2010-106. *Seconded by Councilman Palumbo.*

AYE Reese, Scott, Boulware, Palumbo, Barnette NAY Lake

MOTION CARRIED

ORDINANCES:

1ST READ

- a.) Amending Ordinance 2010-56 / Animal Control. /Ordinance 2010-67
- b.) Hwy 98 Median Engineering/Agreement with ALDOT /Ordinance 2010-68

MOTION BY Councilman Palumbo to suspend the rules to consider Ordinance 2010-67. *Seconded by Councilman Scott.*

ROLL CALL VOTE

Lake	Aye	Boulware	Aye
Reese	Aye	Palumbo	Aye
Scott	Aye	Barnette	Aye

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to waive the reading of Ordinance 2010-67. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to adopt Ordinance 2010-67. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCE 2010-68 WAS MADE A FIRST READ.

8. COUNCIL COMMENTS

Councilman Palumbo thanked council for the re-affirmation of the non-support resolution for the I-10 Service Road. He said that city government has spoken twice. He also thanked the citizens for coming out. He appreciates the councils support. He congratulated the Daphne High School Trojans. There are three (3) Baldwin County schools at different divisions Daphne, Spanish Fort and Bayside Academy which are all still in the playoffs. He wished the best of luck to the local teams.

Councilman Boulware recognized all veterans as last week they recognized all veterans on Veterans Day. Everyone appreciates their service, and those who are on active duty.

Councilman Scott stated that he was able to join the Mayor and others at City Hall for the Veterans Day Ceremony. He heard Senator Jeff Sessions speak, and it was a great event. He encouraged everyone to come out for the ceremony next year. He appreciated the folks from TimberCreek coming out, and he appreciates the professionalism. He said that honest people can have honest disagreements, and he has no clue whether the road should be built or not, but he did feel like they should study it, and representing Lake Forest Lake he did not want to miss an opportunity. Council has spoken so he will move on about life. Sometimes when they have controversial issues it brings out the best in the community, because the worst thing they fight, not only in Daphne but in the state, is

apathy, and it is good to see people that want to get involved, and have an opinion about their community. He thanked them for that.

Councilman Lake encouraged anyone who lives in TimberCreek or Lake Forest that wants to help get the roads paved to not patronize two gas stations that are not in the city, but receive fire and police protection. One is at Lawson and Hwy 13, and the other one is the Chevron station by Sam's.

Councilwoman Barnette thanked the TimberCreek folks for coming out, and said that it is important to hear from residents. She thinks that they have a resounding support for their concerns, but also as a council they do have to make sure that the message to the Baldwin County Commission is that they want to work with them over the next four (4) years as much as possible. Although, this is not something that they support from the City of Daphne, but the door is open, so to speak, and they need to maintain a good working relationship with the county. The county did not quite succeed with this one, but said for them to keep coming, and they will keep looking at projects and decide what is best for Daphne specific first and foremost, and then what is good for Baldwin County residents. For those that read the newspaper there have been two sound-offs this week about her direct line to President Obama, and although she would love to have that because she would be able to bring in more appropriations for the city, just for the record, she will say that she does not have a direct line to the President. As for the Baldwin County Watershed Coalition goes she does support the effort, and she will continue to support the effort whether it is a public corporation or the loose coalition of residents, cities, environmental groups, businesses, realtors and homebuilders that are trying to address storm water management throughout the county. Environmental issues continue to be a strong issue, and they have heard it tonight resonated through the issue of TimberCreek. One reason that she does not support the I-10 Service Road is because of the environmental impacts and the watershed impacts that 3.21 acres of fill will have, and what potentially opening up that corridor without a concentrated management plan would do to the City of Daphne. Although she will work on getting the line open to President Obama, as yet she does not have it. She wished everyone a happy Thanksgiving.

9. ADJOURN

MOTION BY Councilman Lake to adjourn. Seconded by Councilman Scott.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

**NOVEMBER 15, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

12

There being no further business to discuss the meeting adjourned at 8:15 p.m.

Respectfully submitted by,

David L. Cohen,
City Clerk, MMC

Certification by Presiding Officer:

Cathy Barnette,
Council President

***Submitted for the record at the November 15, 2010 Council meeting by Councilman Palumbo
Comments made by Mr. John Steadman***

Paving and Extension of Woodrow Lane

Comments for Daphne City Council

November 15, 2010

I am Dr. John Steadman, Dean of the College of Engineering at the University of South Alabama and I appreciate the opportunity to make some comments regarding the proposal by Baldwin County to build an extension of Woodrow Lane so that the road would connect to a proposed interchange with I-10 at Highway 13. At the outset, I want to state that I am a resident of Timber Creek so that you are aware of this fact. The comments that I am making would be the same if I were a resident of Daphne anywhere, but you should know that I have some additional interest in this matter because I live in Timber Creek.

The overall project is, in my opinion, ill conceived and should not be funded or completed. I am certainly not an “environmental activist” by any means, but any responsible citizen and especially any responsible engineer should look at infrastructure projects with some sensitivity to environmental impact. Only if the project is actually needed and has substantial benefit should it be built, and then with serious attention to mitigation of the impact. The proposed road fails this test. There are already three very good routes connecting the general areas of Eastern Shore, Jubilee Square, and Bass Pro centers: Highway 181 to U.S. 90 or I-10 or Highway 31. There is absolutely no need for a fourth parallel route in a span of just a couple of miles. Furthermore, the proposed road is in a very environmentally sensitive area, specifically impacting Lake Forest and D’Olive Creek. There is no way that this can be constructed without significant negative environmental impact, including silting and damage to these wetlands and water resources. With no need for the road, the conclusion is that this should not be constructed.

I will address three specific aspects of the proposed road: the I-10 interchange, the use of dredged materials for the roadbed, and the impact on storm water runoff. At the outset, let me state that I am an electrical engineer, not civil, environmental, or geotechnical. Thus I have more than a general lay knowledge of the issues, but am not an expert in these design considerations. Accordingly, I have consulted with others, such as Dr. Jim Laier and Dr. Kevin White, who are experts in geotechnical and environmental engineering and my comments are based on those discussions.

It has been alleged that this road is integral to the plan for an interchange on I-10 at Highway 13, but this is absolutely false. Mr. Vince Calametti is the Division Engineer for ALDOT (Mobile/Baldwin/Conecuh/Escambia Counties) and has stated unequivocally that the ALDOT design does not depend on any connection to a road on the North side of I-10. In fact, he described building a road as proposed by Baldwin County a “disaster”. The reason for the “diamond” design was because this is a very sensitive environmental problem and that design

involves less impact than the “trumpet” design that was considered to provide for a connection to I-10 from Highway 13. This road should not be approved.

The proposal to use dredge spoil from the lake at Lake Forest as roadbed material is ill conceived. Dr. Laier has years of experience with these materials, including soil test results. He notes that one of the main reasons that the lake holds water can be attributed to the low permeability and clay-like nature of the bottom soils...which are mixed with rubble, trash and organic debris. Dredging to retrieve Lake Forest soils would be a troublesome and expensive way to secure base material for roadway construction. Once Mr. Markert was challenged with this information, he suggested that it could be “mixed with other materials” to make it suitable. While this could be done, it simply points out that it would be far more expensive than simply acquiring fill material that is suitable in the first place. Furthermore, it does not address the environmental issue. The soils at the bottom of the lake have residue from golf course chemicals, trash, organic chemicals, metals, pesticides, etc. where they are currently trapped in the clay. When dredged and put on a roadway adjacent to the lake and stream, they will then be leached and/or eroded by rain water and drain into D’Olive Creek, Mobile Bay, the lake, and the ground water. This road should not be approved.

Finally, it is inherent that building the road will increase storm water problems (and infrastructure needs) in this area. The roadway is a large impervious surface that will NOT allow rainfall infiltration into the ground (infiltration is natural). It will be a long strip of asphalt (or concrete) approximately 30 feet wide and four miles long. Visualize that area with about five feet of water, which is the annual rainfall in our area. All that water, much of which can now percolate into the soil, will run off into sensitive wetlands. During heavy rain, it will be rushing into the creeks, the bay, and lake, causing erosion along the way and carrying a variety of hazardous materials with it. And costly infrastructure (storm sewers, etc.) will need to be constructed and maintained to transport this water. This road should not be approved.

To summarize, this particular project does not fill any pressing need and has significant, severe environmental consequences. Trying to justify it on the basis of the I-10 interchange or the use of dredged materials is at least misguided and borders on being intentionally misleading on the part of the County Commissioners and County Engineer. Based just on these considerations, the road should not be approved, let alone the many other priorities for the limited funds that are available.

NOVEMBER 29, 2010
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

1

COUNCIL MEMBERS PRESENT: Cathy Barnette; John Lake; Kelly Reese; Ron Scott; Derek Boulware; August Palumbo.

ABSENT: Bailey Yelding;

Also present: Mayor Small David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Erick Bussey, Attorney; Richard Johnson, Public Works Director; Adrienne Jones, Planning Director; Richard Johnson, Public Works Director; Margaret Thigpen; Tonja Young, Library Director; David McKelroy, Recreation Director; David Carpenter, Police Department; Vickie Hinman, Human Resource Director; Suzanne Henson, Senior Accountant; Captain Scott Taylor, Police Department; Ed Kirby, Planning Commission.

Absent: James White, Fire Chief; Richard Merchant, Building Official.

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

1. FY 2011 BUDGET

Council discussed:

1. Getting a list of contractual positions required by law to fill
2. Getting projected savings with attrition / Have ordinance in place
3. Getting potential difference in interest by moving funds to Eagle Management
4. Discussed freeing up signage difference from failed ordinance for Civic Center
5. Discussed adding an amount for community contributions into the budget / Put in as an option

Councilwoman Barnette said that they would discuss exercising the police jurisdiction at the work session after it has been to the Public Safety Committee. She also asked the City Clerk to gather the information for annexing through a Legislative Act. Council President Barnette requested that an ordinance for adopting the budget be placed on the agenda for the December 6th council meeting.

2. ADJOURN

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

Respectfully submitted by,

David L. Cohen,
City Clerk, MMC

Certification of Presiding Officer:

Cathy S. Barnette,
Council President

**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

PUBLIC HEARING LIST
FOR COUNCIL MEETING
DECEMBER 6, 2010

TO CONSIDER:

1. Amending the Land Use Ordinance / Table of Permitted Uses / Add a Bowling Alley and Entertainment Center as a use allowed upon Planning Commission approval in a B-1, Local Business District / **Ordinance 2010-69**
2. Amending the Land Use Ordinance / Table of Permitted Uses / For the designation of a convenience store by right in a B-1, Local Business District, as a use allowed upon Planning Commission approval / **Ordinance 2010-70**

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: An Amendment to Article XXXV, the Table
of Permitted Uses of the Daphne Land Use
Ordinance
Date: September 28, 2010

MEMORANDUM

At the Thursday, September 23, 2010 regular meeting of the City of Daphne Planning Commission, six members were present and the motion failed to set forth a favorable recommendation to amend Article XXXV, the Table of Permitted Uses to add a bowling alley as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district. Four members voted in the affirmative, one dissented, and one abstained. Although the majority of those present voted in favor of the motion, a super majority would have been necessary for a favorable recommendation.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate agenda to set the public hearing for action by the City Council on Monday, November 1, 2010.

Thank you,
ADJ/jd

Attachment

1. Copy of Table of Permitted Uses

cc: file

RESTER AND COLEMAN ENGINEERS, INC.
CONSULTING ENGINEERS - LAND SURVEYORS
66 MIDTOWN PARK WEST - (251) 479-4518
MOBILE, AL 36606

City of Daphne
Department of Community Development
P.O. Drawer 400
Daphne, Alabama 36526

Attn: Mrs. Adrienne Jones, Director

Re: Zoning Usage

Dear Sirs & Ladies:

Matt White of MPWS, L.L.C. would like to request an administrative presentation opportunity at the September 23rd Planning Commission meeting. MPWS, L.L.C. would like to ask the planning commission to consider allowing a bowling alley use under B-1 zoning. This presentation would accompany the Preliminary/Final plat of Lake Forest Plaza that has been submitted for the same meeting.

Thank you for your consideration on this matter. If you have any questions or comments, please feel free to call.

Yours truly,

RESTER & COLEMAN ENGINEERS, INC.



D. Joel Coleman

jc

ARTICLE XXXV	USE DISTRICT								
	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
TABLE OF PERMITTED USES AND CONDITIONS									
Accessory buildings and uses, when located on the same lot or parcel as the principal structure or use and customarily incidental thereto, provided the requirements in all pertinent sections of this Ordinance are met	R	R	R	R	R	R	R	R	R
Agriculture and related farming operations, including horticulture, plant nurseries market gardening, field crops, orchards, and home gardens	R	R	R	R	R	R	R	R	
Air Conditioning sales and service						R	R		R
Ambulance/EMS service						R	R	P	R
Amusement and recreation services: must be so arranged that noise, vibration, lights, and all other possible disturbing aspects are enclosed, screened or otherwise controlled so that operation of the establishment will not unduly interfere with the use and enjoyment of properties in the surrounding area:									
Amusement Park							R		
Amusement arcade, kiddie land							R		
Archery range							R		
Baseball batting range							R		
Billiard or pool hall							R		
Bowling alley						P	R		
Fairgrounds, circus or carnival							R		R
Family Entertainment Center						P			
Golf Course	P	P	P	P	P	P	P		P
Golf Course, miniature						P	R		
Golf, driving range	P	P	P	P	P	P	R		
Racquetball or tennis courts, indoor	P	P	P	P	P	P	P		P
Skating rink						P	R		
Tennis Courts, outdoor; need not be enclosed within a structure	P	P	P	P	P	P	P		P
Theater, indoor						P	R		

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: An Amendment to Article XXXV, the Table
of Permitted Uses of the Daphne Land Use
Ordinance
Date: September 28, 2010

MEMORANDUM

At the Thursday, September 23, 2010 regular meeting of the City of Daphne Planning Commission, six members were present and the motion carried unanimously to set forth a favorable recommendation to amend Article XXXV, the Table of Permitted Uses to include a Family Entertainment Center as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate agenda to set the public hearing for action by the City Council on Monday, November 1, 2010.

Thank you,
ADJ/jd

Attachment

1. Copy of Table of Permitted Uses

cc: file

ARTICLE XXXV	USE DISTRICT								
TABLE OF PERMITTED USES AND CONDITIONS	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Accessory buildings and uses, when located on the same lot or parcel as the principal structure or use and customarily incidental thereto, provided the requirements in all pertinent sections of this Ordinance are met	R	R	R	R	R	R	R	R	R
Agriculture and related farming operations, including horticulture, plant nurseries market gardening, field crops, orchards, and home gardens	R	R	R	R	R	R	R	R	
Air Conditioning sales and service						R	R		R
Ambulance/EMS service						R	R	P	R
Amusement and recreation services: must be so arranged that noise, vibration, lights, and all other possible disturbing aspects are enclosed, screened or otherwise controlled so that operation of the establishment will not unduly interfere with the use and enjoyment of properties in the surrounding area:									
Amusement Park							R		
Amusement arcade, kiddie land							R		
Archery range							R		
Baseball batting range							R		
Billiard or pool hall							R		
Bowling alley						P	R		
Fairgrounds, circus or carnival							R		R
Family Entertainment Center						P			
Golf Course	P	P	P	P	P	P	P		P
Golf Course, miniature						P	R		
Golf, driving range	P	P	P	P	P	P	R		
Racquetball or tennis courts, indoor	P	P	P	P	P	P	P		P
Skating rink						P	R		
Tennis Courts, outdoor; need not be enclosed within a structure	P	P	P	P	P	P	P		P
Theater, indoor						P	R		

Jan Dickson

From: "Adrienne Jones" <ajonesdpln@bellsouth.net>
To: "Jan Dickson" <jandplcr@bellsouth.net>
Sent: Thursday, September 23, 2010 1:33 PM
Subject: FW: Eastern Shore Family Entertainment Center

From: Gulf Bowl [mailto:gulfbowl@gulftel.com]
Sent: Thursday, September 23, 2010 1:22 PM
To: ajonesdpln@bellsouth.net
Subject: Eastern Shore Family Entertainment Center

Adrienne,

I have forwarded several letters to you from residences and coaches who have sent them to me in support of our Family Entertainment Center for the Eastern Shore.

Just a few concerns going into this meeting that we wanted you and the planning commission to know. We have already been approved for this loan by USDA and Vision's Bank for this center in Daphne, AL. One of our major concerns is that our funding with USDA will expire December 31, 2010 and we will have to start all over again. Not sure we want to go down that road again. The paperwork and the funding process was very long and detailed.

We also were under the impression that when we signed the contract with White-Spunner it was already zoned B2. That played a big factor in the selection of this property, so you can imagine the deep sinking feeling we have knowing that our time is running out on this USDA loan guarantee and the property being zoned B1 with no bowling centers allowed.

The other concern is the stigma of a "bowling alley" which is not what we are building. That term was used in the 70's. We are building a Family Entertainment Center that will be "no smoking" and family oriented. It will have 24 Brunswick lanes, arcade, laser tag, family restaurant, snack bar, adult pool table room and party rooms.

It was brought up several times at the site preview meeting about the other property and why we did not go there. I am sure most of the commission knows that USDA & Vision's Bank would not allow us to go thru with that purchase of the property at the Renaissance Center due to the bonds. We are ready to break ground as soon as we can.

It is really crucial that we get this project off the ground as the funding was a nightmare and will of course expire soon.

Respectfully
The Cole Family
251/747-0298 cell

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2010-____**

**Ordinance to Amend the City of Daphne
Land Use and Development Ordinance's
Table of Permitted Uses and Conditions**

WHEREAS, the Planning Commission of the City of Daphne, Alabama at its regular meeting held on September 23, 2010, considered certain proposed amendments to Article XXXV titled "Table of Permitted Uses and Conditions", of the City of Daphne Land Use and Development Ordinance No. 2002-22, and any amendments to the same; and,

WHEREAS, after consideration the Planning Commission sent a favorable recommendation to the City Council of the City of Daphne for the approval of amendment to the Table of Permitted Uses and Conditions contained within said Article XXXV of the City of Daphne Land Use and Development Ordinance to amend the Use District for a Family Entertainment Center; and,

WHEREAS, after consideration of amendment to said Table of Permitted Uses and Conditions contained in Article XXXV of said Ordinance the Planning Commission sent an unfavorable recommendation to the City Council of the City of Daphne for amendment to the Use District for Bowling Alley; and

WHEREAS, due notice of said proposed amendments has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on December 6, 2010; and,

WHEREAS, the City Council of the City of Daphne after due consideration and review and consideration of the recommendations, both favorable and unfavorable, of the Planning Commission, deemed that said amendments to the City of Daphne Land Use Ordinance, Article XXXV titled "Table of Permitted Uses and Conditions", is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and,

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

SECTION I. AMENDMENT

The Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance shall be amended

(a) to permit "Family Entertainment Center" as a defined Use allowed by Planning Commission approval in Use District B-1, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments;

(b) to permit a "Bowling Alley" as a defined Use allowed upon Planning Commission approval in Use District B-1 and by right in Use District B-2, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments;

ARTICLE XXXV	USE DISTRICT								
TABLE OF PERMITTED USES AND CONDITIONS	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Bowling alley						P	R		
Family Entertainment Center						P			

All other sections, uses, conditions and/or contents of the Table of Permitted Uses and Conditions shall remain the same and shall be unchanged by this Ordinance; this Ordinance is only to amend the "Family Entertainment Center" and "Bowling Alley" designations.

SECTION II: REPEALER.

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

SECTION III: SEVERABILITY.

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

SECTION IV: EFFECTIVE DATE.

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2010.

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

**CATHY S. BARNETTE,
COUNCIL PRESIDENT**

**FRED SMALL,
MAYOR**

ATTEST:

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

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: An Amendment to Article XXXV, the Table
of Permitted Uses of the Daphne Land Use
Ordinance
Date: September 29, 2010

MEMORANDUM

At the Thursday, August 26, 2010 regular meeting of the City of Daphne Planning Commission, seven members were present and the motion carried unanimously to set forth a favorable recommendation to amend Article XXXV, the Table of Permitted Uses for the designation of a convenience store by right in a B-1, Local Business, zoning district as a use allowed upon Planning Commission approval.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate agenda to set the public hearing for action by the City Council on Monday, November 1, 2010.

Thank you,
ADJ/jd

Attachment

1. Copy of Table of Permitted Uses

cc: file

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF AUGUST 26, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. Diehl: To address Mr. Chason's questions and/or comments at the work session regarding the additional runoff directed into the lake from the development of this site, we have provided a letter from the developer of the subdivision which is the responsible party for the detention pond. A copy of this letter has been provided to you. I will be happy to answer any other 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 Mayor Small **to approve the site plan for the 2nd Office Building on Lot A-2, Bellaton Subdivision, Phase Two. The Motion carried unanimously.**

The next order of business under petitions is annexation review for Richard S. Higbee.

PETITIONS:

ANNEXATION REVIEW:

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services. Mr. Chairman, this is a petition for annexation for twenty acres and later on the agenda there is a subdivision application that goes along with it. The owner is presenting a requesting annexation of a nineteen-point eight-eight acre parcel into the City of Daphne located northwest of the intersection of Whispering Pines Road and County Road 13 with B-1, Local Business, and B-3, Professional Business, zoning. The subject property is currently zoned RSF-2, Residential Single Family District, Baldwin County District 15. This property is bordered by a Mercy Medical facility to the east, residential to the west, a school to the south, and the proposed location of a church to the north. We reviewed the Comprehensive Plan for the City of Daphne, and the future use map shows this property as commercial development. Based on the comments made by the Planning Commission members at the work session, we have made some minor changes to the zoning plan by eliminating the request for a B-2, General Business, zoning districts. The annexation request will consist of the request for B-1, Local Business. The residential development and the proposed location of the church to the north will be buffered by the B-3, Professional Business, zone.

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

Ms. Barnette: What are the proposed uses for this property?

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF AUGUST 26, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. Diehl: The area in which we have asked for a B-1, Local Business, zone will be businesses which provide services to the surrounding neighborhood and to the school such as a dry cleaner or a sandwich shop. The B-3, Professional Business, zoning district use speaks for itself.

Ms. Barnette: In the revision to the Daphne Land Use and Development Ordinance, the method in which an annexation is achieved will be different. The petition for annexation will be filed initially requesting R-1, Low Density Single Family Residential. The applicant would have to apply for rezoning of the property to business which will give the Planning Commission more time to review the plan and requested use for the property.

Ms. Phelps: On the corner lot, lot 7, the City of Daphne has plans for this corner. There should be an inset there.

Mayor Small: That is already done. The City is ready to build it. What will be the size of the buffer left between the residential and the B-3 zoning?

Mr. Diehl: It will be ten feet which is referenced in your Ordinance. When we get into the discussion of the B-3 portion of this development, we can revisit that.

Vice Chairman: Do we allow public participation on an annexation request?

Ms. Dickson: It does not require public participation, but the Chairman may allow it.

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

Several 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 whether or not the owner/developer proposes to construct a convenience and/or filling station on the property; consideration of a connection with sidewalks from the middle school to the high school or County Road 13/Whispering Pines Road to County Road 13/Lawson Road, for children to travel on to and from the residential areas; to consider the development of the property as a whole when designing access to the property, landscaping and maintenance in order to enhance the neighborhood and to control light and noise pollution; the development of a central location for detention in order to control the storm water drainage directed onto the residential subdivisions to the west; the development of a convenience store near a school zone is an attractive nuisance which is not conducive to the character of the neighborhood and creates problems for the students.

Vice Chairman: If there are no further comments, the Chair will close public participation. Do any of the Commissioners have any questions or comments?

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF AUGUST 26, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Ms. Barnette: Ms. Jones, I guess I need a clarification of the difference or definition of convenience store verses a service/filling station.

Ms. Jones: In the Daphne Land Use Ordinance under Article VIII, Definition of Terms, Section 8-2, Words and Terms Defined, the definitions are as follows: " Convenience Store - any retail store of the 7-11, Circle K, or Jr. Food Store variety providing self-service food, drink, tobacco, automobile fuel and other products for carry-out consumption, but not including bays, other than drive-through car washes, for automobile service or repair. Service Station, Automobile - any building or land used for retail sale and dispensing of automobile fuels or oils; may furnish supplies, equipment and minor services to private passenger vehicles incidental to sale and dispensing of automobile fuels and oils".

Ms. Phelps: Why aren't you bringing in this property as R-1?

Ms. Barnette: Because now the Ordinance allows you to specify the zoning you are requesting.

Mayor Small: Do you have another zoning plan which shows a sketch for a service road?

Mr. Diehl: No sir.

Ms. Jones: The application for the annexation is following past procedures that have been established.

Mr. Gibson: The proposed zoning plan shows only two lots. Is this meant for one business to be located on each lot or for the development of multiple lots?

Mr. Diehl: The property could be developed as either one lot or multiple lots, but a service road is not proposed on the property.

Ms. Jones: The exhibit shown on display is provided for the purpose of a representation of the zoning designations being requested by the owner of the property and not a representation of a lot layout.

Mr. Gibson: Will you keep the location of the pond or will it be redesigned to accept storm water?

Mr. Diehl: This is a grady pond located on the property. At the time of the development of the property, a drainage plan for the storm water design will be provided.

Ms. Phelps: At the time of the development of the property will a six-foot wide sidewalk be constructed?

Mr. Diehl: The construction of the sidewalk will be the responsible of the developer.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF AUGUST 26, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Ms. Barnette: I misunderstood the uses for B-1, Local Business, provided for in the Table of Permitted Uses. I did not fully understand the distinction between a convenience store and a gas/filling station. If a parcel were annexed into the City of Daphne with an R-1 designation and the property rezoned, it would allow us time to review the Table of Permitted Uses for the zoning being requested.

Mayor Small: Do you think your client would consider changing his application?

Mr. Diehl: The owner is not here for me to ask, but I do not think so.

Mayor Small: Can you put a note on the plat restricting that use?

Ms. Barnette: That would be considered contract zoning.

Mr. Richard S. Higbee, the owner and the petitioner for the annexation into the City of Daphne, arrived at 6:54 p.m.

Mr. Diehl: The owner of the property is here now and has offered to restrict the use to address your concerns. We will be requesting preliminary/final plat review later on in the meeting so you can ask that we add a note to the plat also.

Vice 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 Ms. Barnette and **Seconded** by Mayor Small *for the affirmative recommendation by the Planning Commission to the City Council of Daphne to amend Article XXXV, the Table of Permitted Uses in the Daphne Land Use and Development Ordinance, under convenience store to modify the designation listed for B-1, Local Business, to a P, requiring Planning Commission approval, rather than an R, by right. The Motion carried unanimously.*

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Lemoine *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the annexation review for Richard S. Higbee located northwest of the intersection of Whispering Pines Road and County Road 13 with B-1, Local Business, and B-3, Professional Business, zoning.*

An **Amended Motion** was made by Ms. Barnette and **Seconded** by Mr. Lemoine *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the annexation review for Richard S. Higbee located northwest of the intersection of Whispering Pines Road and County Road 13 with B-1, Local Business, and B-3, Professional Business, zoning. The petitioner/owner of the property has agreed to restrict the uses on the proposed B-1, Local Business, zoning designation to not allow the construction of a convenience store. The Motion carried. Mr. Chason abstained.*

ARTICLE XXXV	USE DISTRICT								
TABLE OF PERMITTED USES AND CONDITIONS	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Contractor's storage yard for vehicles, equipment, materials and supplies; need not be enclosed within a structure, but must be enclosed within a solid fence to screen view; chain link or similar open fence may be permitted if a screen planting adequate to obstruct the view is provided							R		R
Convenience Store						P	R		
Correctional, detention or penal institution							S		S
Dairy equipment sales							R		R
Dairy products sales						R	R		
Delicatessen						R	R		
Department store							R		
Dog pound; need not be enclosed within a structure							P		R
Drive-in restaurant						P	R		
Drug Store						R	R		
Dry cleaning shop, including self-service						R	R		
Dry goods or fabric store						R	R		
Dwelling, one-family	R	R	R	R					
Dwelling, two-family				R					
Dwelling, multi-family				R					
Electric power generating plant							S		S
Electric power substation; need not be enclosed within a structure, but must be secured by a chain link or similar fence, or raised above ground so as to be inaccessible to unauthorized persons; requires visual screen in most districts	P	P	P	P	P	P	P	P	P
Electric repair shop							R		R
Electric Supply Store							R		R
Elevator maintenance service							R		R

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2010-**

**Ordinance to Amend the City of Daphne
Land Use and Development Ordinance's
Table of Permitted Uses and Conditions**

WHEREAS, the Planning Commission of the City of Daphne, Alabama at its regular meeting held on August 26, 2010, considered certain proposed amendments to Article XXXV titled "Table of Permitted Uses and Conditions", of the City of Daphne Land Use and Development Ordinance No. 2002-22, and any amendments to the same; and,

WHEREAS, after such consideration the Planning Commission sent a favorable recommendation to the City Council of the City of Daphne for the approval of said amendment to the Table of Permitted Uses and Conditions contained within said Article XXXV of the City of Daphne Land Use and Development Ordinance; and,

WHEREAS, due notice of said proposed amendment has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on December 6, 2010; and,

WHEREAS, the City Council of the City of Daphne after due consideration and upon recommendation of the Planning Commission, deemed that said amendment to the City of Daphne Land Use Ordinance, Article XXXV titled "Table of Permitted Uses and Conditions", is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and,

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

SECTION I. AMENDMENT

The Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance shall be amended to permit "Convenience Store" as a defined Use allowed by right in Use District B-2 and by Planning Commission approval in Use District B-1, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments:

ARTICLE XXXV	USE DISTRICT								
TABLE OF PERMITTED USES AND CONDITIONS	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Convenience Store						P	R		

All other sections, uses, conditions and/or contents of the Table of Permitted Uses and Conditions shall remain the same and shall be unchanged by this Ordinance; this Ordinance is only to amend the "Convenience Store" designation.

SECTION II: REPEALER.

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

SECTION III: SEVERABILITY.

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

SECTION IV: EFFECTIVE DATE.

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2010.

THE CITY OF DAPHNE,

AN ALABAMA MUNICIPAL CORPORATION

CATHY S. BARNETTE, COUNCIL PRESIDENT

FRED SMALL, MAYOR

ATTEST:

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

**Buildings & Property Committee Meeting
Tuesday, November 1, 2010 5:00 PM
Daphne City Hall**

Committee

Councilman John Lake
Councilman August A. Palumbo
Mayor Fred Small
Richard Merchant, Building Inspector
Frank Barnett, Maintenance Supervisor
Margaret Thigpen, Civic Center Director

Committee Minutes (Summary)

Present: Councilman John Lake, Mayor Fred Small, David McKelroy, Recreation & Parks Director, Richard Johnson, Public Works Director, Frank Barnett, Maintenance Supervisor, Margaret Thigpen, Civic Center Director, Jane Robbins, Richard Merchant, Building Inspection,

Meeting began around 5:00 pm.

Minutes from October Meeting: Motion made to approve minutes from October Meeting. Approved.

Civic Center Report – Margaret Thigpen reported on the following items:

Civic Center & Bayfront:

Margaret explained the issue at hand with off duty policeman insurance and liquor liability for events held at the Civic Center and Bayfront. We are faced with guidelines and requirements by the League of Municipalities that should have been in force all along.

Liquor Liability Issue: If the event is not a city sponsored event then the event has to carry host liquor liability insurance. If a caterer is serving the alcohol they have to have a liquor license and liability insurance. Two events coming up didn't have this. One event has cancelled with others calling. The other event scheduled was able to get the required insurance prior to the weekend.

Off Duty Police Officer Insurance Coverage: Event shall be required to comply with the Alabama State Code and take out General Liability Insurance to include \$100,000 per off duty officer.

John Lake asked if the group can hire their own security? Our city ordinance states that they have to hire Daphne Police Officers. The ordinance would need to be changed to allow that if the Council so desired.

Other report: Ballroom Dance is this weekend; HVAC upgrade in progress, decking has been weatherized at Bayfront – would like to paint railing white for a more polished/finished look.

Barry Booth's Property:

Kit Smith had brought to the committee a couple of months ago the proposal from Barry Booth to swap a piece of property he currently owns for a piece that the city currently owns which is at McMillan and Van Avenue. It backs up to a piece of property that he owns and wants to build on. He is willing to donate to the city the property across from the Daphne United Methodist Church that has the sculptures on it. This would be in exchange for this tract that back up to the other property he owns. He does ask that he be in control of the artwork until the time of his death.

After some discussion and some questions raised Kit agreed to follow up at the next meeting. Would the city have the responsibility of mowing the sculpture park and the upkeep? What is the size? Richard asked about the drainage on track with easement – Kit agreed to meet him on site to look at this.

Building Department Report – Richard Merchant distributed monthly reports and impact fees were discussed. 9 new residential starts – 1 new commercial – Dick's Sporting Goods at Jubilee Square.

Meeting adjourned.

CITY OF DAPHNE
PUBLIC WORKS COMMITTEE MEETING
Time: 5:00 PM on October 18, 2010
Location: City Hall Council Chambers

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

I. CALL TO ORDER

The August meeting of the Public Works Committee was called to order at 5:00 PM

Present: Councilman Bailey Yelding, Councilwoman Cathy Barnette, Councilman John Lake, Richard Johnson-Public Works Director, Sandra Cushway-Public Works Assistant, Jaye Robertson-HMR, Tim Lawley-HMR, Dorothy Morrison-DBC, Ray Miller, Chris Wilson, Randal Crowell-KFC

II. PUBLIC PARTICIPATION & CORRESPONDENCE

- A. **Work Request Report** – September & YTD
- B. **Vehicle/Equipment Maintenance Report** – October 2010 & YTD reports reviewed. It was noted that YTD numbers were included. Councilwoman Barnette questioned why the Mowing department's repairs were so high. Richard stated that there were repairs done on the Hydra Mower.
- C. **Correspondence** – Public Works employee Denise Penry – Time Capsule Article Article in Gulf Coast Paper, September 29, 2010. Reviewed.
- D. **Public Participation** – Randal Crowell – Jack Marshall Foods (KFC). Mr. Crowell stated that Jack Marshall Foods, Inc. owns and operates KFC's in four states and that the one located at Hwy 98/Main Street was the poorest performing location. The restaurant is difficult to locate due to the trees, shrubbery and overgrowth. They lost \$80K in revenue last year at that location. Jack Marshall Foods loves the City of Daphne and would prefer to continue to operate in our City. They are making capital improvements at the store and he requested that the City assist him with clearing the ROW on Hwy 98. He stated that there was 96' of ROW in Highway 98 that is not being maintained. Small trees and underbrush need to be cut back. Councilman Yelding commented that we would need to check on the ordinance before any decision could be made. Richard stated that the trees on Highway 98 that are causing the blockage are on the State's ROW. He said that we could get a one-time variance from ALDOT to clean up that area. We have an agreement to go in and maintain the state's ROW. Councilman Yelding said that we could possibly cut out some of the underbrush without having to cut down trees. He told Mr. Crowell that the committee would investigate and that the Public Works Department and the Beautification Committee would get back with him with their findings.

III. OLD BUSINESS

- A. **Minutes** – September 20, 2010 **Councilwoman Barnette made a motion to accept the minutes from the September 20, 2010 meeting. Motion seconded by Councilman Lake.**
- B. **Mosquito Reports** – September 2010. Reports reviewed.
- C. **Street Sweeper Reports** – September 2010 reports reviewed.
- D. **Task Agreement No. 12 for Final Construction Plans for Highway 98 Median Improvements** (Volkert). Steven Commander stated that fees were expected to total around \$155K. Engineering fees were reduced. He reported to the committee that the Eastern Shore Trail (sidewalks) was not being designed for this segment. He stated that he has confirmed with ALDOT that they will pay the construction costs and the City of Daphne will pay the engineering fees. Mayor Small asked if this included sidewalks. Mr.

Commander responded that it does include the sidewalks. It includes all design with the exception of the bridge. Councilman Yelding asked Mayor Small if that money could come from the 7 cent gas tax. Mayor Small responded that he would have to check with Kim Briley about that. **Councilwoman Barnette made a motion to send recommendation for funding to the Finance Committee. Motion was seconded by Councilman Lake.**

- E. **PALS (People against A Littered State)** Adopt a Mile Signage Reviewed. No action taken.

IV. **NEW BUSINESS**

- A. **Old Field Subdivision, Phase one – Final Acceptance of Roads and ROW** – Christopher Wilson stated that 3 months ago the lights were cut off in the subdivision. There have been several robberies and breaking and entering's and there is a concern for the safety of the residents that live there. Councilman Yelding stated that he has read the information in the packet. Richard commented that the final plat for Phase I was approved. Lots were sold, houses were built, etc. Now the contractor has liens against him and is in bankruptcy. The foreclosure process has already been started by the bank. Not being the owner any longer, the contractor stopped paying the electric bill for the street lights so the lights were eventually cut off. Other City services are still being provided. It is Richard's recommendation that it is time to take action. Adrienne still has issues that need to be resolved. It is now a Public Works consideration. Eventually, the subdivision's streets and ROW will be accepted. Richard would like for the committee to make a resolution to get the lights cut back on. **Councilwoman Barnette made a motion to approve the Public Works Director's recommendation to move forward with having the lights cut back on. Motion was seconded by Councilman Lake.**
- B. **HADCO Solar LED Lighting** – Per Councilman Lake's recommendation, Richard researched the feasibility of using solar powered lighting at the roundabout. At this time, the cost is prohibitive. It currently costs approximately \$60 per year to run the existing lights. As prices come down on solar lighting, we can look into this further.

V. **DIRECTOR'S REPORT**

- A. **Highway 98 / Whispering Pines Accident Data** – Mayor Small stated that, for the record, he has never personally seen an accident at the intersection of Highway 98 and Whispering Pines. He added that if we still have ALDOT's support on the traffic signals, we need to move forward with this. **Councilwoman Barnette made a motion to forward traffic data to the City Council for action. Motion seconded by Councilman Lake.**
- B. **Daphne Solid Waste Disposal Authority** – Councilman Lake and Councilwoman Barnette previously requested information on Daphne's Solid Waste Authority. Richard provided all the resolutions, ordinances, State Code, legal documents pertaining to the Daphne Solid Waste Disposal Authority. It was incorporated in August 1993 and a resolution was passed. A resolution was passed in September 1993 granting permission for the purpose of acquiring, owning, operating, leasing and disposing of one or more solid waste disposal facilities under Alabama State Code. Directors were appointed. No The Authority existed and operated on a limited basis. No records were found that indicate any acts to dissolve, vacate, modify, abolish or restrict the "Authority" So, it remains an existing duly registered Domestic Non-Profit Corporation in the State of Alabama. Councilwoman Barnette asked whether the City was responsible for the Authority's debts. Councilman Lake responded that it would be operated as a separate entity and would be run more like a business and more efficiently. Richard stated that the

board was originally made up of Public Works Committee members. It would allow them to make decisions. Councilman Yelding stated that he didn't like the concept. Richard said that one example was the fact that we need two new recycling trucks. Under the current setup, we may or may not get permission. If we did, the process would take up to six months. Under the Authority, we wouldn't have to go through the bid process. It would take about 60 days to acquire the trucks. Councilman Yelding questioned how do we make this "Authority" work? Councilwoman Barnette stated that we need to appoint member on the board regardless of whether we plan to keep or dissolve the Authority. Councilman Yelding stated that separate finances would complicate things. Councilman Lake stated that Solid Waste was \$80K in the black this year. That money went back into the general fund. If we run the Authority like a business, we would be able to make decisions independently to buy equipment. Councilman Lake said that we need to determine how we can make this work. Councilman Lake, Mayor Small and Richard need to look further into and form a committee. **Councilwoman Barnette made a motion to research viability. Motion was seconded by Councilman Lake.**

VI. SOLID WASTE AUTHORITY

- A. See Director's Report

VII. MUSEUM COMMITTEE

- A. Minutes – September 13, 2010 – Minutes reviewed

VIII. BEAUTIFICATION COMMITTEE

- A. Minutes – None Submitted
B. Top 10 list – unchanged since September's list
C. DBC Update – Councilwoman Barnette asked about the proposed gazebo. Richard responded that we are waiting on the total costs including upgrading the electricity at the park. Councilman Yelding stated that he feels that bathrooms at Joe Patrick Lewis Park and Park City Park are a higher priority than a gazebo. **Councilwoman Barnette made a motion to forward to Finance committee a favorable recommendation to construct the gazebo at Centennial Park. Motion seconded by Councilman Lake.** Councilman Lake asked where the money was going to come from. Councilwoman Barnette stated that it would come from the Finance Committee by the end of the year. **Councilwoman Barnette made a motion that the Finance Department, Public Works Director and HMR put together a plan for bathrooms with input from the Beautification Committee and Parks & Recreation for a restroom at Park City. The Public Works Director is to get with David McKelroy. Motion was seconded by Councilman Lake.**

IX. ENGINEER REPORT

- A. **HMR Update** – Soil samples results expected back next week. Will have samples from Timber Creek tomorrow. Working on drainage in Sehoy and doing survey in Lake Forest.
B. **Volkert Update** – None

V. FUTURE BUSINESS

- A. Next Meeting – November 15, 2010

XI. ADJOURNMENT

The meeting adjourned at 6:15 PM. **Councilwoman Barnette made a motion to adjourn. Motion seconded by Councilman Lake.**

**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:

BZA

To: Cathy Barnette, Council President
From: Adrienne Jones, Director
Community Development
Subject: BZA Board Member Appointment
Date: November 10, 2010

MEMO RAND UM

Mr. Willie Robison's term on the BZA expired November 2010. The Council needs to reappoint this member.

Mr. Robison serves very well on the BZA, and attends all meetings.

I, respectfully request that he be reappointed to his position as a Board member on the BZA.

Thank you,

/ph

cc: Becky, City Clerks Office
File



BZA

To: Cathy Barnette, Council President
From: Adrienne Jones, Director
Community Development
Subject: BZA Board Member Appointment
Date: November 10, 2010

MEMO RAND UM

Mr. Glen Swaney's term on the BZA expired May 2010. The Council needs to reappoint this member.

Mr. Swaney has served well on the BZA, and attends all meetings.

I, respectfully request that he be reappointed to his position as a Board member on the BZA.

Thank you,

/ph

cc: Becky, City Clerks Office
File

**DOWNTOWN REDEVELOPMENT AUTHORITY
DAPHNE, AL**

**1705 MAIN STREET
NOVEMBER 22, 2010
5:15 P.M.**

DRAFT

1. CALL TO ORDER/ROLLCALL

Casey Zito called the meeting to order at 5:15 p.m.

Members Present: Casey Zito; Ronald Nero; Laurie Gorowsky; Ken Balme.

ABSENT: Doug Bailey; Kelly Hughes; Mary Beth Mantiply

Also present: Dorothy Morrison, Beautification Committee, Councilwoman Barnette; Rebecca Hayes.

2. Adopt Minutes / October 25, 2010

MOTION BY Ken Balme to adopt the October 25, 2010 meeting minutes. *Seconded by Ronald Nero.*

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

Casey said that Darrelyn Bender, ES Chamber of Commerce, will be at the January meeting.

3. UPDATE / JUBILEE FESTIVAL / FIRE MARSHAL / CHIP MARTIN

Mr. Martin discussed with the members why the booths at the festival could not be in the middle of the street. He said it does not give enough room for emergency vehicles to come through. He suggested moving the booths south and put an eating plaza in front of the restaurants. It was also suggested having booths on Trione Avenue and Guarisco Avenue.

4. UPDATE / FACEBOOK PAGE

Ken handed out a list of names to consider for the Facebook and website pages. The members liked the name DaphneOldeTowne.com.

5. UPDATE / MASTER PLAN / NEXT STEP

The grant writer will be at the January meeting. They would like to find grants to help fund projects. The foremost project to be done is putting the utilities underground before any other project can go forward. Cathy is researching the BP money and grants from the state.

6. HOLIDAY EVENT

Holiday event is on hold until January.

**1705 MAIN STREET
NOVEMBER 22, 2010
5:00 P.M.**

DRAFT

7. NEW BUSINESS

Dorothy Morrison will be attending the meetings as liaison for the Beautification Committee. She presented plans for a gazebo at Centennial Park.

4. NEXT MEETING

The next meeting will be January 24, 2011 at 5:15 p.m.

5. ADJOURN

The meeting adjourned at 6:08 p.m.

Respectfully submitted,

Downtown Redevelopment Authority

**Daphne Public Library Board
October 7, 2010
Meeting Minutes**

In Attendance:

Library Director Tonja Young; Board Chair Jan Blankenhorn; Library Board Members Chantal Booth, Windrila Longmire and Jim Bodman; Friends President Carol Simmons; Book Shop Manager Karen Kyzar; City Councilman Gus Palumbo.

1) Call to Order:

After a quorum was established, Library Board Chairman Jan Blankenhorn called the meeting to order at 4:02 pm.

2) Reading and Approval of the Minutes:

The minutes of the September meeting were approved; a motion was made by Jim to approve the minutes as written and seconded by Windrila. The motion passed.

3) Library Board Chairman's Report:

Ms. Blankenhorn stated that she would like to thank the Teen Board for a lovely function at the Fall into Reading Festival.

4) Library Director's Report:

Tonja stated that the September statistical reports were in the Board packets.

For September 2010, total patronage was down 10.03% to 17,798 compared with 19,782 for September, 2009. September 2010 circulation was down 1.54% at 26,217 compared to 26,627 in September 2009. Overall circulation year-to-date was 314,218 for September 2010, compared to 292,754 for this time in 2009, for an overall increase in circulation of 7.33%. A total of 163 patrons were given library cards or renewals, and volunteers gave a total of 438.5 hours (Book Shop Manager = 140; Book Shop Staff = 136; Friends Board = 49; Shelves = 113.5) to the library in September. Meeting room attendance was 640. Computer users numbered 2,685 as compared with 1,340 in September 2009, for an increase of 100.37%.

Tonja announced the upcoming computer classes and events. Copies of press releases for the month were included in the packet. Tonja also announced that she was approved for the 2011 LSTA grant she wrote for \$60,000 for technology in the library. The grant will replace outdated equipment and allow software to be upgraded, as well as adding new equipment.

Tonja requested Board signatures for the new library policies that were updated to cover issues and/or changes concerning computer use and the use of the new computer lab. The policies were signed by all present.

Tonja requested a vote on the 2011 library holiday schedule based on dates issued from City Hall for city holidays, as well as the procedures in the library policy for selecting holidays/closings. Windrila made a motion to approve the requested schedule of holidays and closings; Chantal seconded the motion. The motion passed.

5) Vote for Officers

Jim made a motion to vote on officers for 2011 as slated: Chair, Jan Blankenhorn; Vice Chair, Andre LaPalme; Treasurer, Windrila Longmire; Secretary, Library Director. Chantal seconded the motion. The motion passed.

5) Public Participation

Carol asked Karen about the Book Sale profits. Karen replied that the Book Sale made approximately \$500 and the Silent Auction brought in another \$70-80. Karen expressed thanks to all who helped with the sale and stated there would be another book Sale in March.

Carol announced that the Friends would not meet this month. She also announced that the Teen event went well; that the Silent Auction was not as successful as in previous years, but that there had been a lot of activities for children.

Gus asked that the Friends support Operation Paperback. Karen stated that the Friends were no longer receiving many paperback donations and wondered if the paperbacks were being sent overseas by individuals. Karen researched the website and offered to select the requested books and donate them to the project, but stated that the Friends could not pay to ship the books. Carol agreed, stating that the Friends Board had discussed the matter and decided that they could not pay the shipping since their mission was to support library activities. After further discussion, Karen reiterated her offer to select and donate the books for the project.

6) Other Business

None.

7) Adjourned

The meeting was adjourned by Jan at 4:35 pm.

Respectfully submitted by T. Young, November 1, 2010

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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:

Fred Small, Mayor
Joe Lemoine, Vice Chairman
Dan Gibson
Larry Chason
Cathy Barnette, Councilwoman
Chief James "Bo" White

Members Absent:

Ed Kirby, Chairman
Victoria Phelps

Staff Present:

Adrienne Jones, Director of Community Development
Jan Dickson, Planning Coordinator
Nancy Anderson, GIS Manager
Jay Ross, Attorney

Staff Absent:

Misty Gray, Attorney
Erick Bussey, Associate Attorney
Ashley Campbell, Environmental Programs Manager

Others Absent:

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

The first order of business is the call to order.

Vice Chairman: Please let the record reflect Mr. Kirby and Ms. Phelps are not present.

The next order of business is approval of the minutes.

APPROVAL OF MINUTES:

The minutes of the September 23, 2010 regular meeting were considered for approval.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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

A Motion was made by Mayor Small and **Seconded** by Ms. Barnette *to approve the minutes of the September 23, 2010 regular meeting as submitted. The Motion carried. Mr. Chason abstained due to his absence at that meeting.*

The next order of business is the election of officers.

NEW BUSINESS:

ELECTION OF OFFICERS:

Vice Chairman: This item was discussed at the site preview meeting and the Commissioners have decided to table this item until the next regular meeting of November. Do any of the Commissioners have any questions or comments? If not, the Chair will entertain a motion.

A Motion was made by Ms. Barnette and **Seconded** by Mayor Small *to table the elections of officers until the next regular meeting of November. The Motion carried unanimously.*

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

DUNMORE SUBDIVISION, PHASE TWO, PART A:

FINAL PLAT REVIEW:

File SDF10-02:

Subdivision: Dunmore, Phase Two, Part A

Zoning: *R-4, High Density Single Family Residential*

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

Area: 6.62 Acres \pm , (26) lots

Owner: Hearthstone Multi-Asset Entity

Engineer: Rester & Coleman Engineers - Joel Coleman

An introductory presentation was given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting final plat review of a six-point six-two acre subdivision consisting of twenty-six lots located on the East side of Alabama Highway 181, South of Austin Road and North of Dick Higbee Road.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. Coleman: We have installed the improvements to the subdivision with the exception of sidewalks, grassing and landscaping for which we have posted a performance surety bond for each. I will be happy to answer any questions you may have.

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

Ms. Barnette: Have the items outlined in the review been resolved?

Ms. Jones: Yes.

Vice 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 Ms. Chason and **Seconded** by Mayor Small *to approve the final plat for Dunmore Subdivision, Phase Two, Part A.*

The next order of business is an administrative presentation regarding the installation of sidewalks in Dunmore Subdivision, Phase Two, Part A.

ADMINISTRATIVE PRESENTATION:

An introductory presentation was given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting to waive the requirement for sidewalks and to defer the required installation, with the presentation of a performance bond to cover such expense, and to allow sidewalks to be installed as individual lots are developed.

Ms. Jones: In your motion for the approval of the final plat, it is also necessary for you to waive the requirement or to defer the installation of the sidewalks with the presentation of the performance surety bond guarantee.

Mr. Chason commented he would like to see sidewalks installed now in the subdivision in locations where they would not be damaged during the construction of homes, but especially in the common areas.

Mr. Coleman: The owners would have done if we had known, but this was something new that was presented to us at the site preview meeting so we only had time to present the bond. We will be happy to take care of it.

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

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

An Amended Motion was made by Ms. Chason and **Seconded** by Mayor Small to *approve the final plat for Dunmore Subdivision, Phase Two, Part A, contingent upon the installation of the sidewalks in the common areas. The Motion carried unanimously.*

The next order of business is an administrative presentation for street acceptance in Dunmore Subdivision, Phase Two, Part A.

ADMINISTRATIVE PRESENTATION:

An introductory presentation was given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting acceptance of the street(s) contained within Dunmore Subdivision, Phase Two, Part A.

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. Chason and **Seconded** by Mr. Gibson *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the acceptance of the streets in Dunmore Subdivision, Phase Two, Part A. The Motion carried unanimously.*

The next order of business is an administrative presentation for the master plan for the Springs @ Eastern Shore.

SPRINGS @ EASTERN SHORE:

MASTER PLAN:

An introductory presentation was given by Mr. Jaye Robertson, representing Hutchinson, Moore & Rauch, requesting master plan approval for the Springs @ Eastern Shore. This is the same master plan which was presented to you previously with the exception of obtaining the easement and/or access to Johnson Road.

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

Ms. Jones: An informal letter was provided this afternoon by Mr. John White-Spunner, representing White-Spunner, Inc. I would like to see, prior to the approval of the master plan and the site plan, a more formal document granting the easement from all of the owners.

Vice 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 Ms. Barnette and **Seconded** by Mayor Small to *approve the master plan for the Springs @ Eastern Shore, contingent upon a formal document being provided to the Director of Community Development by the owner or developer of the Springs @ Eastern Shore from White-Spunner, Inc. granting an access and/or ingress/egress easement to Johnson Road. The Motion carried unanimously.*

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

The next order of business is zoning amendment review for Big Sandy, L.L.C.

PETITIONS:

ZONING AMENDMENT:

File Z10-05: Big Sandy, L.L.C. (associated with the Springs @ Eastern Shore)

Present Zoning: B-2, General Business

Proposed Zoning: R-4, High Density Multi-Family Residential

Location: Southeast of the intersection of U. S. Highway 98 and Johnson Road
Area: 0.72 Acres ±
Owner: Big Sandy, L.L.C. - Jacob Cunningham, Managing Member
Engineer: Hutchinson, Moore & Rauch - Jaye Robertson

An introductory presentation was given by Mr. Jaye Robertson, representing Hutchinson, Moore & Rauch, requesting the rezoning of a zero point seven-two acre parcel located southeast of the intersection of U. S. Highway 98 and Johnson Road from a B-2, General Business, to an R-4, High Density Multi-Family Residential, zone. An application for the rezoning of this parcel had been submitted previously, but the application was not accepted by the City because the rezoning of the same parcel had taken place less than one year prior to that. It is necessary to rezone the zero point seven-two acre parcel to replat it with Lot 1 of the Springs @ Eastern Shore. I will be happy to answer any questions you may have.

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

A Motion was made by Mr. Chason and **Seconded** by Mayor Small *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the rezoning of a zero point seven-two acre parcel located southeast of the intersection of U. S. Highway 98 and Johnson Road from a B-2, General Business, to an R-4, High Density Multi-Family Residential, zone for Big Sandy, L.L.C. The Motion carried unanimously.*

The next order of business is an administrative presentation for a replat of Lot 1 of the Springs @ Eastern Shore.

ADMINISTRATIVE PRESENTATION:

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

An introductory presentation was given by Mr. Jaye Robertson, presenting Hutchinson, Moore, & Rauch, requesting a replat review to remove a common line of the out parcel on U.S. Highway 98 and Lot 1, the Springs at Eastern Shore. I will be happy to answer any questions you may have.

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

Ms. Jones: The staff recommendation is for denial until such time the rezoning of the parcel is presenting and approved by the City Council.

Ms. Barnette: I agree with that recommendation. I do not think we should have two different zoning designations on one plat.

Mr. Chason: Normally, I would agree, but in this case I would say that since it is such a small parcel we should consider it because of the time frame. There are other parcels in the City with two designations.

Ms. Jones: Jaye, explain to them why it is necessary for this to be one parcel.

Mr. Robertson: The small out parcel has to be combined with the larger parcel in order for the owners to present the application for financing for the project to the Housing Urban Development Board.

Mr. Carney: My name is Jay Carney, representing Heritage Homes. There is a staged application to HUD for financing. The process takes approximately nine months. All of the zoning and the subdividing have to be in place in order to show the improvements to the site and to ask for the financing. If that is not done prior to the submission of the application, then any other improvements such as the access on the B-2 parcel and the easement accessing Johnson Road would have to be an out-of-pocket expense. The initial application window may be within the next forty-five days, and in order to make that application it must be presented together.

Ms. Barnette: I do not see the urgency in combing the parcels if the zoning amendment will not be approved until some time in January. Obviously, an application for financing could not be submitted until the zoning and the replat are in place.

Mr. Hutchinson: My name is Scott Hutchinson, representing Hutchinson, Moore & Rauch. Mr. Carney does not understand the application process for the zoning amendment and the replat. We would like to have the approval of the replat so that it will be in place at the time of the approval of the zoning amendment.

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

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

A Motion was made by Ms. Barnette and **Seconded** by Mayor Small *to approve the replat of the Springs at Eastern Shore and the out parcel on U.S. Highway 98 to remove a common lot line, contingent upon the approval of the zoning amendment for Big Sandy, L.L.C. by the City Council. The Motion carried unanimously.*

The next order of business is site plan review for Springs @ Eastern Shore.

SITE PLAN REVIEW:

File S10-13:

Site: Springs @ Eastern Shore

Zoning(s): *B-2, General Business, and R-4, High Density Multi-Family Residential*

Location: Southeast of the intersection of U. S. Highway 98 and Johnson Road

Area: 20.31 Acres ±

Owner: Big Sandy, L.L.C. - Jacob Cunningham, Managing Member

Developer: Heritage Construction Company

Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson or Jaye Robertson

An introductory presentation was given by Mr. Jaye Robertson, representing Hutchinson, presenting Hutchinson, Moore, & Rauch, requesting site plan review of an apartment complex located southeast of the intersection of U. S. Highway 98 and Johnson Road. The only change to the site plan is the access to Johnson Road will not be fifty feet. The access will be a thirty-foot easement with twenty-four feet of pavement constructed to the City's specifications.

Mr. Robertson: The owners of the property to the north did not want a fifty-foot right-of-way on the front of their property. I will be happy to answer any questions you may have.

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

Mr. Chason: Because you cannot go south on Johnson Road, the exit to this property is very important so let's talk about it first.

Mr. Hutchinson: I do not know why the owner would not allow the fifty-feet other than it would affect the setback of a building on his parcel. We would like to discuss other issues which are relative to the approval of this site plan. One is the improvement of Johnson Road and U.S. Highway 98.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. Hutchinson: Prior to this meeting tonight, we received a revised handwritten traffic study from Mr. Metzger, but we have not had time to review it in preparation of discussing it with you tonight. However, he did say in the revised traffic study that a left turn lane is not warranted.

Ms. Barnette: This development is hinged upon the access to Johnson Road so that is important. That may be why the previous developer walked away from the project.

Ms. Jones: In Ms. Campbell's notes, she says the NPDES ADEM permit has expired and needs proof of the re-registration or registration. I would also like the motion to approve the site plan to contain a contingency also as you did with the master plan which states a formal document granting the easement must be provided prior to the issuance of a site disturbance permit.

Mr. Hutchinson: We, on behalf of the owners, would like to request that you table the site plan review in order to allow us to work out the issues with the site plan, the improvement to the intersection at Johnson Road and the documents for the easement. We need time to work on the access and traffic issues with the Division of Public Works and the Alabama Department of Transportation.

Mr. Chason: I would like to say this parcel has been both R-4 and B-2, and an R-4 apartment development is much more viable than a dirt pit. At the site plan review next month, I will be interested in hearing about the improvements, a dry stream bed being used as detention, and the storm water detention being piped into Montrose. My two biggest concerns are the drainage and that intersection.

Mr. Hutchinson: With our design, the dry stream will not be used for detention. There will be not treatment of the storm water, but it will be controlled. We did this in order to preserve the natural beauty and design of this site.

Vice 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 Ms. Barnette and **Seconded** by Mayor Small *to table the site plan for the Springs @ Eastern Shore. The Motion carried unanimously.*

Ms. Barnette: Do you agree to waive the thirty-day rule?

Mr. Hutchinson: We agree to waive that rule.

The next order of business is zoning amendment review for TDG LAKE FOREST, L.L.C.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

PETITIONS:

ZONING AMENDMENT:

File Z10-04: TDG LAKE FOREST, L.L.C. (A.K.A. LAKE FOREST APARTMENTS)

Present Zoning: B-1, Local Business, and R-3, High Density Single Family Residential

Proposed Zoning: R-4, High Density Multi-Family Residential

Location: Southeast of Van Buren Street and North Main Street
Area: 2.92 Acres \pm and 3.39 Acres \pm , respectively
Owner: TDG Lake Forest, L.L.C. - William Dobbins, Managing Member
Engineer: Engineering Development Services - David Diehl

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, requesting the rezoning of a two-point nine two and a three-point three nine-acre parcels, respectively, located southeast of the intersection of Van Buren Street and North Main Street known as the Lake Forest Apartments from a B-1, Local Business, and R-3, High Density Single Family Residential to an R-4, High Density Multi-Family Residential, zone. This parcel has split zoning which was accepted at the time of its annexation into the City of Daphne. The current owner is in the process of upgrading the development, and he would like to have the zoning comply with the current use of the property. I will be happy to answer any questions you may have.

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

Ms. Barnette: If the owner is in the process of cleaning up the zoning, then why would he have to go to the Board of Zoning Adjustments.

Ms. Jones: Because the present development's density is twenty units per acre. Our ordinance only allows fourteen units per acre. I have another comment I would like to make during public participation.

Vice Chairman: Do any of the Commissioners have any further questions or comments? The Chairman opened the floor to public participation.

Ms. Jones: I received a letter this afternoon from Dr. Booth, an adjacent property owner. His letter talks about the density of the units which is twenty per acre, and the parking which is located on the right-of-way of Van Buren Street. He is not opposed to the rezoning of the property, but he asks can the parking be moved off of the right-of-way.

The Chairman closed public participation.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Ms. Barnette: If the property is to be rezoned, then those types of issues would have to be addressed. The parking requirements and the density. The zoning will have to come into compliance in order for the units to be rebuilt.

Mr. Dobbins: My name is William (Bill) Dobbins. I am the managing member of the company. This development was in very bad condition when we purchased it from the FDIC last month. Eight of the units which were destroyed by a fire are missing. The units missing hinder our clean up, and the current rules prohibit us from rebuilding.

Mr. Diehl: The required parking for this site is one hundred and ninety-two spaces. We meet and/or exceed compliance to the parking regulations. As to the parking on the right-of-way the present tenants could park else where, but this area is readily accessible to the entrance of their apartment.

Mr. Dobbins: We do not necessarily need the rezoning of the property. We could go to the Board of Zoning Adjustments and ask to rebuild the units. We have spent millions of dollars on this facility on the upgrade, and we would like to rebuild those eight units are part of the clean up.

Ms. Barnette: I am opposed to the rezoning until the issues which are not in compliance are addressed.

Mr. Chason: What issues are not in compliance? If we recommend the rezoning of the property, then we will see the site plan again in order to address those issues.

Ms. Barnette: The Planning Commission will not see the site plan because the units are existing. We will not have an opportunity to address the parking requirements, density of the property and the parking area which is located on the City right-of-way of Van Buren Street.

Vice 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 Mayor Small *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the rezoning of a two-point nine two and a three-point three nine-acre parcel located southeast of the intersection of Van Buren Street and North Main Street known as the Lake Forest Apartments from a B-1, Local Business, and R-3, High Density Single Family Residential to an R-4, High Density Multi-Family Residential, zone. The Motion carried. Ms. Barnette dissented.*

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Clarification Note: Although a majority of those present voted in favor of the motion, a super majority would have been necessary for a favorable recommendation.

The next order of business is an administrative presentation of a revised master plan for St. Augustine Subdivision.

ADMINISTRATIVE PRESENTATION:

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, requesting a master plan revision for St. Augustine Subdivision. The subject property is located northeast of County Road 64 on Rigsby Road of the City of Daphne extraterritorial jurisdiction in Baldwin County District 15. You may remember the master plan for this subdivision being recommended by the Baldwin County Planning Department and approved by you previously. When we went to the County Commission, the application for a planned unit development was denied. We have redesigned it to provide a transition from larger lots on Rigsby Road. The design will still include the walking trails, sidewalks and the open space. We are asking for the approval of the revised master plan for submission to Baldwin County. I will be happy to answer any questions you may have.

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

Mr. Chason: Thank you for taking the time to explain the concept to us. I liked the other plan, but I think the transition of the larger to smaller lots makes the plan far superior.

Ms. Barnette: I really like the design of the master plan.

Vice 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 Ms. Barnette and **Seconded** by Mayor Small *to approve the revised master plan for St. Augustine Subdivision. The Motion carried unanimously.*

The next order of business is to set the November and December meeting dates.

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. Gibson *to set the meeting dates for November 18 and December 16, 2010. The Motion carried unanimously.*

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

The next order of business is to review the by laws of the Planning Commission.

Ms. Jones: The last revision to the by laws was in 2003. I have given you a working copy of the Baldwin County Planning Commission by laws. I would like for you to review them, as well as, the copy of our by laws in order provide your recommendations for changing and/Updating them.

The next order of business is an administrative presentation for a proposed amendment to the Daphne Land Use and Development Ordinance regarding the revision of the C-2, Outdoor Amusement, zoning district. The subsequent Council President, Mr. Palumbo, had written a letter from the City Council to Mr. Kirby, the Chairman of the Planning Commission, requesting the separation of the outdoor amusement district uses in order to create a golf course district. I have presented you with two drafts. One is the revision to the outdoor amusement district and the other is the creation of the golf course district. I would like your comments and a recommendation for each to the City Council.

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

The Commission expressed concerns with the revision to the Table of Permitted Uses and Conditions relating to the uses outlined in the outdoor amusement district as they relate to uses in the golf course district and ask for them to be omitted.

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. Gibson *for the affirmative recommendation by the Planning Commission to the City Council of Daphne of Daphne of the proposed amendment to the Daphne Land Use and Development Ordinance for the revision to the C-2, Outdoor Amusement, and the creation of the G-C, Golf Course, zoning district.*

Mr. Chason: Do you want a recommendation to the City Council ala carte or both contained in one motion? I believe the ordinance has to be presented as one in order for them to work.

Ms. Barnette and Mr. Gibson withdrew the motion

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

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

A Motion was made by Ms. Barnette and **Seconded** by Mr. Gibson *for the affirmative recommendation by the Planning Commission to the City Council of Daphne of Daphne of the proposed amendment to the Daphne Land Use and Development Ordinance for the revision to the C-2, Outdoor Amusement, contingent upon the revisions to the Table of Permitted Uses and Conditions as discussed. The Motion carried unanimously.*

A Motion was made by Ms. Barnette and **Seconded** by Mr. Gibson *for the affirmative recommendation by the Planning Commission to the City Council of Daphne of Daphne of the proposed amendment to the Daphne Land Use and Development Ordinance for the creation of a G-C, Golf Course, zoning district, contingent upon acceptance of the ordinances as one. The Motion carried unanimously.*

The next order of business is public participation.

PUBLIC PARTICIPATION:

Vice Chairman: Is there anyone who would like to address the Planning Commission?

Mr. Ouellette, President of the Madison Place Property Owner's Association: Why do you allow engineers to present site plans with time frames and constraints?

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

ATTORNEY'S REPORT:

Mr. Ross: No report.

Ms. Barnette: I was asked by the subsequent City Council present to read the following into the Planning Commission minutes. " At the October 18, 2010 the City Council considered setting a public hearing to change the Land Use Ordinance with regard to zoning in a B-1 zone. The vote for setting the hearing resulted in a three to three-tie vote which meant it failed. I am attaching an excerpt of the minutes which reflects the result of the City Council's vote. A motion was made by Councilwoman Barnette to set a Public Hearing date for November 15, 2010 to consider: amending the Land Use Ordinance/Table of Permitted Uses/for the designation of a convenience store by right in a B-1, Local Business, district as a use allowed upon Planning Commission approval and to add a bowling alley and family entertainment center as a use allowed upon Planning Commission approval in a B-1, Local Business, district. The Motion was seconded by Councilman Scott. The ayes were Barnette, Reese and Scott. The nays were Lake, Boulware and Palumbo. The motion failed".

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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

DIRECTOR'S COMMENTS-2011 GOALS OF COMMUNITY DEVELOPMENT AND THE PLANNING COMMISSION:

Ms. Jones: The goals of Community Development and the Planning Commission are things we need to work on. Other things which are not on the list are sign regulations, green regulations, and the update of the Comprehensive Plan.

The next order of business is commissioner's comments.

COMMISSIONER'S COMMENTS:

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

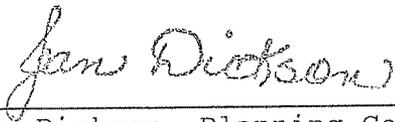
Mr. Chason: One item we need to address in the land use regulations deals with the issue of an application not being able to be acted upon because of the lack of six members present, which is required for preliminary plat, zoning amendments, etc. The clarification would address current language that currently states "any application not acted on within thirty days of submittal shall be deemed approved". Chason suggested that the regulation as currently written does not contemplate a lack of the six members necessary to vote up or down the application. Therefore, something needs to be added to state that an application will not be automatically approved if not acted upon in thirty days due to less than six members being present. If an application requiring six members for approval is submitted, and less than six members are present, then the application shall be automatically tabled for thirty days and is not deemed either approved or denied.

ADJOURNMENT:

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

There being no further business, the meeting was adjourned at 7:50 p.m.

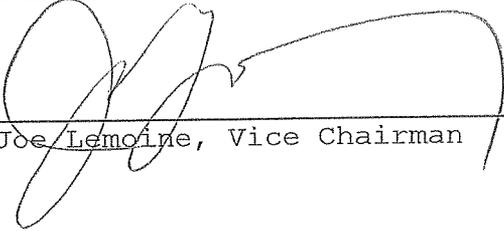
Respectfully submitted by:



Jan Dickson, Planning Coordinator

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 28, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

APPROVED: November 18, 2010



Joe Lemoine, Vice Chairman

11/23/2010

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 18, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

1. CALL TO ORDER DATE: NOVEMBER 23, 2010

2. CALL OF ROLL ADJ/JD

3. APPROVAL OF MINUTES:

Review of minutes for the regular meeting of October 28, 2010. (APPROVED W/REVISIONS)

4. OLD BUSINESS:

A. ELECTION OF OFFICERS - ED KIRBY, CHAIRMAN, LARRY CHASON, VICE CHAIRMAN AND JOE LEMOINE, SECRETARY

B. SPRINGS AT EASTERN SHORE:

1. SITE PLAN REVIEW:

File S10-13: (APPROVED, REQUESTED A REVISION TO THE SITE PLAN TO INCLUDE THE CONSTRUCTION OF A RIGHT TURN LANE AT INTERSECTION OF JOHNSON ROAD AND U.S. HIGHWAY 98, SUBJECT TO THE APPROVAL OF THE ALABAMA DEPARTMENT OF TRANSPORTATION)

Site: Springs @ Eastern Shore

Zoning (s): *B-2, General Business, and R-4, High Density Multi-Family Residential*

Location: Southeast of the intersection of U. S. Highway 98 and Johnson Road

Area: 20.31 Acres ±

Owner: Big Sandy, L.L.C. - Jacob Cunningham, Managing Member

Developer: Heritage Construction Company

Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson or Jaye Robertson

5. NEW BUSINESS:

A. ADMINISTRATIVE PRESENTATION: (APPROVED)

1. Presentation to be given by Mr. Mitchell Davenport, representing Jubilee Ridge, L.L.C., requesting master plan review of Laurel Springs Apartments (fka Jubilee Ridge Condominiums). The subject property is located Southeast of the intersection of County Road 64 and Pollard Road.

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 18, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

B. DAPHNE UTILITIES CENTRAL SERVICES FACILITY:

1. SITE PLAN REVIEW: (APPROVED, WITH AN AGREEMENT TO THE STREET IMPROVEMENT OF WELL ROAD, BEGINNING AT THE EAST SIDE OF THE RIGHT-OF-WAY OF POLLARD ROAD EXTENDING TO EAST TO PUBLIC WORKS ROAD, TO THE MINIMUM STANDARDS REQUIRED IN ARTICLE XI, MINIMUM REQUIREMENTS AND REQUIRED IMPROVEMENTS, OF THE DAPHNE LAND USE AND DEVELOPMENT ORDINANCE)

File S10-14:

Site: Daphne Central Services Facility

Zoning(s): *B-2, General Business*

Location: Northeast of the intersection of Pollard Road and Well Road

Area: 9.5 Acres ±

Owner: Utilities Board of the City of Daphne - Rob McElroy, General Manager, or Danny Lyndall, Operations Manager

Engineer: Volkert & Associates, Inc. - Melinda Immel

C. FINAL PLAT REVIEW:

1. File SDF10-03: (APPROVED)

Subdivision: Dunmore, Phase Two, Part B

Zoning(s): *R-4, High Density Single Family Residential*

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

Area: 10.47 Acres ±, (28) lots

Owner: Hearthstone Multi-Asset Entity

Engineer: Rester & Coleman Engineers - Joel Coleman

2. ADMINISTRATIVE PRESENTATION:

Presentation to be given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting to waive the requirement for sidewalks and to defer the required installation, with the presentation of a performance bond to cover such expense, and to allow sidewalks to be installed as individual lots are developed. (APPROVED)

Presentation to be given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting street acceptance of all streets contained within Dunmore Subdivision, Phase Two, Part B. (FAVORABLE RECOMMENDATION)

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 18, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

D. CAROLINE WOODS SUBDIVISION, PHASES TWO & THREE:

1. MASTER PLAN: (APPROVED)

Presentation to be given by Mr. David Diehl, representing Engineering Development Services, requesting revised master plan review for Caroline Woods Subdivision, Phases Two and Three.

2. FINAL PLAT REVIEW:

File SDF10-04: (APPROVED)

Subdivision: Caroline Woods, Phase Two "A"

Zoning(s): *R-4, High Density Single Family Residential, and R-3, High Density Single Family Residential*

Location: Northeast of the intersection of Parker Lane and Whispering Pines Road, North of Madison Place Subdivision, West of Daphne Commercial Park, Phase Two

Area: 4.0 Acres ±, (13) lots

Owner: Plan B Investments, L.L.C. - Jacob Cunningham

Engineer: Engineering Development Services - David Diehl or Jason Estes

3. ADMINISTRATIVE PRESENTATION:

Presentation to be given by Mr. David Diehl or Jason Estes, representing Engineering Development Services, Engineering Development Services, requesting to waive the requirement for sidewalks and to defer the required installation, with the presentation of a performance bond to cover such expense, and to allow sidewalks to be installed as individual lots are developed. (APPROVED, MOTION TO WAIVE THE REQUIREMENT AND TO DEFER THE REQUIRED INSTALLATION UNTIL INDIVIDUAL LOTS ARE DEVELOPED, WITHOUT THE SUBMISSION OF A PERFORMANCE BOND. ACCEPTANCE OF THE FOUR FOOT SIDEWALK INSTALLED IN LIEU OF THE REQUIRED FIVE FOOT SIDEWALK, CONTINGENT UPON THE CONTINUATION OF FIVE FOOT SIDEWALKS IN FUTURE PHASES, AND THE CONSTRUCTION OF A SIDEWALK CONNECTION FROM CAROLINE WOODS SUBDIVISION TO MADISON PLACE SUBDIVISION)

Presentation to be given by Mr. David Diehl or Jason Estes, representing Engineering Development Services, requesting street acceptance of all streets contained within Caroline Woods Subdivision, Phase Two A. (FAVORABLE RECOMMENDATION)

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 18, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

4. PETITIONS:

ZONING AMENDMENT: (FAVORABLE RECOMMENDATION)

File Z10-06: Plan B Investments, L.L.C. (a portion of Caroline Woods Subdivision, Phase Two, Part A and D)

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

Proposed Zoning: R-4, High Density Single Family Residential

Location: Northeast of the intersection of Parker Lane and Whispering Pines Road, Northwest of Madison Place Subdivision
Area: 3.47 Acres ±
Owner: Plan B Investments, L.L.C. - Jacob Cunningham
Engineer: Engineering Development Services - David Diehl or Jason Estes

5. PRELIMINARY PLAT REVIEW:

File SDP10-04: (APPROVED)

Subdivision: Caroline Woods, Phase Three

Zoning(s): R-4, High Density Single Family Residential

Location: Northeast of the intersection of Parker Lane and Whispering Pines Road, North of Madison Place Subdivision
Area: 12.46 Acres ±, (41) lots
Owner: A & B-10, L.L.C. - John Avent & Joe Bullock
Engineer: Engineering Development Services - David Diehl or Jason Estes

E. PETITIONS:

ZONING AMENDMENT: (UNFAVORABLE RECOMMENDATION, SEVEN MEMBERS VOTED IN THE AFFIRMATIVE, ONE DISSENTED)

Present Zoning: B-1, Local Business

Proposed Zoning: B-2, General Business

File Z10-02: MPWS, L.L.C.

Location: Southwest corner of Lawson Road and County Road 13, Lot 2, Lake Forest Plaza Subdivision
Area: 4.44 Acres ±
Owner: MPWS, L.L.C. - John White-Spunner or Matt White
Engineer: Rester & Coleman Engineers - Joel Coleman

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 18, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

5. OTHER BUSINESS:

Reconsideration of a previous motion to amend Article XXXV, the Table of Permitted Uses and Conditions to add a bowling alley as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district. (FAVORABLE RECOMMENDATION, SEVEN MEMBERS VOTED IN THE AFFIRMATIVE, ONE DISSENTED).

Presentation given by Ms. Cathy Barnette, Council President, of a request the City Council to take action on streets and storm water drainage for Oldfield Subdivision, Phase One. (FAVORABLE RECOMMENDATION)

A motion was made to change the time of the meeting of the Planning Commission from 6:00 p.m. to 5:00 p.m. (APPROVED UNANIMOUSLY)

6. PUBLIC PARTICIPATION

7. ATTORNEY'S REPORT

8. COMMISSIONER'S COMMENTS

9. DIRECTOR'S COMMENTS

10 ADJOURNMENT

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Planning Commission Reconsideration of
an Amendment to Article XXXV, the Table
of Permitted Uses and Conditions of the
Daphne Land Use Ordinance for a Bowling
Alley in a B-1, Local Business, Zoning
District
Date: November 22, 2010

MEMORANDUM

At the Thursday, November 18, 2010 regular meeting of the City of Daphne Planning Commission reconsidered the vote and recommendation set forth at the September 23, 2010 meeting. Eight members were present and the motion set forth a favorable recommendation to amend Article XXXV, the Table of Permitted Uses and Conditions to add a bowling alley as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district carried. Seven members voted in the affirmative and one dissented.

Please place in the City Council packet for consideration at the Monday, December 6, 2010 public hearing.

Thank you,
ADJ/jd

cc: file

**CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 18, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

B. DAPHNE UTILITIES CENTRAL SERVICES FACILITY:

1. **SITE PLAN REVIEW: (APPROVED, WITH AN AGREEMENT TO THE STREET IMPROVEMENT OF WELL ROAD, BEGINNING AT THE EAST SIDE OF THE RIGHT-OF-WAY OF POLLARD ROAD EXTENDING TO EAST TO PUBLIC WORKS ROAD, TO THE MINIMUM STANDARDS REQUIRED IN ARTICLE XI, MINIMUM REQUIREMENTS AND REQUIRED IMPROVEMENTS, OF THE DAPHNE LAND USE AND DEVELOPMENT ORDINANCE)**

File S10-14:

Site: Daphne Central Services Facility

Zoning(s): *B-2, General Business*

Location: Northeast of the intersection of Pollard Road and Well Road

Area: 9.5 Acres ±

Owner: Utilities Board of the City of Daphne - Rob McElroy, General Manager, or Danny Lyndall, Operations Manager

Engineer: Volkert & Associates, Inc. - Melinda Immel

C. FINAL PLAT REVIEW:

1. **File SDF10-03: (APPROVED)**

Subdivision: Dunmore, Phase Two, Part B

Zoning(s): *R-4, High Density Single Family Residential*

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

Area: 10.47 Acres ±, (28) lots

Owner: Hearthstone Multi-Asset Entity

Engineer: Rester & Coleman Engineers - Joel Coleman

2. **ADMINISTRATIVE PRESENTATION:**

Presentation to be given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting to waive the requirement for sidewalks and to defer the required installation, with the presentation of a performance bond to cover such expense, and to allow sidewalks to be installed as individual lots are developed. (APPROVED)

Presentation to be given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting street acceptance of all streets contained within Dunmore Subdivision, Phase Two, Part B. (FAVORABLE RECOMMENDATION)

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 18, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

D. CAROLINE WOODS SUBDIVISION, PHASES TWO & THREE:

1. MASTER PLAN: (APPROVED)

Presentation to be given by Mr. David Diehl, representing Engineering Development Services, requesting revised master plan review for Caroline Woods Subdivision, Phases Two and Three.

2. FINAL PLAT REVIEW:

File SDF10-04: (APPROVED)

Subdivision: Caroline Woods, Phase Two "A"

Zoning(s): *R-4, High Density Single Family Residential, and R-3, High Density Single Family Residential*

Location: Northeast of the intersection of Parker Lane and Whispering Pines Road, North of Madison Place Subdivision, West of Daphne Commercial Park, Phase Two

Area: 4.0 Acres ±, (13) lots

Owner: Plan B Investments, L.L.C. - Jacob Cunningham

Engineer: Engineering Development Services - David Diehl or Jason Estes

3. ADMINISTRATIVE PRESENTATION:

Presentation to be given by Mr. David Diehl or Jason Estes, representing Engineering Development Services, Engineering Development Services, requesting to waive the requirement for sidewalks and to defer the required installation, with the presentation of a performance bond to cover such expense, and to allow sidewalks to be installed as individual lots are developed. (APPROVED, MOTION TO WAIVE THE REQUIREMENT AND TO DEFER THE REQUIRED INSTALLATION UNTIL INDIVIDUAL LOTS ARE DEVELOPED, WITHOUT THE SUBMISSION OF A PERFORMANCE BOND. ACCEPTANCE OF THE FOUR FOOT SIDEWALK INSTALLED IN LIEU OF THE REQUIRED FIVE FOOT SIDEWALK, CONTINGENT UPON THE CONTINUATION OF FIVE FOOT SIDEWALKS IN FUTURE PHASES, AND THE CONSTRUCTION OF A SIDEWALK CONNECTION FROM CAROLINE WOODS SUBDIVISION TO MADISON PLACE SUBDIVISION)

Presentation to be given by Mr. David Diehl or Jason Estes, representing Engineering Development Services, requesting street acceptance of all streets contained within Caroline Woods Subdivision, Phase Two A. (FAVORABLE RECOMMENDATION)

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 18, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

4. PETITIONS:

ZONING AMENDMENT: (FAVORABLE RECOMMENDATION)

File Z10-06: Plan B Investments, L.L.C. (a portion of Caroline Woods Subdivision, Phase Two, Part A and D)

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

Proposed Zoning: R-4, High Density Single Family Residential

Location: Northeast of the intersection of Parker Lane and Whispering Pines Road, Northwest of Madison Place Subdivision
Area: 3.47 Acres ±
Owner: Plan B Investments, L.L.C. - Jacob Cunningham
Engineer: Engineering Development Services - David Diehl or Jason Estes

5. PRELIMINARY PLAT REVIEW:

File SDP10-04: (APPROVED)

Subdivision: Caroline Woods, Phase Three

Zoning(s): R-4, High Density Single Family Residential

Location: Northeast of the intersection of Parker Lane and Whispering Pines Road, North of Madison Place Subdivision
Area: 12.46 Acres ±, (41) lots
Owner: A & B-10, L.L.C. - John Avent & Joe Bullock
Engineer: Engineering Development Services - David Diehl or Jason Estes

E. PETITIONS:

ZONING AMENDMENT: (UNFAVORABLE RECOMMENDATION, SEVEN MEMBERS VOTED IN THE AFFIRMATIVE, ONE DISSENTED)

Present Zoning: B-1, Local Business

Proposed Zoning: B-2, General Business

File Z10-02: MPWS, L.L.C.

Location: Southwest corner of Lawson Road and County Road 13, Lot 2, Lake Forest Plaza Subdivision
Area: 4.44 Acres ±
Owner: MPWS, L.L.C. - John White-Spunner or Matt White
Engineer: Rester & Coleman Engineers - Joel Coleman

**CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 18, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

5. OTHER BUSINESS:

Reconsideration of a previous motion to amend Article XXXV, the Table of Permitted Uses and Conditions to add a bowling alley as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district. **(FAVORABLE RECOMMENDATION, SEVEN MEMBERS VOTED IN THE AFFIRMATIVE, ONE DISSENTED).**

Presentation given by Ms. Cathy Barnette, Council President, of a request the City Council to take action on streets and storm water drainage for Oldfield Subdivision, Phase One. **(FAVORABLE RECOMMENDATION)**

A motion was made to change the time of the meeting of the Planning Commission from 6:00 p.m. to 5:00 p.m. **(APPROVED UNANIMOUSLY)**

6. PUBLIC PARTICIPATION

7. ATTORNEY'S REPORT

8. COMMISSIONER'S COMMENTS

9. DIRECTOR'S COMMENTS

10. ADJOURNMENT

SET A PUBLIC HEARING DATE

JANUARY 3, 2011

TO CONSIDER:

1.) Set Public Hearing date for January 3, 2011 to consider:

a.) **Rezone:** Plan B Investments

Located: Northeast of the intersection of Parker Lane and Whispering Pines Road
Northwest of Madison Place Subdivision

Present Zoning: R-3, High Density single Family Residential District

Requested Zoning: R-4, High Density Single Family Residential District

Recommendation: *Recommend Approval* / Unanimous

b.) **Rezone:** MPWS, LLC

Located: Southwest corner of Lawson Road and County Road 13

Present Zoning: B-1, Local Business District

Requested Zoning: B-2, General Business District

Recommendation: *Unfavorable* / Eight members present / Seven members voted in the affirmative and one dissented

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Plan B Investments, L.L.C.
Zoning Amendment Review
Date: November 18, 2010

MEMORANDUM

PRESENT ZONING: R-3, High Density Single Family Residential, City of Daphne

PROPOSED ZONING: R-4, High Density Single Family Residential, City of Daphne

LOCATION: Northeast of the intersection of Parker Lane and Whispering Pines Road, Northwest of Madison Place Subdivision

RECOMMENDATION: At the Thursday, November 18, 2010, regular meeting of the Daphne Planning Commission, eight members were present and the motion to recommend approval carried unanimously.

The appropriate documentation and action has been provided to the City Attorney for preparation of the ordinance.

Upon receipt of documentation, please place on the appropriate City Council agenda to set the public hearing for action by the City Council on Monday, January 3, 2011.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Community Development Report
2. Petition
3. Legal description
4. Map of property
5. Adjacent property owners' list

COMMUNITY DEVELOPMENT ZONING AMENDMENT REVIEW

PLAN B INVESTMENTS, LLC

R-3 TO R-4

Plan B Investments, LLC proposes to rezone 3.47 acres of property in Caroline Woods Phase 2 and Phase 3 from R-3 to R-4. A revision to the master plan for Caroline Woods is on this same agenda for the Planning Commission's review and approval. The subject property is noted as lots 27, 74, 70, 69 and 68 (see attached master plan). The only property in the entire subdivision which remains R-3 has already been developed in Phase 1. On November 1st, the City Council approved the R-3 to R-4 rezoning request for the 12.42 acres noted as Phase 3 on the rezoning sketch.

The Future Land Use Map designates the subject property as residential, thus the proposal is consistent with the Comprehensive plan.

Zoning Recommendation: Approval contingent upon approval of the revised master plan submitted by EDS.

THE CITY OF DAPHNE
PLANNING DEPARTMENT
APPLICATION FOR ZONING AMENDMENT

Application Number: Z10-06 Date Plat Submitted: 10/18/10
Date Presented: 11/18/10

Name of Owner: PLAN B INVESTMENTS LLC

Address: 105 LAKE DR FAIRHOPE, AL 36532 Telephone# 988-1230
(Street or P.O. Box) (City) (State) (Zip Code)

Name of Authorized Agent, if other than owner: EDS L.L.C.

Address: 9499 BELLATON AVE DAPHNE, AL 36526 Telephone# 626-2122
(Street or P.O. Box) (City) (State) (Zip Code)

Subdivision: A PART OF CAROLINE WOODS, PHASE TWO, Part A + D

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: Oct. 18, 2010).

Meeting Dates:

Planning Commission: NOV. 18, 2010

City Council: _____

Reason(s) for requesting the Zoning Amendment:

TO DEVELOP PATIO GARDEN HOMES SIMILAR TO REST OF CAROLINE WOODS PHASE TWO AND
THREE WHILE PROTECTING SOME SIGNIFICANT OAKS IN COMMON AREAS.



SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

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

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 _____

b) Name of Subdivision TO BE KNOWN AS A ^{portion of} CAROLINE WOODS PHASE TWO PART A+D

c) Lot numbers involved in change N/A

d) Total acreage of change 3.47 acres

e) Recorded in Map Book N/A Page _____

f) Owned in whole by the undersigned? YES

g) If owned in part, name(s) of co-owner(s) :

2) Zoning change requested:

a) Present classification of property R-3

b) Reclassification desired R-4 S.F.

c) Character of neighborhood MOSTLY R-4 SF WITH SOME R-3 SF

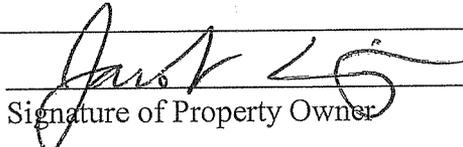
3) Certifications:

a) Owner's Name PLAN B INVESTMENTS LLC

b) Address 105 LAKE DR FAIRHOPE, AL 36532

c) Telephone Number 988-1230

d) Date 10/18/2010



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.

10/18/10
Date


Signature of Property Owner

**PLAN B INVESTMENTS LLC
ZONING AMENDMENT REVIEW
NORTHEAST OF THE INTERSECTION OF PARKER
LANE AND WHISPERING PINES ROAD, NORTHWEST OF MADISON
PLACE SUBDIVISION
EXHIBIT "A"**

(A PORTION OF CAROLINE WOODS SUBDIVISION, PHASES A & D)

LEGAL DESCRIPTION:

COMMENCE AT THE SOUTHWEST CORNER OF LOT NUMBER 7 OF CAROLINE WOODS SUBDIVISION, PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2423-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING: THENCE RUN SOUTH 89 DEGREES 54 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 110.23 FEET; THENCE RUN NORTHWESTWARDLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 30 FEET, AN ARC DISTANCE OF 47.12 FEET (CHORD BEARS NORTH 45 DEGREES 05 MINUTES 57 SECONDS WEST, 42.43 FEET); THENCE RUN NORTH 00 DEGREES 05 MINUTES 57 SECONDS WEST, FOR A DISTANCE OF 79.05 FEET; THENCE RUN NORTH 79 DEGREES 57 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 50.79 FEET; THENCE RUN NORTH 00 DEGREES 05 MINUTES 57 SECONDS WEST, FOR A DISTANCE OF 236.96 FEET; THENCE RUN NORTHWESTWARDLY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1071.71 FEET, AN ARC DISTANCE OF 281.22 FEET (CHORD BEARS NORTH 07 DEGREES 37 MINUTES 00 SECONDS WEST, 280.42 FEET); THENCE RUN NORTH 15 DEGREES 08 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 67.34 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, FOR A DISTANCE OF 36.94 FEET; THENCE RUN NORTH 76 DEGREES 51 MINUTES 49 SECONDS EAST, FOR A DISTANCE OF 84.84 FEET; THENCE RUN SOUTH 89 DEGREES 57 MINUTES 25 SECONDS EAST, FOR A DISTANCE OF 174.3 FEET; THENCE RUN SOUTH 00 DEGREES 04 MINUTES 34 SECONDS WEST, FOR A DISTANCE OF 139.01 FEET; THENCE RUN SOUTH 24 DEGREES 01 MINUTES 42 SECONDS WEST, FOR A DISTANCE OF 54.45 FEET; THENCE RUN SOUTH 03 DEGREES 47 MINUTES 20 SECONDS WEST, FOR A DISTANCE OF 262.06 FEET; THENCE RUN SOUTH 01 DEGREE 50 MINUTES 51 SECONDS WEST, FOR A DISTANCE OF 266.69 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 3.47 ACRES, MORE OR LESS, AND LIES IN FRACTIONAL SECTION 8 AND GRANT SECTION 19 AND 38, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

PLAN B INVESTMENTS
ZONING AMENDMENT
Adjacent Property Owners List

A & B-10 L L C
P O BOX 1395
DAPHNE AL 36526

ADAMS, SUSAN WALKER
7730 AVERY LANE
DAPHNE AL 36526

ANDERSON, HENRY
27267 PERDIDO BEACH BLVD#111
ORANGE BEACH AL 36561

ASHLEY, JONATHAN A ETAL
ASHLEY, ASHLEY L
27269 ELISE CT
DAPHNE AL 36526

BALBACH, DEBORAH A
27326 ELISE COURT
DAPHNE AL 36526

BENCHMARK HOMES INC
2936 MCVAY DR N
MOBILE AL 36606

CLARK, GREG ETUX JACQUELINE M
27284 ELISE COURT
DAPHNE AL 36526

COLONY HOMES L L C
200 ROCK CREEK PKWY
FAIRHOPE AL 36532

DYER, LISA M ETAL BAKKEN, VICKI
27243 ELISE COURT
DAPHNE AL 36526

EDS LLC
9949 BELLATON AVE
DAPHNE AL 36526

HEPPNER, MYRON R ETAL
HEPPNER, LORETTA M
7698 AVERY LANE
DAPHNE AL 36526

HOLLINGSHEAD, TONYA E
7723 AVERY LN
DAPHNE AL 36526

JACKSON, BRENDA F
27323 ELISE COURT
DAPHNE AL 36526

KERN, MELANIE L
27224 LASHAY DRIVE
DAPHNE AL 36526

LEMOINE, JOSEPH A JR ETAL
LEMOINE, NANCY
7742 AVERY LANE
DAPHNE AL 36526

MABIRE, JONATHAN B
27311 ELISE CT
DAPHNE AL 36526

MADISON PLACE PROPERTY
OWNERS ASSOCIATIO
P O DRAWER 2308
DAPHNE AL 36526

MAVERICK CAPITAL L L C
416 TRAVIS ST SUITE #715
SHREVEPORT LA 71101

MESTRE, ROBERT J
7722 AVERY LANE
DAPHNE AL 36526

OVERSTREET, DOROTHY ANN
27236 LASHAY DR
DAPHNE AL 36526

PERRY, HAYNE A
7684 AVERY LANE
DAPHNE AL 36526

PINYAN, PAULINE
7701 AVERY LANE
DAPHNE AL 36526

PLAN B INVESTMENTS L L C
105 WILLOW LAKE DR
FAIRHOPE AL 36532

SCOTT, SUSAN E
7687 AVERY LN
DAPHNE AL 36526

SCRIMPSHIRE, CELIA R
7709 AVERY LANE
DAPHNE AL 36526

SELLERS, ROBERT ETAL SELLERS,
TERESA A
7745 ELIZABETH DR
DAPHNE AL 36526

STANLEY, LYDIA M
7743 AVERY LANE
DAPHNE AL 36526

THOMAS, LEONARDO C ETAL
THOMPSON-THOMAS,
27273 ELISE CT
DAPHNE AL 36526

TOFIQUL, ISLAM ETAL REHMAN,
SABAHET
27231 ELISE CT
DAPHNE AL 36526

WATKINS, THOMAS E ETUX
SHARRON A
11606 CO RD 54
DAPHNE AL 36526

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

WILLIAMS, EDRICK ETAL WILLIAMS,
TAMEKA L
27248 ELISE COURT
DAPHNE AL 36526

WILLIS, GREGORY C ETAL WILLIS,
ANDREA L
27236 ELISE COURT
DAPHNE AL 36526

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2010-**

**Ordinance to Rezone Property Located
Northeast of the intersection of Parker Lane and Whispering Pines Road,
Northwest of Madison Place Subdivision**

WHEREAS, Plan B Investments, L.L.C., as the owner of certain real property located within the City of Daphne, Alabama, has requested that said property be rezoned from R-3, High Density Single Family Residential to R-4, High Density Single Family Residential; and,

WHEREAS, said real property is located Northeast of the intersection of Parker Lane and Whispering Pines Road, Northwest of Madison Place Subdivision, and more particularly described as follows:

COMMENCE AT THE SOUTHWEST CORNER OF LOT NUMBER 7 OF CAROLINE WOODS SUBDIVISION, PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2423-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING: THENCE RUN SOUTH 89 DEGREES 54 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 110.23 FEET; THENCE RUN NORTHWESTWARDLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 30 FEET, AN ARC DISTANCE OF 47.12 FEET (CHORD BEARS NORTH 45 DEGREES 05 MINUTES 57 SECONDS WEST, 42.43 FEET); THENCE RUN NORTH 00 DEGREES 05 MINUTES 57 SECONDS WEST, FOR A DISTANCE OF 79.05 FEET; THENCE RUN NORTH 79 DEGREES 57 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 50.79 FEET; THENCE RUN NORTH 00 DEGREES 05 MINUTES 57 SECONDS WEST, FOR A DISTANCE OF 236.96 FEET; THENCE RUN NORTHWESTWARDLY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1071.71 FEET, AN ARC DISTANCE OF 281.22 FEET (CHORD BEARS NORTH 07 DEGREES 37 MINUTES 00 SECONDS WEST, 280.42 FEET); THENCE RUN NORTH 15 DEGREES 08 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 67.34 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, FOR A DISTANCE OF 36.94 FEET; THENCE RUN NORTH 76 DEGREES 51 MINUTES 49 SECONDS EAST, FOR A DISTANCE OF 84.84 FEET; THENCE RUN SOUTH 89 DEGREES 57 MINUTES 25 SECONDS EAST, FOR A DISTANCE OF 174.3 FEET; THENCE RUN SOUTH 00 DEGREES 04 MINUTES 34 SECONDS WEST, FOR A DISTANCE OF 139.01 FEET; THENCE RUN SOUTH 24 DEGREES 01 MINUTES 42 SECONDS WEST, FOR A DISTANCE OF 54.45 FEET; THENCE RUN SOUTH 03 DEGREES 47 MINUTES 20 SECONDS WEST, FOR A DISTANCE OF 262.06 FEET; THENCE RUN SOUTH 01 DEGREE 50 MINUTES 51 SECONDS WEST, FOR A DISTANCE OF 266.69 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 3.47 ACRES, MORE OR LESS, AND LIES IN FRACTIONAL SECTION 8 AND GRANT SECTION 19 AND 38, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

WHEREAS, at the City of Daphne Planning Commission meeting on November 18, 2010, the Commission considered said request and set forth a favorable recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, due notice of said proposed rezoning has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on January 3, 2010; and,

WHEREAS, the City Council of the City of Daphne after due consideration and upon consideration of the recommendation of the Planning Commission, deemed that said application for rezoning of the above described real property is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and

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

SECTION I: ZONING

That above described real property is hereby rezoned from R-3, High Density Single Family Residential to R-4, High Density Single Family Residential, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

SECTION II: REPEALER.

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

SECTION III: SEVERABILITY.

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

SECTION IV: EFFECTIVE DATE.

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2010.

**Cathy S. Barnette,
Council President**

**Fred Small,
Mayor**

ATTEST:

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

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: MPWS, L.L.C.
Zoning Amendment Review
Date: November 22, 2010

MEMORANDUM

PRESENT ZONING: B-1, Local Business, City of Daphne

PROPOSED ZONING: B-2, General Business, City of Daphne

LOCATION: Southwest corner of Lawson Road and
County Road 13

RECOMMENDATION: At the Thursday, November 18, 2010,
regular meeting of the Daphne Planning
Commission, eight members were present
and the motion to set forth a
unfavorable recommendation carried.
Seven members voted in the affirmative
and one dissented.

Upon receipt of said documentation, please place on the
appropriate City Council agenda to set the public hearing for
action by the City Council on Monday, January 3, 2011.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Community Development Report
2. Petition
3. Legal description
4. Map of property
5. Adjacent property owners' list
6. Correspondence of Citizen Concerns

COMMUNITY DEVELOPMENT ZONING AMENDMENT REVIEW

MPWS, LLC **B-1 to B-2**

In 2007, applicant petitioned the city to annex the site and the surrounding parcels into the city with a B-2 zoning designation. The representative amended the request to B-1 upon the Planning Commission's comments. In 2007, a conceptual plan was given showing development along Lawson Road and County Road 13 intersection. No development was shown on the subject property as no plans were envisioned for this particular site.

On September 23, 2010 the applicant submitted a proposal to rezone the subject property from B-1 to B-2 **and** also submitted a request to amend the Table of Permitted Uses to allow a Bowling alley (family entertainment center) in a B-1 zone district **pending site plan approval by the Planning Commission**. *The applicant withdrew the petition at the September hearing prior to the Planning Commission public hearing. (See attached Planning Commission minutes.)*

Uses requiring Planning Approval allows the Planning Commission flexibility in ensuring the maximum level of harmony between different type uses where a use allowed "by right" is only required to meet the minimum standards established in the Land Use & Development Ordinance. Zoning runs with the land and does not change unless the owner petitions the municipality to amend the zoning. The owner has the right to construct any allowable use listed in the Table of Permitted Use "by right". There is no essentially no flexibility with a "by right" use, at the site plan approval level, i.e. Planning Commission options are extremely limited.

Excerpt from Article 13-2 Table of Permitted Uses (Defined)

Uses in the Table identified by (P) are permitted upon approval by the Planning Commission of the location and the site plan appropriate with regard to *transportation, access, water supply, waste disposal, fire, police protection, and other public facilities; as not causing undue traffic congestion or creating a traffic hazard; and in harmony with the orderly and appropriate development of the district in which the development is to occur.*

Excerpt from Article 13-3 Compliance with District Requirements

"Any use requiring planning approval is subject to review and approval of the Planning Commission. Each application to the Planning Commission for approval must be accompanied by a site plan prepared by the applicant or his agent. The Planning Commission shall review the application at its next meeting and take into consideration all existing regulations and ordinances of the City of Daphne, as well as, recommendations from the Zoning Administrator, the Director of Community Development, the Code Enforcement Officer, the Baldwin County Health Department, and any other such local officials. **The Planning Commission may approve the use request as is, it may approve it with conditions, or it may deny it.**"

The comprehensive plan is out of date. It still shows the future use as residential although the B-1 zoning was established in 2007. Upon revising the Future Land Use Map, this location will be amended to reflect a "Commercial use".

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 23, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

MPWS zoning request

Minutes from
Prior Discussion of
DRAFT - Sep 2010 -
B-2 Zoning on Cr. 13

File Z10-02: MPWS, L.L.C. (Associated with Lake Forest Plaza Subdivision)

Location: Southwest of the intersection of Lawson Road and County Road 13, Lot 2, Lake Forest Plaza Subdivision
Area: 4.44 Acres ±
Owner: MPWS, L.L.C. - Matt White
Engineer: Rester & Coleman Engineers - Joel Coleman

Present Zoning: B-1, Local Business

Proposed Zoning: B-2, General Business

An introductory presentation was given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting the rezoning of a four point four-four acre parcel located southwest of the intersection of Lawson Road and County Road 13 known as Lot 2 of Lake Forest Plaza Subdivision from a B-1, Local Business, to a B-2, General Business, zone. With the presentation of this project, we are still talking about the property at the intersection of Lawson Road and County Road 13. At the time of the planning for the projected development for this site, the owner thought the property was zoned B-2, General Business, but it is not. This property is zoned B-1. The owner has contracted for the development of a family entertainment center for the city. We felt it may be a better proposal for us and the residents to ask for an addition and/or amendment to the City of Daphne Land Use Ordinance, Article XXXV, the Table of Permitted Uses and Conditions rather than asking for a rezoning from B-1 to B-2. I will be happy to answer any questions you may have.

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

Ms. Phelps: Just a comment. The property was rezoned as B-1 because of the uses near the subdivision. I would be more inclined to hear your argument for a revision to the Table of Uses because B-2 is not a suitable use for this site.

Mr. Coleman: The owner would like to withdraw the petition for the zoning amendment.

with-
drawal

The next order of business is an administrative presentation requesting consideration of an amendment to the Daphne Land Use and Development, Article XXXV, the Table of Permitted Uses and Conditions.

ADMINISTRATIVE PRESENTATION:

Discussion re: Table Amendment Request

An introductory presentation was given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting the consideration of an amendment to the Daphne Land Use and Development Ordinance, Article XXXV, the Table of Permitted Uses to allow the operation of a bowling alley as a use permitted in a B-1, Local Business, zoning district upon site plan review and approval by the Planning Commission.

Mr. Coleman: I would like defer to the owner and developer, Mr. Matt White representing White-Spunner & Associates, to discuss the change to the Table of Permitted Uses and the conceptual plan.

Mr. Matt White presented to the Commission the request to amend the Table of Permitted Uses based on the fact we did not know this site was zoned B-1 and have a client which proposes the development of a family entertainment center on Lot 2, Lake Forest Plaza Subdivision which will include bowling lanes, arcade, laser tag, snack bar, adult pool table, family restaurant, bar and party rooms.

Mr. Butch Cole, the owner of the Gulf Bowl in Foley, Alabama and the proposed owner of the Eastern Shore Family Entertainment Center, addressed the Commission to convey the development will not be a bowling alley. The facility will be a "family oriented" family entertainment center for activities for all members of the family. The first location selected was on U.S. Highway 90 in the Renaissance Center Subdivision which did not go forward due to funding. We began searching for alternative sites and this location was chosen mainly due to the fact it was zoned B-2. Now there is a process to achieve permission or rezoning to go on this site and still obtain approval of our plan with a loan approval deadline of December 31, 2010.

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

Ms. Barnette: I do not think the conceptual plan should be presented or considered for a request for a change in permitted uses based on the proposed use of the site. The plan would be more suitable for presentation and considerable of the zoning amendment.

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 Ms. Barnette and **Seconded** by Ms. Phelps *for the affirmative recommendation by the Planning Commission to the City Council of Daphne to amend Article XXXV, the Table of Permitted Uses and Conditions in the Daphne Land Use and Development Ordinance, to add a bowling alley as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district. Ms. Barnette, Ms. Phelps, Chief White and Mr. Lemoine voted in the affirmative. Chairman dissented. Mr. Gibson abstained.* *decision*

Clarification Note: Although a majority of those present voted in favor of the motion, a super majority would have been necessary for a favorable recommendation.

Ms. Barnette: I would like to make a motion to add a bowling alley/family entertainment center to the Table of Permitted Uses and Conditions. *additional motion*

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 for the affirmative recommendation by the Planning Commission to the City Council of Daphne to amend Article XXXV, the Table of Permitted Uses and Conditions in the Daphne Land Use and Development Ordinance, to add a family entertainment center as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district. The Motion carried unanimously.

decision

The next order of business is public participation.

PUBLIC PARTICIPATION:

Chairman: Is there anyone who would like to address the Planning Commission?

No public participation.

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

ATTORNEY'S REPORT:

Mr. Ross: No report Mr. Chairman. However, I would like to ask the Planning Commission to make a motion to enter into executive session to discuss pending litigation, act on that motion, and then make a motion to adjourn so staff does not have to wait until the meeting reconvenes.

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

DIRECTOR'S COMMENTS:

No comments. The director had asked earlier to be excused for a family emergency.

The next order of business is commissioner's comments.

COMMISSIONER'S COMMENTS:

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

Ms. Phelps: Just a comment for the family entertainment center. Buffering of the commercial development abutting a residential subdivision and the screening of the trash receptacle will be a concern at the time of the submittal of the site plan.

Ms. Barnette: We, the Planning Commission, are looking at whether or not the City's developments are suitable, and those with issues should not be presented to us without a staff recommendation or the Commission allowing public participation.

13-3 COMPLIANCE WITH DISTRICT REQUIREMENTS

Any use permitted in any district whether by Right, Planning Approval, Administrative Approval, or as a Special Exception, must comply with the requirements of the district in which it is located, unless a variance from such requirements is specifically requested and granted by the Board of Zoning Adjustment or unless approved under the Planned Unit Development with modifications as required by the Planning Commission provisions of this Ordinance.

(a) Planning Approval:

Any use requiring planning approval is subject to review and approval of the Planning Commission. Each application to the Planning Commission for approval must be accompanied by a site plan prepared by the applicant or his agent. The Planning Commission shall review the application at its next meeting and take into consideration all existing regulations and ordinances of the City of Daphne, as well as, recommendations from the Zoning Administrator, the Director of Community Development, the Code Enforcement Officer, the Baldwin County Health Department, and any other such local officials. The Planning Commission may approve the use request as is, it may approve it with conditions, or it may deny it.

In any case where a requested use is not specifically referred to in the Table of Permitted Uses, its status shall be determined by the Planning Commission by reference to the most clearly analogous use or uses that are specifically referred to in the Table of Permitted Uses.

When the status of a use has been so determined by the Planning Commission, such determination shall thereafter have general application to all uses of the same type and shall be added to the Table of Permitted Uses.

(b) Special Exception:

Any use permitted by special exception is subject to review and approval of the Board of Zoning Adjustment. Each application shall be accompanied by a site plan which if approved shall then be submitted to the Planning Commission for review and consideration. The Board of Zoning Adjustment shall consider the recommendations of the Zoning Administrator, the Director of Community Development, and the Code Enforcement Officer and make them a part of the record of any public hearing held on an application for a special exception, prior to making a decision on the application. If the decision of the Board of Zoning Adjustment is not consistent with such recommendations, the minutes of the meeting at which such decision is made shall set forth the particular reasons for deviating from such recommendations.

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 577' +/- South of the Southwest corner of Lawson Road and Baldwin County
Road No. 13
- b) Name of Subdivision Lake Forest Plaza
- c) Lot numbers involved in change Lot 2
- d) Total acreage of change 4.4408 Ac.
- e) Recorded in Map Book N/A Page N/A
- f) Owned in whole by the undersigned? Yes
- g) If owned in part, name(s) of co-owner(s) :

2) Zoning change requested:

- a) Present classification of property B-1
- b) Reclassification desired B-2
- c) Character of neighborhood Business/School/Residential

3) Certifications:

- a) Owner's Name MPWS, LLC ATTN: John White-Spunner
- b) Address 3201 Dauphin Street Mobile, AL 36606
- c) Telephone Number (251)471-1000
- d) Date August 27, 2010

John White
Signature of Property Owner

Signature of Property Owner

Adrienne Jones

From: Gulf Bowl [gulfbowl@gulftel.com]
Sent: Wednesday, November 10, 2010 2:27 PM
To: ajonesdpln@bellsouth.net
Subject: Eastern Shore Entertainment Center, Inc.

Adrienne:

I do not have email addresses for the planning commission. Can you forward this email to them or send me their email address so I may forward this to them. I have already sent this to the City Council.

Dear City Council Members and Planning Commission Members:

The Cole Family wanted each of you to know why we have moved forward with the Family Entertainment Center, Inc. on County Road 13 & Lawson. We wanted each of you to know how we have gotten to this point and time.

Back in April 2010 we applied for a USDA Government Guaranteed Loan and it was approved in July 2010. After searching Daphne we decided that the piece of property at the Renaissance Center would be great. We spent close to \$50,000 getting this property engineered, surveyed, appraised and we were almost ready to close on this property. The bank was doing the title work and found out about the bonds & covenants that were placed on this property for improvements which were never disclosed to us until that point.

The bank's attorney at that time felt uneasy with this and told us we would be responsible for about \$25,000 a year for the next 28 years above and beyond sales tax and property tax. At that time we had an offer on the table for \$400,000 for 3.5 acres. Mr. Terry Ogletree had gone up on us one time already from \$375,000 because we could not close the loan within a certain amount of time. So when the bonds were not disclosed to us up front, I think everyone got nervous including the bank.

Then we had a phone call from Sharon Wright and Matt White about County Road 13 & Lawson property. The first thing I ask them both, are there any restrictions, bonds and is it zoned properly. They both said yes it was zoned correctly. So we proceeded with the survey, appraisals, engineering etc. and spent another \$15,000 and come to find out it is zoned incorrectly. Now we are \$75,000 in the down and stunned. So Matt White and Sharon told us that we might could get this piece of property rezoned. It is in a great location and everyone really thought it would be the perfect spot. So the hearings begin! Wow, we had no idea that we would have funding in place for a beautiful center and no home for it.

After the last council meeting we attended, we decided to try the Renaissance Center one more time. The bank felt like if we could offer less money and put the difference in a CD with the bank, to pay on the bonds, that they would consider us going back to Renaissance. So we made a lower offer on the property at Renaissance Center about two weeks ago and Mr. Ogletree turned down the offer and came back with the amount of \$950,000 for the same lot and a \$25,000 non refundable retainer fee. So of course we could not afford that property.

Now we are still stuck with an approved loan and no home for this FEC. We really have gone off information given to us by the real estate people, listening to the planning commission & city council. The other problem that we face are the land prices and comps. Our loan is set and cannot be changed. So finding a piece of property that will appraise high and sell at a lower rate has been a challenge. There are also stipulations on this loan that it has to be within a 3 to 5 mile radius of the Renaissance Center due to the business plan that was approved by USDA.

So the above has been a challenge for us and a challenge for the City of Daphne as well. We do not want anyone in Lake Forrest upset with us about this project and we do not know where to go from here. We have asked for an extension due to the loan expiring 12/31/2010, but have not heard back from the bank as of today.

Thank you so much for your time.

Frank & Sonya Cole

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.

August 27, 2010

Date

Paul White

Signature of Property Owner

MPWS, LLC

REZONING APPLICATION

SOUTHWEST CORNER OF LAWSON ROAD AND BALDWIN COUNTY HIGHWAY NO. 13

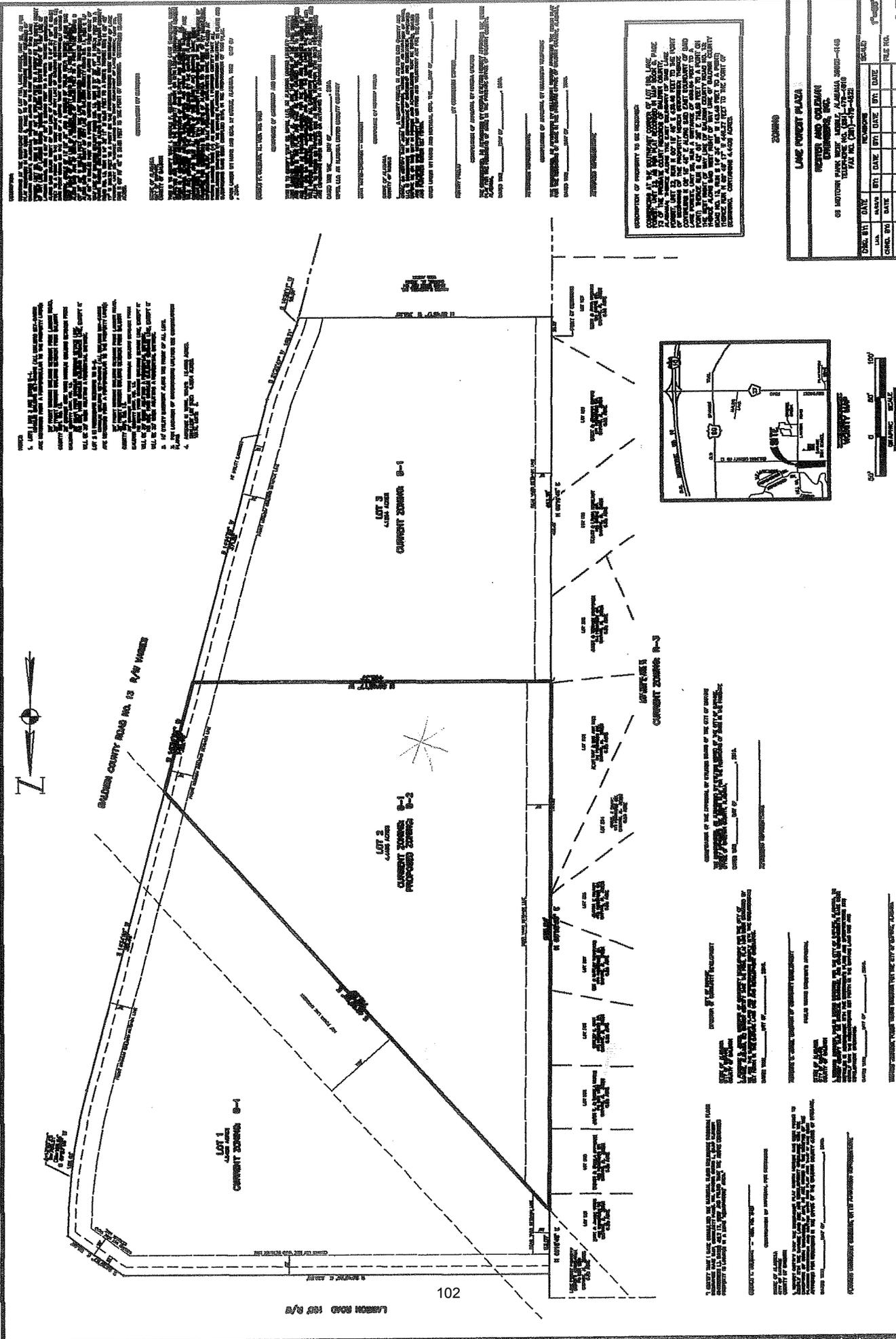
EXHIBIT "A"

(LAKE FOREST PLAZA)

LEGAL DESCRIPTION:

(TO BE KNOWN AS LOT 2, LAKE FOREST PLAZA)

COMMENCING AT THE SOUTHEAST CORNER OF LOT 198, LAKE FOREST, UNIT 22, AS PER PLAT RECORDED IN MAP BOOK 8, PAGE 73 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE EAST BOUNDARY OF SAID LAKE FOREST, UNIT 22, RUN N 00° 18' 45" E 439.46 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 00° 18' 45" E ALONG SAID EAST BOUNDARY OF SAID LAKE FOREST, UNIT 22, RUN A DISTANCE OF 668.84 FEET TO A POINT; THENCE RUN S 42° 00' 20" E 718.50 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BALDWIN COUNTY ROAD NO. 13; THENCE ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY ROAD NO. 13, RUN S 14° 34' 56" W 143.46 FEET TO A POINT; THENCE RUN N 89° 45' 17" W 448.37 FEET TO THE POINT OF BEGINNING. CONTAINING 4.4408 ACRES.



NOTES:
 1. ALL LOTS SHALL BE 100' WIDE EXCEPT WHERE SHOWN OTHERWISE.
 2. ALL LOTS SHALL BE 100' DEEP EXCEPT WHERE SHOWN OTHERWISE.
 3. ALL LOTS SHALL BE 100' WIDE EXCEPT WHERE SHOWN OTHERWISE.
 4. ALL LOTS SHALL BE 100' DEEP EXCEPT WHERE SHOWN OTHERWISE.
 5. ALL LOTS SHALL BE 100' WIDE EXCEPT WHERE SHOWN OTHERWISE.
 6. ALL LOTS SHALL BE 100' DEEP EXCEPT WHERE SHOWN OTHERWISE.
 7. ALL LOTS SHALL BE 100' WIDE EXCEPT WHERE SHOWN OTHERWISE.
 8. ALL LOTS SHALL BE 100' DEEP EXCEPT WHERE SHOWN OTHERWISE.
 9. ALL LOTS SHALL BE 100' WIDE EXCEPT WHERE SHOWN OTHERWISE.
 10. ALL LOTS SHALL BE 100' DEEP EXCEPT WHERE SHOWN OTHERWISE.

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

COMMISSIONER OF REVENUE
 COUNTY OF BALDWIN
 STATE OF ALABAMA
 BALDWIN COUNTY ROAD NO. 18 R/W WIDENED
 DATE: _____ BY: _____

MFWS, LLC ZONING AMENDMENT EXHIBIT 'B'
 LOT 2, LAKE FOREST PLAZA SUBDIVISION (PROPOSED)

MPWS,LLC
LAKE FOREST PLAZA
ZONING APPLICATION
ADJACENT PROPERTY OWNERS LIST

MPWS, LLC
3201 DAUPHIN ST
MOBILE, AL 36606

ETHINGTON JAMES A & TOMALEE A
114 FERNWOOD CIR
DAPHNE, AL 36526

RIOS ALVIN RAY & SUE ANN
116 FERNWOOD CIR
DAPHNE, AL 36526

SHORE CAROL A
117 FERNWOOD CIR
DAPHNE, AL 36526

PALMER JOANNA E
472 RIDGEWOOD DR
DAPHNE, AL 36526

WOODWARD BEN ET AL
474 RIDGEWOOD DR
DAPHNE, AL 36526

CAIN SHIRLEY M
476 RIDGEWOOD DR
DAPHNE, AL 36526

MICSAN JAMES R & DANIELA P
PO BOX 1465
DAPHNE, AL 36526

APPLETON STEVEN D & ANGELA B
480 RIDGEWOOD DR
DAPHNE, AL 36526

YODER ZANE B & JANICE E
482 RIDGEWOOD DR
DAPHNE, AL 36526

BALDWIN COUNTY BOARD OF EDUCATION
2600 NORTH HAND AVE
BAY MINETTE, AL 36507

EASTERN SHORE CHRISTIAN CENTER
9078 LAWSON RD
DAPHNE, AL 36526

LAKE FOREST OWNERS ASSOCIATION
PO BOX 1087
DAPHNE, AL 36526

WSA WHITE-SPUNNER & ASSOCIATES, INC.

Post Office Box 7475, Mobile, Alabama 36670-0475
TEL: 251.471.1000 | FAX: 251.471.1785

September 23, 2010

Daphne Planning Commission Members
Daphne City Council

Re: Eastern Shore Family Entertainment Center – Lawson Road and County Road 13

Dear Ladies and Gentlemen:

We write to you regarding a multi-million dollar Family Entertainment Center we have the good fortune to locate in the Daphne Community. The Cole Family has been operating family oriented bowling facilities since 1959 and most recently has built a family entertainment center in Foley that includes a well known restaurant and arcade. The Cole Family projects that the facility will generate \$75,000 in sales tax revenue for the City of Daphne and create 43 new jobs paying an average of \$10.90 per hour. These wages would be spent in the local community.

White-Spunner & Associates, Inc. has worked closely with the City Staff, Planning Commission members and local residents to listen to any suggestions for the development and will make what changes that are feasible resulting from these conversations. As with any worthwhile project, there are things to be addressed and we stand ready to address additional concerns.

Enclosed is a conceptual site plan depicting the development. We look forward to assisting the City of Daphne in locating a new community business member. Please call me with any questions or suggestions.

Sincerely,



E. Matthew White
President

EMW/jhl
Encl.

WSA WHITE-SPUNNER & ASSOCIATES, INC.

Post Office Box 7475, Mobile, Alabama 36670-0475
TEL: 251.471.1000 | FAX: 251.471.1785

September 17, 2010

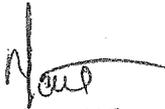
Mrs. Adrienne Jones
Director of Community Development
City of Daphne
PO Box 400
Daphne, AL 36526

Re: Lake Forest Plaza

Dear Adrienne:

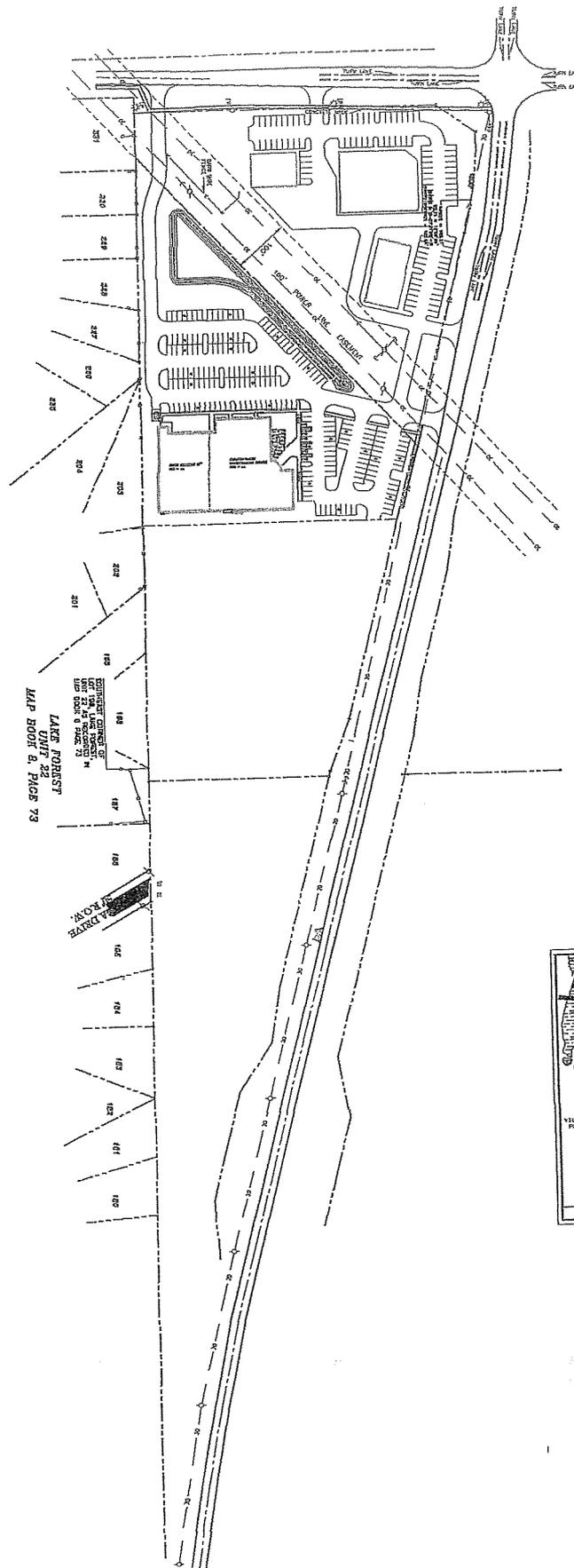
I am enclosing a conceptual drawing that shows what the ownership of the entire 14 acres envisions for the property. As each parcel is developed, the usage will dictate how the buildings, landscaping, parking, etc. will deviate from the conceptual.

Sincerely,

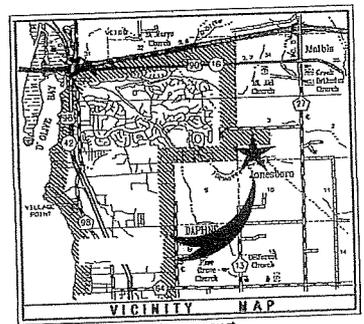


E. Matthew White
President

EMW/jhp

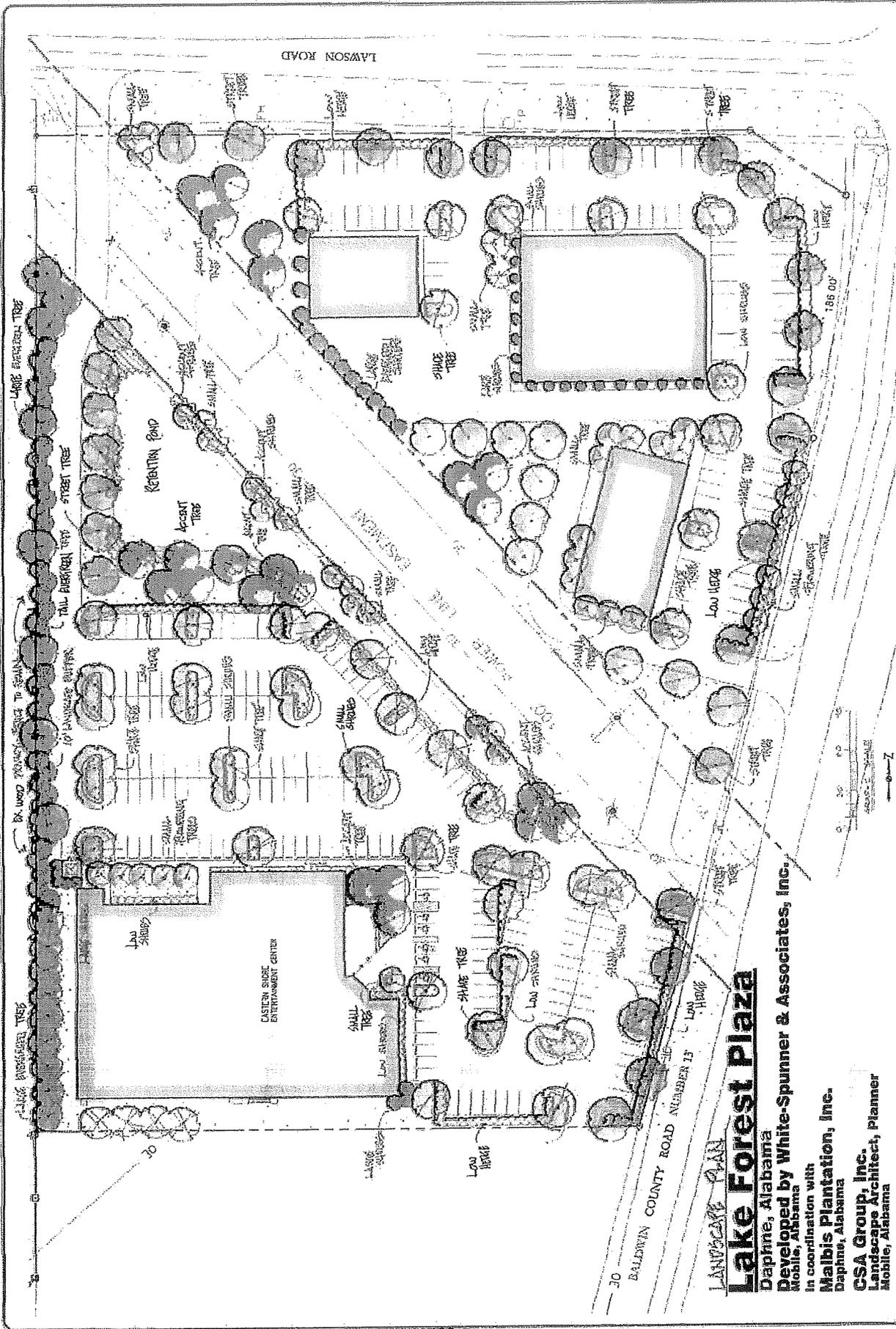


LARGE FOREST
 UNIT 22
 MAP BOOK 8, PAGE 73



MPWS, L.L.C. ZONING AMENDMENT CONCEPTUAL PLAN

RESTER AND COLEMAN ENGINEERS, INC. 66 MIDTOWN PARK WEST MOBILE, ALABAMA 36606-4140 TELEPHONE NO. (251)-479-4318 FAX NO. (251)-479-4522							
BYG. BY	DATE	REVISIONS				SCALE	
D.W.	07/26/10	BY	DATE	BY	DATE	BY	DATE
CHKD. BY	DATE						FILE NO.
							S-52



LANDSCAPE PLAN
Lake Forest Plaza

Daphne, Alabama
 Developed by White-Spunner & Associates, Inc.
 Mobile, Alabama
 in coordination with
 Malbis Plantation, Inc.
 Daphne, Alabama
CSA Group, Inc.
 Landscape Architect, Planner
 Mobile, Alabama

August 26, 2010

Eastern Shore Entertainment Center, Inc.
Daphne, Al. 36535

RE: Daphne Bowling Center

Please find attached a history of our current business, products and services that we will bring to the Daphne area, market needs and employment opportunities that are strictly guided by USDA.

We also want the City of Daphne to know that we anticipate bringing in close to \$75,000 a year in city sales tax (if I understand the rate to be currently 3%) and we know that we will bring in a beautiful entertainment center that the City of Daphne will be proud of.

We also rely on part of our income from alcohol sales and want to be sure that the City of Daphne knows that we take pride in our center and follow all the strict rules and regulations when it comes to serving alcohol. Keep in mind that we are a family oriented entertainment center and all aspects of our income depend on arcade, bowling food and beverage, birthday parties and alcohol sales. If there is any doubt that this will be a issue with the City of Daphne, please let us know. We understand that we are close to schools and a church on County Road 13/Lawson as we are here in Foley. We take pride in our business and we want you to know that. Our staff is well trained and our customer service skills are top notch.

Respectfully,



Sonya Cole
251/943-4595 office
251/747-0298 cell
www.gulfbowl.com

The Gulf Bowl – 1959-2010

History of our Family Business

The Gulf Bowl was opened in 1959 by Hugh and Barbara Cole and was located on Hwy 59 in the parking lot across from Visions Bank in Foley. Hugh & Barbara opened with 10 lanes. In 1960 added 6 more lanes and lounge called Alley 17. There wasn't much to do back then, so bowling it was!

Around 1979 the Baldwin County Bowling Association was formed to service our league bowlers in the surrounding counties. At that time there were several bowling centers in the county, Fairhope, BayMinette and for a short time Gulf Shores. All have closed except for BayMinette which opened Strike City several years ago.

Ⓜ 1982 Hugh & Barbara decided to build a new center on Michigan Avenue. They moved the equipment over and opened a new center with 16 lanes, snack bar, small restaurant and a few pool tables. In 1986 Butch, son of Hugh and Barbara and Butch's wife Sonya came into management to help the family business as Hugh had expanded into other business in the area and Barbara had a young son, Kevin at home 17 years younger than Butch. In 1990 Butch joined the work force with the airline industry to become a pilot and is currently a pilot with Delta Airlines. Sonya took over the business with the support of Butch and together they worked long hours.

Over the next 22 years Butch & Sonya Cole kept the business alive with the constant upgrading of equipment, automatic scoring came into play, new seating and of course cosmic bowling!

As with any business, our leagues grew in size and sometimes decreased in size. We went from smoking to non-smoking and from cutting our lanes to a synthetic overlay.

No Smoking Facility.

Butch and Sonya have two children, Dusty now 26 and Amber now 21. Dusty joined the family business in 2003. Went to many classes, seminars and learned the business from the pro-shop to mechanics and now part of management.

In 2005 Butch, Sonya and Dusty started to think about expanding the bowling center or building a new center again. After a long time coming, we decided to build a family entertainment center in Foley and bring the community a center that they would be proud of. We struggled and Butch must have looked at 100 centers before we decided what to do. Our league members supported us in this decision and told us that if we build it, they would come!

In 2007 we broke ground on this new entertainment center.

During that time Hugh Cole passed away and never got to see the finished center and Barbara passed away a few years prior to that. He would have been so proud. We put in new Brunswick lanes & machines, equipment, seating, snack bar, full service seafood sports bar & grill, arcade and adult pool table area. The family and dedicated employees helped us paint the entire new center. We opened the new center in August 2008 to start out our Winter League Season. We have now been opened a full year and still can't believe that we did it again. 50 years in business, what a remarkable history for the Cole Family and the bowling industry.

Hugh and Barbara attended "Bowling Center Management" classes in 1960, Sonya in 1986 and then again with son Dusty, 2009.

My oh my how the bowling industry has changed in 50 years. We are proud of our business and hope you will come see us in the future. We hope our children will keep the business going for another 50 years. We have a Frank Hugh Cole, Sr. – Jr. – III and now our newest edition Frank Hugh Cole IV.

Products and Services

The bowling business is family entertainment. This is a sport that all ages can participate in and enjoy as individuals or in groups. It is where grandparents take grandchildren of all ages to have a bonding outing. The new computer technology enables anyone to experience the excitement of the sport without having to know how to keep score, because it is done automatically by the computer and displayed on a monitor. The core revenue producer is the league structure, which is all encompassing. The basic element in leagues is its three levels--beginning with youth leagues, it progresses until it reaches the senior citizen. The largest number of league bowlers are in the 35-50 age group, married with two children, home owning, with an annual income between \$40,000 and \$75,000. These leagues are primarily made up of married couples with similar backgrounds. Large corporations, adult school-booster organizations, and churches are excellent sources for forming this type of league. League development is only limited by management's imagination; however, the key is to find a common interest which each member of the league shares. Eastern Shore Bowling Center is a multi-media entertainment center that will also have a billiard, arcade, laser tag, full service restaurant, snack bar and much more with its own league structure. Dusty's Sports Bar & Grill will be a full service restaurant will feature live entertainment or Karaoke for the late-night customers a few nights a week.

Market Needs

The demographics of Eastern Shore Bowling Center indicate it will be filling a void that has existed for years in the local entertainment market. This market has a higher income than the average section of Baldwin County; therefore, more money is available for entertainment.

Pricing Strategy

All prices will be competitive and fair to the customer. The cost of products sold will determine the selling price after adding overhead and profit. Although the demographics are stronger in the Eastern Shore area, we have conservatively used some pricing from the Foley location for the Eastern Shore Bowling Center.

Management Summary

As stated earlier the key managers of the highly successful Gulf Bowl will be managing the new center. (See Appendix D for resumes)

Our management philosophy is based on mutual respect for all contributions made by our employees without regard to the position they hold in the company. People who work at Eastern Shore Bowling Center want to work here because the work environment enables them to work smarter--not harder, and they know their suggestions are appreciated.

The ability of Eastern Shore Bowling Center to accomplish its goals and lead the bowling industry is significantly related to the expertise, abilities, and social conscience of the management team.

Employee Summary

The total employment will equal at least 45 jobs which includes management. The total number of jobs created will be 43. The average wage pay will equal \$10.90 per hour, 150% of Federal Minimum Wage. Management offers employees health insurance and Eastern Shore Bowling Center will pay for more than 50%. There is a readily available supply of labor in this market area. The market area is experiencing unprecedented unemployment. There is a readily available supply of raw materials and we have never had a problem obtaining necessary supplies to run our business.

Jan Dickson

From: "Adrienne Jones" <ajonesdpln@bellsouth.net>
To: "Jan Dickson" <jandplcr@bellsouth.net>
Sent: Thursday, September 23, 2010 1:33 PM
Subject: FW: Eastern Shore Family Entertainment Center

From: Gulf Bowl [mailto:gulfbowl@gulftel.com]
Sent: Thursday, September 23, 2010 1:22 PM
To: ajonesdpln@bellsouth.net
Subject: Eastern Shore Family Entertainment Center

Adrienne,

I have forwarded several letters to you from residences and coaches who have sent them to me in support of our Family Entertainment Center for the Eastern Shore.

Just a few concerns going into this meeting that we wanted you and the planning commission to know. We have already been approved for this loan by USDA and Vision's Bank for this center in Daphne, Al. One of our major concerns is that our funding with USDA will expire December 31, 2010 and we will have to start all over again. Not sure we want to go down that road again. The paperwork and the funding process was very long and detailed.

We also were under the impression that when we signed the contract with White-Spinner it was already zoned B2. That played a big factor in the selection of this property, so you can imagine the deep sinking feeling we have knowing that our time is running out on this USDA loan guarantee and the property being zoned B1 with no bowling centers allowed.

The other concern is the stigma of a "bowling alley" which is not what we are building. That term was used in the 70's. We are building a Family Entertainment Center that will be "no smoking" and family oriented. It will have 24 Brunswick lanes, arcade, laser tag, family restaurant, snack bar, adult pool table room and party rooms.

It was brought up several times at the site preview meeting about the other property and why we did not go there. I am sure most of the commission knows that USDA & Vision's Bank would not allow us to go thru with that purchase of the property at the Renaissance Center due to the bonds. We are ready to break ground as soon as we can.

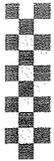
It is really crucial that we get this project off the ground as the funding was a nightmare and will of course expire soon.

Respectfully
The Cole Family
251/747-0298 cell

SUPPORT
Citizen Comments

-NOTICE-

The following information is a compilation of support for the proposed rezoning. Most documents were submitted for the original September 23rd Planning Commission public hearing.



ATTN: Adrienne Jones

Please forward to council.

To: City of Daphne
City Council Members

Subject: Support to allow amended use to B1 zoning of property at Lawson Road and County Road 13 for Family Entertainment Center/Bowling Center.

As current residents of the City of Daphne/Lake Forest, we are in support of this amended use.

Name	Address	Date
Deanna Bairo	2200 E Bay Dr #29 Daphne AL	11/03/10
Linda BORNES	9354 Sanibel Loop Daphne AL	11-4-10
Robert LAVOIE	131 Greenbay Dr. Daphne AL	11/4/10
Branden Cox	608 Magnolia Ave Daphne AL	11/4/10
Edward R. King	27944 Turkey Branch Dr Daphne	11/4/10
David Singleton	2601 Overton Cir Daphne	11/5/10
Nancy Talley	1512 Tiffany Lane Daphne	11/5/10
Dulucilla Parley	1512 Tiffany Lane Daphne	11/5/10
Sam Parley	1512 Tiffany Lane Daphne	11/5/10
Andrew Dannant	110 Buena Vista Ka. Daphne	11/5/10
Suzanne Wright	101 McMillan Ave. Daphne	11/5/10
Colene Shaw	" " " "	" "
Dani Stewart	25660 Austin Rd Daphne	11-5-10
Marjaret Vicker	25660 Austin Rd Daphne	11-5-10
Deanne Jones	8100 Conch Palms Daphne	11-5-10
Julie Cummings	9424 Wind Claitrail, Daphne	11-6-10
Kathleen Carraway	114 Pineridge Rd, Daphne	11-7-10
Nathan Carraway	114 Pineridge Rd Daphne	11-7-10
Denita Harbison	7870 Landing Eagle Dr. NW. Daphne	11-7-10
Jennife Kelly	279 Rolling Hill Dr. Daphne AL	11-7-10
Louise Kelly	279 Rolling Hill Dr Daphne AL	11/7/10
Tyler Browning	104 Leigh Circle Daphne AL	11/7/10
Whitney Moore	135 Daphne Cir Daphne AL	11/8/2010
Rebecca Sill	Willow brook Cir Daphne AL	11-8-10
XXXXXXXXXX		
Jerika Johnson	1503 Willard Rd Daphne, AL	11-9-10
Laura Glaser	118 Cameron Circle Daphne, AL	11-9-10
Jan Min	27161 Hwy 98 Daphne AL 3686	11-9-10
Mar	27042 US Hwy 98 Apt 313 Daphne 36524	11-9-2010
Stephen	102 Lake Forest Blvd Daphne AL	11-9-2010
Ellie	107 Michael Ln	11-9-2010
Victoria Mitchell	2333 Howard Rd Daphne AL	11-9-10
Holome Hammond	146 Bay View Dr. 36526	11-9-10
Ellist Jones	133 Laketfront Dr 36526	11-9-10
Keith Gardner	102 Iron Rock Cir Daphne 36520	11-9-10

34

Baldwin County Economic Development Alliance

September 24, 2010

Sharon White
WHITE-SPUNNER & ASSOCIATES, INC.
3201 Dauphin Street
Mobile, Alabama 36606

Dear Sharon White,

Thank you for asking us about our knowledge of the Gulf Bowl and its potential Daphne project.

The Alliance has worked with Gulf Bowl owners in the past and we have watched it grow from a small, low tech, small employer in Foley to a major entertainment center featuring high tech games and bowling and a very popular restaurant. Owners have presented us with information on their proposed Daphne project and it appears that it would add something new to the area and would be a nice generator of sales tax dollars.

We are not involved with their efforts to buy and/or rezone property and are not offering any opinion on these matters, but our past experience with the organization has been very positive.

Sincerely,

Robert Ingram
President/CEO

Sharon Wright

From: Gulf Bowl [gulfbowl@gulftel.com]
Sent: Tuesday, September 07, 2010 1:08 PM
To: 'Sharon Wright'
Subject: FW: Letter CSU

Sharon, here is a letter of support by Columbia Southern University. They have over 400 employees now and expanding.

From: Brittany Berry [mailto:brittany.berry@columbiasouthern.edu]
Sent: Tuesday, September 07, 2010 1:03 PM
To: Gulf Bowl
Subject: RE: Letter

Here you go. ☺

To Whom this may concern:

Columbia Southern University has been working with the Gulf Bowl in Foley, Alabama for the last 3 years. Many of our staff enjoy the facility with family and friends and when we have company events we continue to call on Gulf Bowl. I personally know the owners who continue to go out of their way to make our events a great time. The facility is top of the line with great food and professional staff. Each year we have company events at their facility and it is always a huge success for us. I think having Gulf Bowl in Foley, Alabama has made a huge impact on our community and our company.

Sincerely,

Chantell M. Cooley

Columbia Southern University
Executive Vice President of Admissions/Partnership Development
251-224-0541
800-977-8449 ext 1121
www.columbiasouthern.edu

Brittany Berry

Executive Assistant to the Executive Vice President of Admissions/ Partnership Development
800-977-8449 ext. 1154 | (251) 224-0591- Direct Line
Fax: 251-224-0580
PO Box 3110 | Orange Beach, AL 36561
brittany.berry@columbiasouthern.edu

Become a Partner. Build a Future.
Ask me how to receive a 10 % tuition discount!

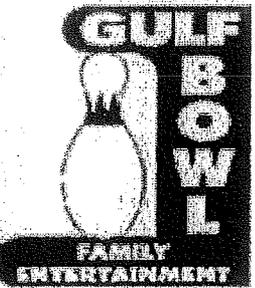
Sharon Wright

From: Gulf Bowl [gulfbowl@gulftel.com]
Sent: Monday, September 06, 2010 9:22 AM
To: 'Sharon Wright'
Subject: FW: High Rollers Sign Ups

This group from CSU Columbian Southern University had a great time and this is their add to start up another league. If you will look at the bottom there are written quotes from some of their employees.

From: Michelle Miller [mailto:michelle.miller@columbiasouthern.edu]
Sent: Monday, August 09, 2010 1:32 PM
To: CSU-Broadcast
Cc: Gulf Bowl
Subject: High Rollers Sign Ups

HIGH ROLLERS

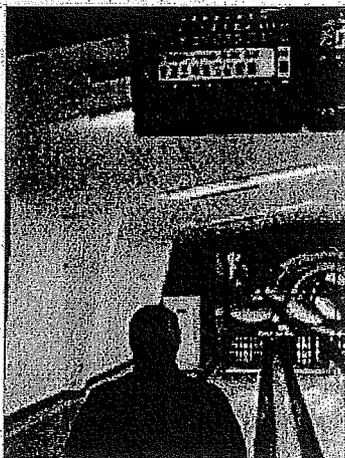


High Rollers Board
 President—Ken Styron
 Vice President—Michelle Miller
 Sergeant at Arms—Kim Clay

For more information about the High Rollers, or if you are interested in signing up, contact Michelle Miller.



Congratulations to Ken Styron on his perfect score at our No-Tap Tournament on July 30th.



NEW LEAGUE FORMING FOR FALL

Looking for something to do Fridays after work? Well you have come to the right place!

Come bowl with us this 2010/2011 Winter League **Short Season**

Meet this Friday August 13th at 3:30 PM

Start bowling Friday August 20th at 3:30 PM

We will have 3 people to a team. This will be a 12 week session starting on 08-20-10 and will end 11-05-10.

Fees: \$12.00 (includes bowling, secretarial/ treasurer fees and prize fund.)

ship: 119
 ~~Kim Clay



Spring 2010 High Rollers

USBC CARDs
 \$17.50 women \$19.00 men

Any questions call Sonya Cole 943-4575

This league will be open to the public, so bring your friend, spouse or neighbor down to bowl. Help us grow this league.



QUOTES

The best sound in the world is hearing 10 pins drop, come and join us for the fun and friend-

I have got to really know some of the great people at CSU. I thoroughly enjoy hanging out with them. Oh yeah and the bowling is fun too.
 ~~Ken Styron

The CSU bowling league has grown my respect for the people that I work with. It is a good way to release stress at the end of the week.
 ~~Andrew Hanes

Sharon Wright

From: Gulf Bowl [gulfbowl@gulftel.com]
Sent: Tuesday, September 07, 2010 1:08 PM
To: 'Sharon Wright'
Subject: FW: Letter CSU

Sharon, here is a letter of support by Columbia Southern University. They have over 400 employees now and expanding.

From: Brittany Berry [mailto:brittany.berry@columbiasouthern.edu]
Sent: Tuesday, September 07, 2010 1:03 PM
To: Gulf Bowl
Subject: RE: Letter

Here you go. ☺

To Whom this may concern:

Columbia Southern University has been working with the Gulf Bowl in Foley, Alabama for the last 3 years. Many of our staff enjoy the facility with family and friends and when we have company events we continue to call on Gulf Bowl. I personally know the owners who continue to go out of their way to make our events a great time. The facility is top of the line with great food and professional staff. Each year we have company events at their facility and it is always a huge success for us. I think having Gulf Bowl in Foley, Alabama has made a huge impact on our community and our company.

Sincerely,

Chantell M. Cooley

Columbia Southern University
Executive Vice President of Admissions/Partnership Development
251-224-0541
800-977-8449 ext 1121
www.columbiasouthern.edu

Brittany Berry

Executive Assistant to the Executive Vice President of Admissions/ Partnership Development
800-977-8449 ext. 1154 | (251) 224-0591- Direct Line
Fax: 251-224-0580
PO Box 3110 | Orange Beach, AL 36561
brittany.berry@columbiasouthern.edu

Become a Partner. Build a Future.
Ask me how to receive a 10 % tuition discount!

CITY OF DAPHNE,

I AM WRITING ON BEHALF OF GULF BOWL IN FOLEY, ALABAMA. AS A TEACHER IN THE BALDWIN COUNTY I CAN ATTEST TO THE QUALITY OF MANAGEMENT AND SERVICES TO THE COMMUNITY OF FOLEY. GULF BOWL IS ALWAYS WILLING TO HELP THE SCHOOLS IN ANY WAY POSSIBLE. AS A PARENT OF TWO SMALL CHILDREN I HAVE NEVER HAD ANY RESERVATIONS ABOUT TAKING THEM TO GULF BOWL. IT IS A FAMILY ORIENTED SAFE ENVIRONMENT. THE CITY OF DAPHNE WILL BE NOTHING BUT PLEASED WITH WHAT GULF BOWL WILL BRING TO YOUR COMMUNITY.

SINCERELY,

RUSTY HINSON
FOLEY ELEMENTARY SCHOOL

Home | Directions | Contact | Staff Only | Baldwin County Public Schools | Schools

Foley Intermediate Foley, AL

News & Events | Intellectual | Social | Athletics | Alumni

search for LatestNews | keywords? | on This Site

<p>Student Grades</p> <p>NotifyMe</p> <p>News & Events</p> <p>Latest News Calendar Library Class Schedule Lunchroom Principal's Corner About The School Handbook School Publications School Staff Forms Spotlight</p> <p>Intellectual</p> <p>Classroom Assignments Fine Arts</p> <p>Social</p> <p>Clubs & Organizations Community Services Guidance</p> <p>Athletics</p> <p>Sports</p> <p>Alumni</p> <p>Alumni</p>	<p>Bowling Tournament Winners</p> <p>Wednesday, December 09, 2009</p> <p>Print Email</p>  <p>We have had fun bowling at the Gulf Bowl during P.E. on Fridays. Coach Anderson had a Bowling Tournament. The bowling tournament winners for 5th grade girls are: 1st Place Kaylee Vines, 2nd Place Natalee Grumbley, and 3rd Place Emily Ivey. The winners for 5th grade Boys are: 1st Place Miguel Lopez, 2nd Place David Esparza, 3rd Place Kyle Melton. The winners for the 6th grade girls are: 1st Place Taylor Knighten, 2nd Place Olivia Shoots, 3rd Place Jenny Pham. The winners for 6th grade boys are: 1st Place Bailey Thompson, 2nd Place Osman Valladares, 3rd Place Wil McWatters. Congratulations to all winners!!!</p> <p>View all Highlights Print Email</p>	<p>Highlights</p> <p>Welcome Back, Students!</p> <p>Supply Lists</p> <p>CHRISTIAN MURRAY WINS SCHOLARSHIP!</p> <p>Archery Club goes to Nationals</p> <p>Infection Control in the School Setting</p> <p>Sock Hop</p> <p>more articles...</p>	<p>School Funding Crisis</p> <p>Get the facts here</p> <p>FLY NEWS</p> <p>Download Flyer about Bullying</p> <p>Homework Hotline</p>
---	--	--	--

School Sites | Copyright © 2009-2010 Foley Intermediate

Navy Junior Reserve Officer Training Corps
Gulf Shores High School
P.O. Box 3729
Gulf Shores, AL 36547

To Whom it may concern,

It is my pleasure to recommend the Gulf Bowl entertainment center in Foley. I am the Senior Naval Science instructor at Gulf Shores high school and we have had the pleasure of using their facility for the past eight years. We have incorporated bowling into our overall sports program and visit the center around 6 times during the school year.

Our cadets really enjoy bowling. The atmosphere is friendly and fun and I think the staff does their best at making it a great experience. We feel welcome there.

Please contact me at (331) 968-4774 if I can provide any additional information on this fine organization

Sincerely,

CDR Bruce McCandless, USN (ret)

9/22/2010

To whom it may concern;

As a property owner in Lake Forest I would like to express my support of the Family Entertainment Center that is proposed for the property located on the corner of Lawson Rd and Cnty Rd 13, behind the Lake Forest subdivision. My home is within 500 ft of where this proposed site is located and I feel this center will be a positive enhancement to our subdivision. I believe this is a great location for the center because it will be a family entertainment center right next door (within walking distance) to the largest family subdivision in our area. In addition this center will be a great asset to the city of Daphne as it will provide jobs and revenue in a time when our city really needs them. It will also keep our money in our city and not spent in Foley, Bay Minette or Mobile.

Thank you,



Sean Wornack

104 Cherryhill Dr.

Daphne, AL. 36526

Dear City of Daphne:

We are long time residents of Lake Forest and use the Lawson Road entrance/exit frequently. We understand there is a proposed Family Entertainment Center off Co. Rd. 13 near Lawson Rd. We are in total support and favor of the Family Entertainment Center and the proposed site. Children, adults and especially teenagers need a family friendly place to go for fun in Daphne. This is an excellent location for such a center and we feel it will be a big asset to the area.

Thank you for your time.

Sincerely,

Handwritten signature of Bob and Jane Anderton in cursive script.

Bob and Jane Anderton
107 Pagan Circle
Daphne, AL

I make Lake Forest subdivision my home and have for a number of years. In regards to a new bowling alley being built in Daphne adjacent to Lake Forest, I think it's a great idea. The entire Eastern Shore will benefit from it. At the present time you have to go to Mobile or Foley to enjoy bowling and I'd rather not have to travel. Plus, I'd prefer to spend my money in Daphne if possible.

Please approve the bowling alley at Lawson and 13.

Thank you,

Sara Trione

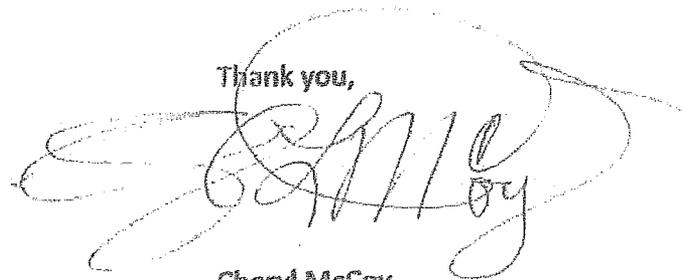
A handwritten signature in cursive script, appearing to read "Sara Trione", written in black ink.

9/22/2010

To whom it may concern;

As a property owner in Lake Forest I would like to express my support of the Family Entertainment Center that is proposed for the property located on the corner of Lawson Rd and Cnty Rd 13, behind the Lake Forest subdivision. I believe this is a great location for the center as it will be a family entertainment center right next door to the largest family subdivision in our area. In addition this center will be a great asset to the city of Daphne as it will provide jobs and revenue in a time when our city really needs it. It will also keep our communities dollars spent within our community.

Thank you,

A handwritten signature in black ink, appearing to read "Cheryl McCoy", is written over a large, faint circular stamp or watermark.

Cheryl McCoy

To Whom It May Concern

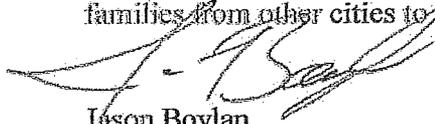
I live in Daphne in the Lake Forest community and I'm in favor of the proposed Family Entertainment Center at County Road 13 and Lawson Road. Daphne is in need of a facility where people of all ages can go for entertainment. Please vote yes on allowing this center at the proposed location in Daphne.

Anne Trione
Lake Forest Resident

A handwritten signature in cursive script that reads "Anne Trione". The signature is written in black ink and is positioned to the right of the typed name.

To the City of Daphne:

I am writing this letter in support of the family entertainment center going in on county road 13, that backs up to Lake Forest. I think this would be a great asset to the city of Daphne and the families of the eastern shore. This facility would generate income for the city, which I think the city could use and also would generate jobs. I am also a homeowner of Lake Forest and I do not see this hurting property values, I see it as a great asset, especially with so many families living in Lake Forest and the city of Daphne, these families would spend their money here in Daphne, instead of going to Mobile, Bay Minette or Foley. We need to put Daphne back on the map and I think putting a family entertainment center would not only be great for the city of Daphne, but it would bring families from other cities to experience the eastern shore.



Jason Boylan
118 Chatam Loop
Daphne, Al 36526

September 22, 2010

City of Daphne

RE: Eastern Shore Entertainment Center

This is in reference to the family entertainment center that is to be located on County Road 13 & Lawson In Daphne, Al. I have been a residence of Lake Forrest community for the past 15 years and I am also a league bowler currently bowling at The Gulf Bowl in Foley. I have known the Cole Family for over 20 years and they have done a great job with The Gulf Bowl in respect to a beautiful center and customer service. I know that they will bring a beautiful Family Entertainment Center to the Daphne area and I am in full support of this center on County Road 13 & Lawson.

My wife and I were at the meeting last week for the Lake Forrest residence and we cannot attend the meeting on Thursday, September 22, 2010. If you have any questions, please feel free to contact me.

Respectfully,

Don & Theresa Wiggins
251/751-1727 cell

Don Wiggins
Theresa Wiggins

September 2010

To Whom It May Concern:

Gulf Bowl has been a very positive addition to Foley. They have been in the area for a very long time and the move to the new location in Foley has made things even better than before. We started a Church Bowling Team 3 years ago and it has brought a lot of people together. I have seen the new location cater to Schools, Youth Groups, Church Groups, Seniors, Men and Woman groups that have a passion for bowling. The arcade is a great place for young and old. The restaurant is a wonderful place for lunch and dinner.

I would support their opening another Bowling Center and think it would benefit any community.

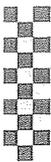
Sincerely,

Cindy Deemer
FUMC Church Financial Secretary
And
Bowler

OPPOSITION
Citizen Comments

-NOTICE-

The following information is a compilation of opposition to the proposed rezoning. Most documents were submitted for the original September 23rd Planning Commission public hearing.



Jan and Byron Yoder
482 Ridgewood Drive
Daphne, Al 36526
251/626-3743

Adrienne D. Jones
Director of Community Development
Planning & Zoning Department
P.O. Box 400
Daphne, Al 36526

September 8, 2010

Re: Lot 2, Lake Forest Subdivision
4.44 acres
SW of Lawson Rd and Co 13
Zoning Amendment from B1 to B2

Dear Adrienne D. Jones and Committee:

We live on the corner of Ridgewood and Lawson Road, bordering the above property. We have lived here for over 30 years and have the reasonable expectation that any immediate neighbors would be residential or at the most, B1 local business.

With the ever-declining residential property values, we feel the change from B1 to B2 and the potential presence of a bowling alley behind our home, would further decrease and actually devastate our home value as well as affecting several other homes in this area. As residents of Lake Forest, even though we are on a corner and border the above property, we would never be allowed to change our own zoning to B2 to compensate for the nuisances we would suffer. Due to our proximity to a school and church, we already face traffic nightmares at certain times during the day.

Although a bowling alley would be nice to have in Daphne, we most certainly do not want one or other similar businesses behind our home or our neighbor's homes. There is no buffer. The increase in traffic, noise and possibly all types of characters wandering behind our homes really goes against the safety theme of this neighborhood. We have children walking to and from school who could be exposed to all of the above. We have neighborhood people walking along the sidewalk adjacent to the property all the time in this area. Our current traffic situation is already pretty much at its safety limit for a school neighborhood. If the property is subdivided and changed to B2, there is no way to keep any business from opening next to our residential neighborhood.

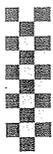
There are many other pieces of property for sale in Daphne, even on highway 13, that would not present the noise/traffic/nuisance/safety issues of this particular property.

Page two

We are hereby stating our dislike and disapproval of the proposed changes, both for subdividing and rezoning.

Thank you for notifying us of this proposed change. We hope and beg that you will consider the situation carefully before opening this community up to further potentially haphazard, noisy, high traffic, home devaluing, non-residential development.

Sincerely,
Jan and Byron Yoder



Subj: Re:Gulf Bowl Entertainment Center
Date: 9/9/2010 10:35:07 A.M. Central Daylight Time
From: MRSYODER@aol.com
To: mayorassist@bellsouth.net

Page 1 of 1

Dear Mayor,

I looked up the above facility in Foley, which is located behind the Tangier Center.

It is a 7 day a week facility, complete with restaurant, and bar, open all day until 12 or 1 pm. Why would we want this facility in a residential area, right across the street from a high school?

I cannot believe that the City would even consider it.
I do not want this facility in my backyard which where it would be.

Please look at the website and ask your council and your zoning committee to do the same.
<http://www.gulfbowl.com/>

Thank you,
Sincerely,
Jan Yoder
482 Ridgewood Drive
Daphne, Al 36526
251/626-3743

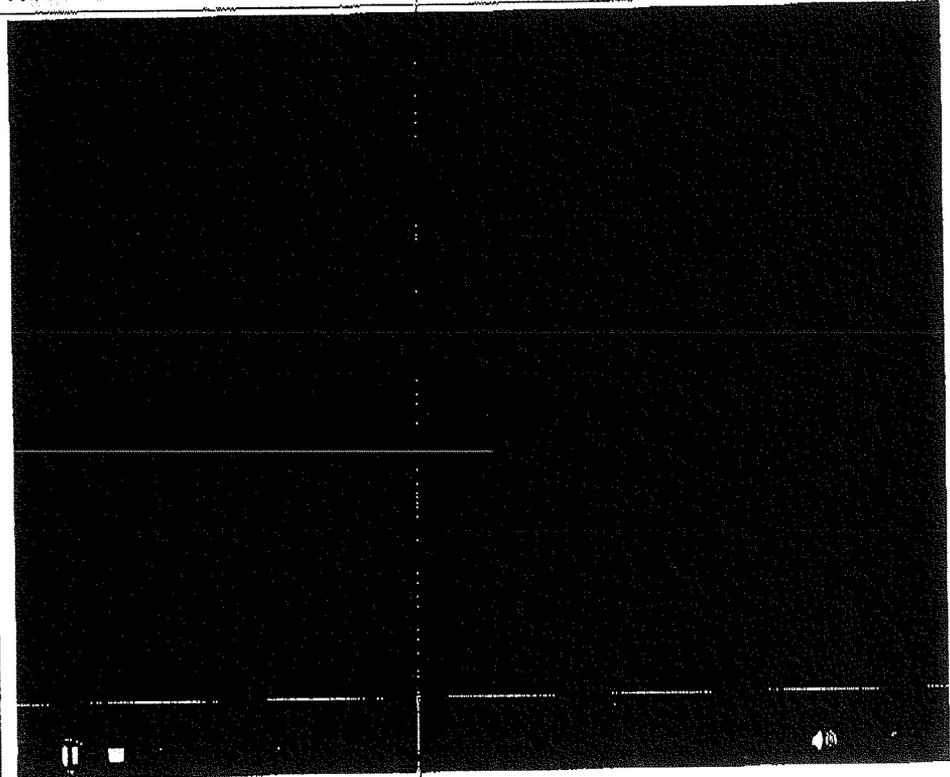
Copy for zoning
committee

GULF BOWL
FAMILY ENTERTAINMENT

Home Leagues Tournaments Parties Youth Fun Photo Gallery Contact Us

2881 S. Juniper at Foley, AL 36530 [Click here to subscribe to our email list.](#)

Welcome to The Gulf Bowl online!



- Photo Gallery
- Video Gallery
- Event Listings
- Contact Us
- ONLINE RESERVATIONS**
- Open Play Prices
- Coach It Up Program
- Bar
- Game Room
- Pro Shop
- Snack Bar
- Captain's Choice
- PBA Regionals
- CSU Bowling Day
- Custom Video
- 50th Celebration
- The Tanger Outlet
- LETSGOBOWLINGUSA.COM
- Terrific Tuesdays

The Gulf Bowl Entertainment Center is open 7 days a week. We offer 24 high quality lanes with easy automatic scoring for Family, friends and league bowling, Cosmic Bowling every Saturday night from 10 PM - 1 AM. Join a league, have a party, or just bowl for fun. We have a full service restaurant Captain's Choice Sports Bar & Grill, snack bar, party rooms, upstairs mezzanine viewing area, adult pool table room, family arcade/redemption and much more. A 30,000 sq. ft. grand facility. Have your company party, shower, meeting in one of our party rooms.

Hours of Operation
 Sunday 11 AM - 12 Midnight
 Monday- Thursday 9 AM - 12 Midnight
 Friday & Saturday 9 AM - 1:00 AM

Online Reservations
 Click here to reserve your lanes online!

Specials!

1

September 30, 2010

Daphne Council
Daphne Zoning/Planning

Re: proposed Gulf Bowl/zoning list change

Dear Council and Committee:

The residents of the Lawson/Hwy 13 area have signed petitions, written letters, and some have attended meetings regarding the proposed bowling alley, "family entertainment" center, bar, restaurant, grill, pool hall and gaming facility. We are not sure what else we can do to convince all of you that we do not want this facility behind our homes.

As a whole, we feel this facility has no place butting up to a residential neighborhood. It is not a neighborhood improvement visibly. It is a huge facility. It will have approximately 250 to 300 parking spaces, which probably isn't enough for a Friday or Saturday night. It has outdoor dining. It serves alcohol across the street from a high school. It is open until 1pm. It will be noisy as people come and go. It goes against the Daphne guidelines for zoning and growth in this area. It will border several homes in our neighborhood. It is a B2 zoned business that is trying to be put on the B1 list.

We also do not want this type of business to be removed from B2 and placed to B1 just so they can go ahead with their plans for this facility. I believe it would set a very bad precedence for the entire city.

Yes, we have a neighborhood pizza pub/bar around the intersection corner, but it is not very big or noisy. We have a women's small fitness center around the corner that probably services no more than 5 to 10 women max at a time. We have a corner gas station/convenience store. These are all in the county and out of our city's control zoning-wise, but it doesn't mean we have to jump on the bandwagon. They also are not very large facilities. The other primary businesses back here are offices, a day care and a storage facility. They tend to only be noisy in the daytime hours and none of them butt up to residential back yards. The fire station is about the noisiest thing in the back of Lake Forest with the exception of seasonal football games and the constant flow of traffic. Quite simply, we do not need another high traffic facility here butting up to this long-standing, previously quiet, residential neighborhood.

Highway 13 & Lawson has become a very busy, active route for the residents of Lake Forest. The traffic situation is not good. I wouldn't say it's very safe for all the walkers who currently use this intersection, both children and adults. If this bowling alley comes to fruition, it will make this intersection even more high traffic and less safe for longer hours. Highway 13 will continue to become busier and busier, and this high attendance facility will make it much worse, faster.

I am attaching pictures of the Gulf Bowl facility in Foley. It is on a side road behind the Tanger Center, and has no immediate neighbors. About two or three large lots away to the south are other commercial entities. Gulf Bowl does not butt up to a school, a church or a residential neighborhood. Would you want this facility behind your house, and visible to you on a daily and nightly basis?

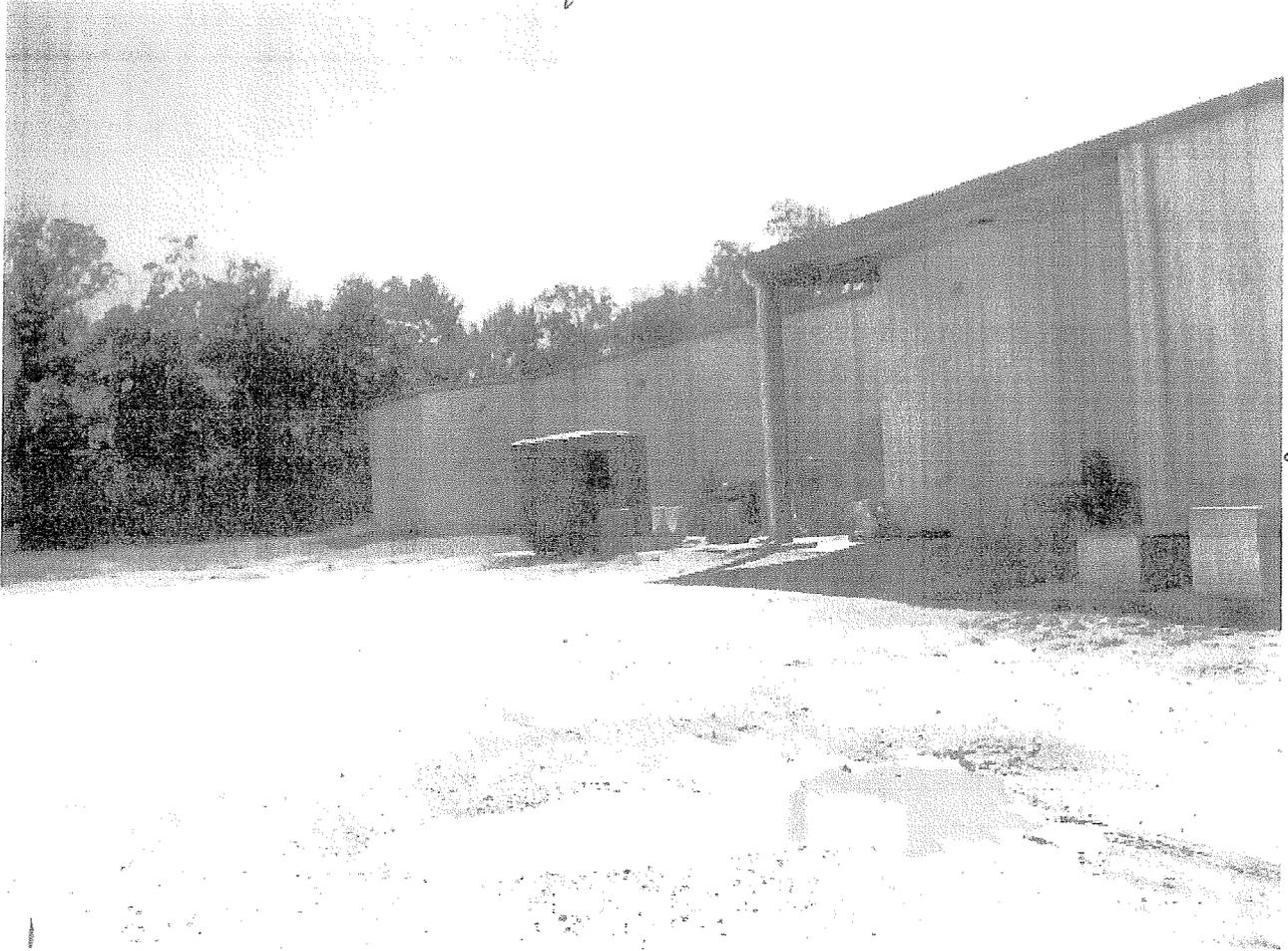
We would love a bowling alley in the City of Daphne, but we do not want it in our back yard. We are aware that there are several people campaigning for this facility to be put on Hwy 13/Lawson, but they do not live in the immediate area affected, and their primary goal is to have a place to bowl. They have insinuated it is a "done deal", and that all but one on the council want the bowling alley here. While we understand and sympathize with the need, we don't understand the desire to put this facility in this location where so many of us will be affected adversely.

Please earnestly consider the residents who do not want this facility behind our homes. We ask that you think of our neighborhood's benefit and not the dollar signs of business.

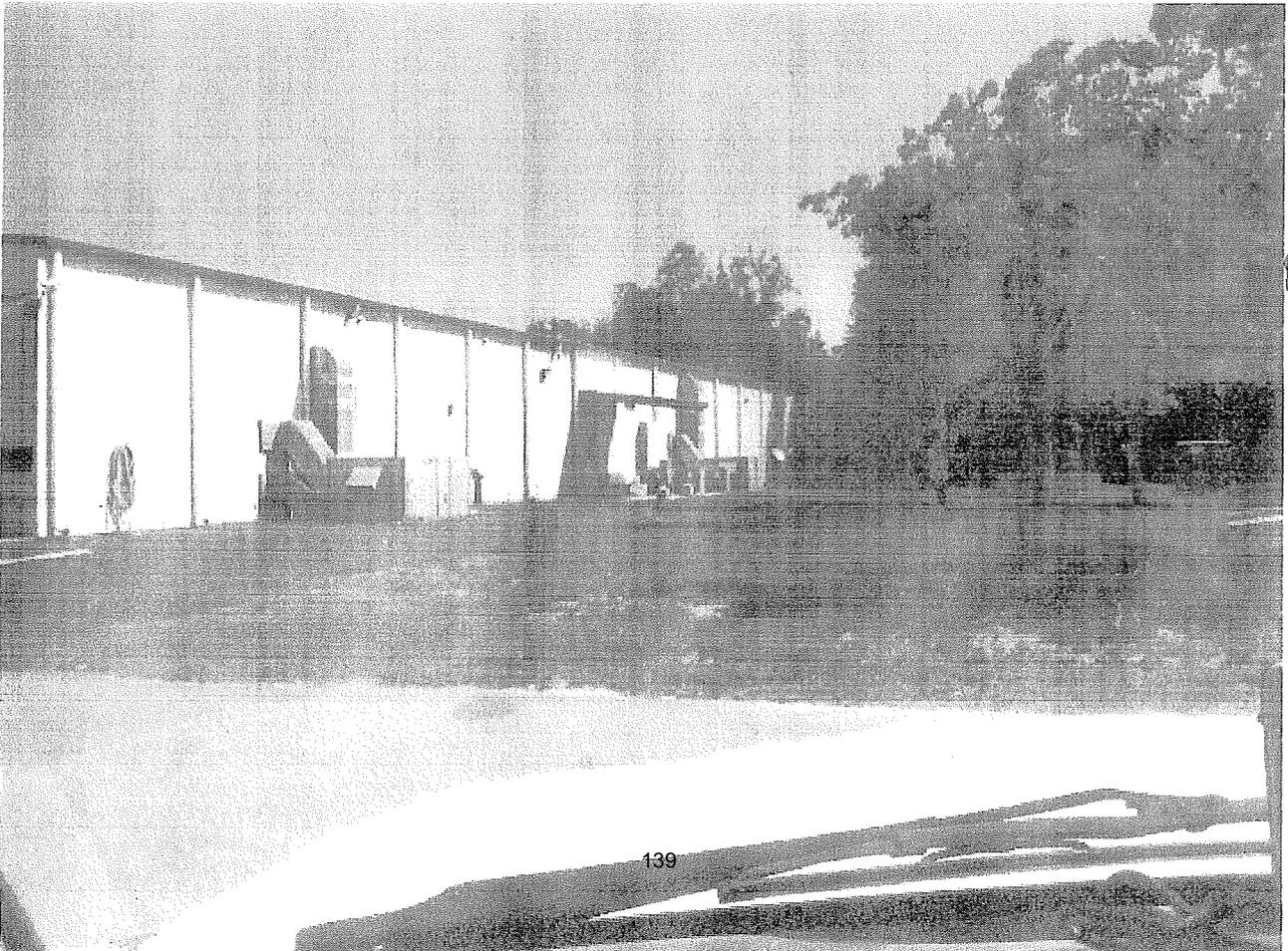
Sincerely,
Jan & Byron Yoder
251/626-3743

Gulf Bowl

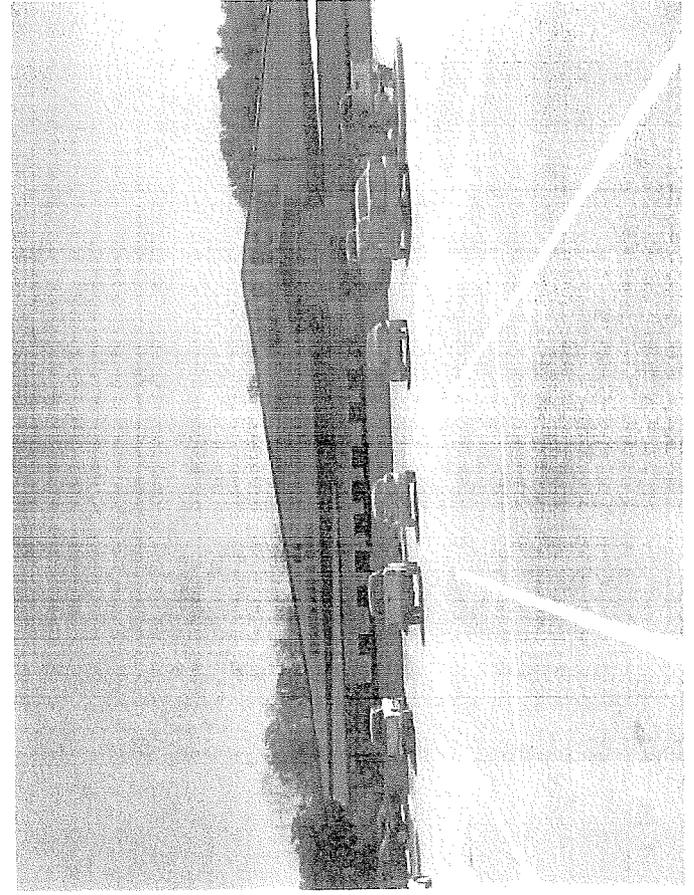
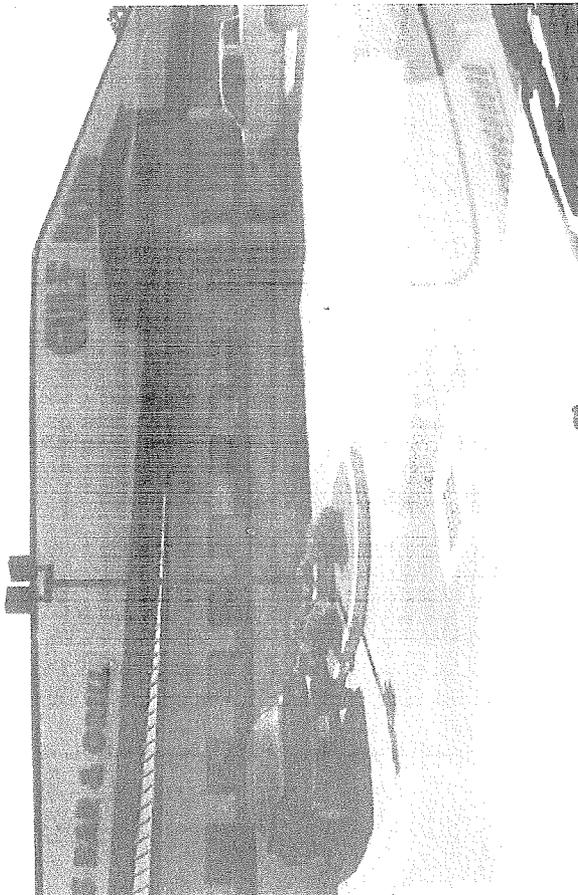
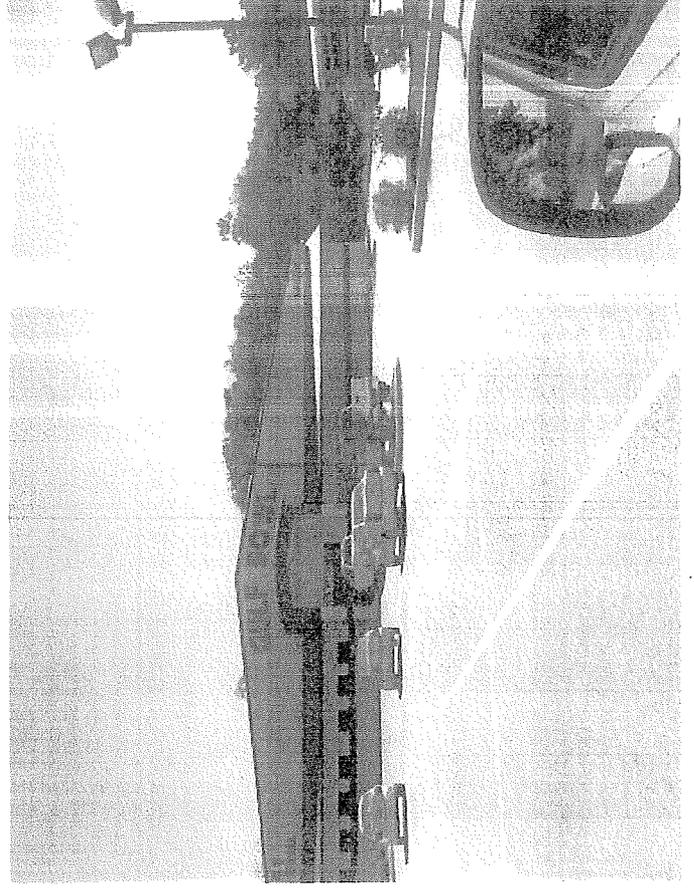
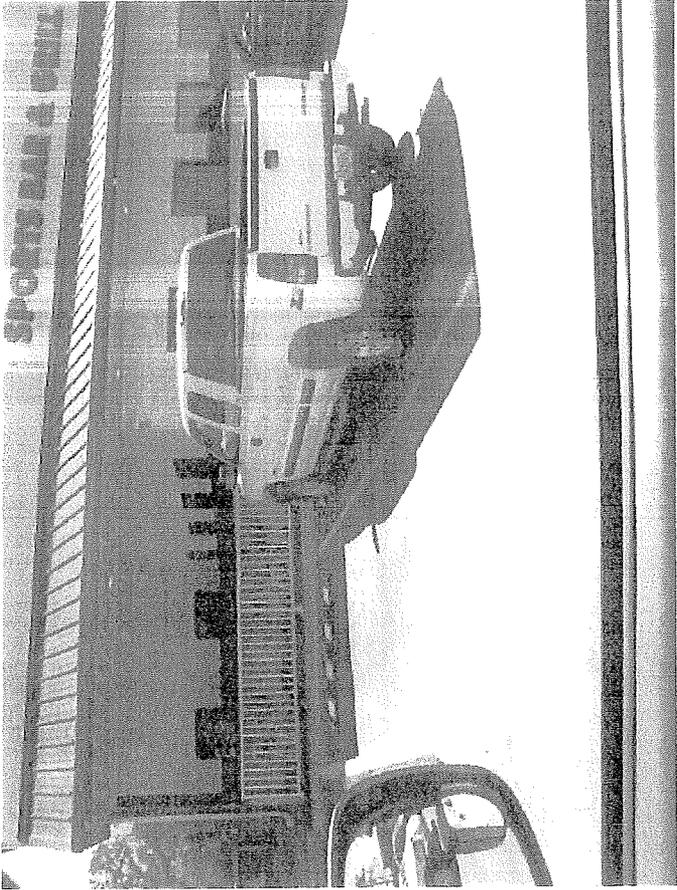
9/29/10



left
side



right
side



Subj: **Re: Comprehensive Plan and new bowling alley zoning/plan**
Date: 9/18/2010 11:47:01 A.M. Central Daylight Time
From: MRSYODER@aol.com
To: mayorassist@bellsouth.net, yelding1@bellsouth.net, barnette2@bellsouth.net,
johnlake3@bellsouth.net, ronscott5@bellsouth.net, Boulware6@bellsouth.net,
palumbo7@bellsouth.net

Dear Mayor and Council: (can you please copy this to the zoning committee)

In reading Daphne's Comprehensive plan, I discovered back up for those of us who do not want this strip facility/zoning change at the busy intersection of the Lawson/Highway 13 entrance to Lake Forest.

Page IV-3

Develop moderate to high end residential uses East of Daphne to encourage vehicular circulation through the downtown area and **not further increase traffic congestion on Co Road 13**

Page V-2

Future commercial development should be directed to **clustered areas, not in strip fashion.**

Future development policies shall **not allow such problem intersections to be created.**

Page IX-18

The current Land Use and Development Ordinance has provisions for visual and noise buffering between incompatible land uses. This resulted from complaints from residents primarily located in East Daphne are who are adjacent to heavy commercial development and the resulting traffic.

Commercial development in Daphne is mainly strip type development without any clustering of similar type businesses. The result is offices adjacent to car repair next to retail. Not only has the lack of commercial clustering resulted in an **aesthetically displeasing landscape, but has also contributed to traffic congestion.**

Page IX-19

Daphne has several strong and cohesive neighborhoods which attract growth and promote stability. **Conservation of these neighborhoods should be a high priority as new industrial and commercial and residential growth continues to occur.**

Please do consider all of this regarding the upcoming decision about this neighborhood, school district, church, and already over-crowded intersection.

Thank you,
Jan Yoder
482 Ridgewood Drive
Daphne, AL 36526
251/626-3743

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF SEPTEMBER 23, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

D. ADMINISTRATIVE PRESENTATION:

Presentation to be given by Mr. Joel Coleman, representing Rester & Coleman Engineers and MPWS, L.L.C., to request the consideration of an amendment to the Daphne Land Use and Development Ordinance, Article XXXV, the Table of Permitted Uses to allow a bowling alley as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district. (SIX MEMBERS WERE PRESENT AND THE MOTION FAILED TO SET FORTH A FAVORABLE RECOMMENDATION TO AMEND ARTICLE XXXV, THE TABLE OF PERMITTED USES TO ADD A BOWLING ALLEY AS A USE ALLOWED UPON PLANNING COMMISSION APPROVAL IN A B-1, LOCAL BUSINESS, ZONING DISTRICT. FOUR MEMBERS VOTED IN THE AFFIRMATIVE, ONE DISSENTED, AND ONE ABSTAINED).

(THE MOTION CARRIED UNANIMOUSLY TO SET FORTH A FAVORABLE RECOMMENDATION TO AMEND ARTICLE XXXV, THE TABLE OF PERMITTED USES TO ADD A FAMILY ENTERTAINMENT CENTER AS A USE ALLOWED UPON PLANNING COMMISSION APPROVAL IN A B-1, LOCAL BUSINESS, ZONING DISTRICT.)

6. PUBLIC PARTICIPATION
7. ATTORNEY'S REPORT
8. COMMISSIONER'S COMMENTS
9. DIRECTOR'S COMMENTS
10. ADJOURNMENT

Jan Dickson

From: "Adrienne Jones" <ajonesdpln@bellsouth.net>
To: "Jan Dickson" <jandplcr@bellsouth.net>
Sent: Monday, September 20, 2010 9:49 AM
Subject: FW: Comprehensive Plan and new bowling alley zoning/plan

From: Jane Robbins [mailto:mayorassist@bellsouth.net]
Sent: Monday, September 20, 2010 9:08 AM
To: Adrienne Jones
Cc: mayorsmall@bellsouth.net
Subject: FW: Comprehensive Plan and new bowling alley zoning/plan

F Y I

Jane Robbins
 Assistant to Mayor Fred Small
 City of Daphne
 1705 Main Street
 Post Office Box 400
 Daphne, AL 36526
 251.621.9000
www.daphneal.com

From: MRSYODER@aol.com [mailto:MRSYODER@aol.com]
Sent: Saturday, September 18, 2010 11:47 AM
To: mayorassist@bellsouth.net; yelding1@bellsouth.net; barnette2@bellsouth.net;
 johnlake3@bellsouth.net; ronscott5@bellsouth.net; Boulware6@bellsouth.net; palumbo7@bellsouth.net
Subject: Re: Comprehensive Plan and new bowling alley zoning/plan

Dear Mayor and Council: (can you please copy this to the zoning committee)

In reading Daphne's Comprehensive plan, I discovered back up for those of us who do not want this strip facility/zoning change at the busy intersection of the Lawson/Highway 13 entrance to Lake Forest.

Page IV-3

Develop moderate to high end residential uses East of Daphne to encourage vehicular circulation through the downtown area and **not further increase traffic congestion on Co Road 13**

Page V-2

Future commercial development should be directed to **clustered areas, not in strip fashion.**

Future development policies shall **not allow such problem intersections to be created.**

Page IX-18

The current Land Use and Development Ordinance has provisions for visual and noise buffering between incompatible land uses. This resulted from complaints from residents primarily located in East Daphne are who are adjacent to heavy commercial development and the resulting traffic.

Commercial development in Daphne is mainly strip type development without any clustering of similar type businesses. The result is offices adjacent to car repair next to retail. Not only has the lack of commercial clustering resulted in an **aesthetically displeasing landscape, but has also contributed to traffic congestion.**

Page IX-19

Daphne has several strong and cohesive neighborhoods which attract growth and promote stability. **Conservation of these neighborhoods should be a high priority as new industrial and commercial and residential growth continues to occur.**

Please do consider all of this regarding the upcoming decision about this neighborhood, school district,

church, and already over-crowded intersection.

Thank you,
Jan Yoder
482 Ridgewood Drive
Daphne, Al 36526
251/626-3743

TO: Ms. Adrienne Jones

RE: Objections to Zoning Change of Property at Lawson Rd & County 13 from B-1 to B-2

Ms. Jones,

Enclosed are letters of protests from residents who live close to the proposed site. Would you please see that the members of the committee receive copies so that all are aware.

Sincerely,

CITY OF DAPHNE
PLANNING AND ZONING
COMMUNITY DEVELOPMENT

SUBJECT: ~~OBJECTION TO REZONE PROPERTY LOCATED AT LAWSON RD & COUNTY RD 13~~
~~FROM B1 TO B2~~

As a current resident of Lake Forest Community, it has come to my attention that a request has been made to change the zoning on property located at Lawson Road and County Road 13 from B1 (local business) to B2 (general business).

It is my understanding that this change has been requested in order to build a family entertainment center (bowling alley) on this property.

This property backs up to several residences and is in a mainly residential area, Lake Forest, Tiawasee, Sehoy, Crystal Ridge, and Canterbury. Beside the fact that this area is residential, the Daphne High School is within 1000 feet of this proposed property.

All the other current businesses in the area are local and most are businesses that are only open 8am until 5pm.

Rezoning this property to B2 and allowing the construction of a bowling alley will make the area undesirable as a residence and degrade the values of all the homes in this area.

Currently the traffic does not flow at certain times of the day at this intersection and this proposal will certainly increase traffic causing even more traffic problems.

A family entertainment center (bowling alley) sometimes have restaurants and lounges and usually always sell alcoholic beverages. This is not needed across the street from a high school. This could potentially become a hangout for teenagers.

The noise level will potentially be elevated and at undesirable hours.

If food is sold at the bowling alley, there will be a need for dumpsters and with only garbage pick up once a week, there is a chance of bad odors and attracting rodents, a real health threat.

Please accept this letter as an objection to the proposal to rezone the property located at Lawson Road and County Road 13.

Susan Edmond
102 Cherryhill Dr

September 15, 2010

✓

SHIRLEY M. CAIN
476 Ridgewood Drive
Daphne, Al. 36526

September 17, 2010

Mr. Adrienne Jones
Director of Community Development
Planning and Zoning Department
P. O. Box 400
Daphne, Alabama 36526

RE: Rezoning property at the corner
of Lawson Road and County Road 13

Dear Mr. Jones:

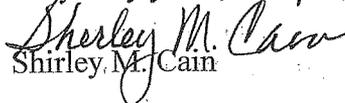
The purpose of this letter is to oppose the rezoning of the property at the Southwest corner of Lawson Road and County Road 13 from Zone B-1, local business to B-2 general business.

I understand a bowling alley will be built on that property. That will be a high traffic business, and the Lawson Road-County Road 13 intersection is a very congested corner several times a day, particularly in the morning and afternoon. Further, Ridgewood has become a shortcut from Highways 98 and 90, and it is not unusual to have six to eight cars at the Ridgewood-Lawson Road intersection, presenting a traffic problem for Lake Forest. Bowling alleys have leagues, which could be upwards to 100 people, and the leagues would be coming at a time people are going home after work, parents trying to get in and out of the day care on Lawson Road to pick up children, further adding to the congestion.

Bowling alleys usually serve alcohol, and in all probability that will be the case for that establishment. There are six subdivisions within about a mile radius, a high school within a half block, and church across the street and another church a half block away that would be impacted. Bowling alleys tend to be hangouts and their hours go into the late night hours, and for the Lake Forest residents in the Lawson Road area, this will certainly have a tremendously adverse impact on our quality of life.

I ask that the City of Daphne protect their residential areas and deny the zone change.
Thank you.

Very truly yours,


Shirley M. Cain

CITY OF DAPHNE
PLANNING AND ZONING
COMMUNITY DEVELOPMENT

SUBJECT: ~~OBJECTION TO REZONE PROPERTY LOCATED AT LAWSON RD & COUNTY RD. 13~~
FROM B1 TO B2

As a current resident of Lake Forest Community, it has come to my attention that a request has been made to change the zoning on property located at Lawson Road and County Road 13 from B1 (local business) to B2 (general business).

It is my understanding that this change has been requested in order to build a family entertainment center (bowling alley) on this property.

This property backs up to several residences and is in a mainly residential area, Lake Forest, Tiawasee, Sehoj, Crystal Ridge, and Canterbury. Beside the fact that this area is residential, the Daphne High School is within 1000 feet of this proposed property.

All the other current businesses in the area are local and most are businesses that are only open 8am until 5pm.

Rezoning this property to B2 and allowing the construction of a bowling alley will make the area undesirable as a residence and degrade the values of all the homes in this area.

Currently the traffic does not flow at certain times of the day at this intersection and this proposal will certainly increase traffic causing even more traffic problems.

A family entertainment center (bowling alley) sometimes have restaurants and lounges and usually always sell alcoholic beverages. This is not needed across the street from a high school. This could potentially become a hangout for teenagers.

The noise level will potentially be elevated and at undesirable hours.

If food is sold at the bowling alley, there will be a need for dumpsters and with only garbage pick up once a week, there is a chance of bad odors and attracting rodents, a real health threat.

Please accept this letter as an objection to the proposal to rezone the property located at Lawson Road and County Road 13.

September _____, 2010

Ray A Drake 103 Meadow Wood Loop Daphne
 Ronnie A Drake 103 Meadow Wood Loop Daphne
 Cathy Larusey 102 Meadow Wood Loop Daphne
 Rhonda McCormick 104 Meadow Wood Dr. Daphne
 Tom McCormick 104 Meadow Wood Dr. Daphne

TO: CITY OF DAPHNE
 PLANNING AND ZONING
 COMMUNITY DEVELOPMENT

SUBJECT: OBJECTION TO REZONE PROPERTY LOCATED AT LAWSON RD AND COUNTY RD 13
 FROM B1 TO B2

NAME		DATE
ANNA HILEMAN	106 Grove Cr	9-21-10
Kevin Hileman	106 Grove Cr	9/21/10
MARVIN E GUNNS, SR	102 Grove Cr	9/21/10
David & Angela D'Ambrose	100 Grove Cr	9/21/10
Carl Carl	110 Fernwood	9-21-10
Cera Ard	110 Fernwood	9/21/10
Tomalee Ethington	114 Fernwood	9/21/10
Alvin Rios	116 Fernwood	9/21/10
Donna Dreaunt	115 Fernwood	9/21/10
Grace Ellis	109 Fernwood Cir.	9/21/10
Kelli Lowry	107 Fernwood Circle	9/21/10
Lyn Jenkins	105 105 Grove Cr	9/12/10
Jerry Jenkins	105 Grove Cir	9-21-10
Laura McKelvey	103 Grove Cr.	9-21-10
DAVID MCKELVEY	103 GROVE CR	9/22/10
Barbara J Burnell	104 Grove Circle	9-22-10
Scott Dow	104 Fernwood Cir -	9-22-10

TO: CITY OF DAPHNE
PLANNING AND ZONING
COMMUNITY DEVELOPMENT

DATE: **OBJECTION TO REZONE PROPERTY LOCATED AT LAWSON RD & COUNTY RD 13
FROM B1 TO B2**

As a ~~current~~ resident of Lake Forest Community, it has come to my attention that a request has been made to change the zoning on property located at Lawson Road and County Road 13 from B1 (local business) to B2 (general business).

It is my understanding that this change has been requested in order to build a family entertainment center (bowling alley) on this property.

This property backs up to several residences and is in a mainly residential area, Lake Forest, Tiawasee, Sehoj, Crystal Ridge, and Canterbury. Beside the fact that this area is residential, the Daphne High School is within 1000 feet of this proposed property.

All the other current businesses in the area are local and most are businesses that are only open 8am until 5pm.

Rezoning this property to B2 and allowing the construction of a bowling alley will make the area undesirable as a residence and degrade the values of all the homes in this area.

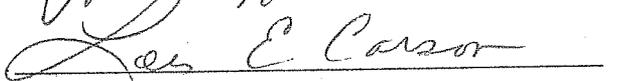
Currently the traffic does not flow at certain times of the day at this intersection and this proposal will certainly increase traffic causing even more traffic problems.

A family entertainment center (bowling alley) sometimes have restaurants and lounges and usually always sell alcoholic beverages. This is not needed across the street from a high school. This could potentially become a hangout for teenagers.

The noise level will potentially be elevated and at undesirable hours.

If food is sold at the bowling alley, there will be a need for dumpsters and with only garbage pick up once a week, there is a chance of bad odors and attracting rodents, a real health threat.

Please accept this letter as an objection to the proposal to rezone the property located at Lawson Road and County Road 13.

September 18, 2010

PLANNING AND ZONING
COMMUNITY DEVELOPMENT

OBJECTION TO REZONE PROPERTY LOCATED AT LAWSON ROAD AND COUNTY ROAD 13
FROM B1 TO B2

As a current resident of Lake Forest Community, it has come to my attention that a request has been made to change the zoning on property located at Lawson Road and County Road 13 from B1 (local business) to B2 (general business).

It is my understanding that this change has been requested in order to build a family entertainment center (bowling alley) on this property.

This property backs up to several residences and is in a mainly residential area, Lake Forest, Tiawasee, Sehoy, Crystal Ridge, and Canterbury. Beside the fact that this area is residential, the Daphne High School is within 1000 feet of this proposed property.

All the other current businesses in the area are local and most are businesses that are only open 8am until 5pm.

Rezoning this property to B2 and allowing the construction of a bowling alley will make the area undesirable as a residence and degrade the values of all the homes in this area.

Currently the traffic does not flow at certain times of the day at this intersection and this proposal will certainly increase traffic causing even more traffic problems.

A family entertainment center (bowling alley) sometimes have restaurants and lounges and usually always sell alcoholic beverages. This is not needed across the street from a high school. This could potentially become a hangout for teenagers.

The noise level will potentially be elevated and at undesirable hours.

If food is sold at the bowling alley, there will be a need for dumpsters and with only garbage pick up once a week, there is a chance of bad odors and attracting rodents, a real health threat.

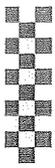
Please accept this letter as an objection to the proposal to rezone the property located at Lawson Road and County Road 13.

Elizabeth & Pete Jennings

September 15, 2010

109 Cherryhill Drive, Daphne, AL

PLEASE NOTE OTHER SIGNATURES ON
SECOND PAGE.



ATTN: Adrienne Jones
Please forward to Council

To: City of Daphne
City Council Members

Subject: Support to allow amended use to B1 zoning of property at Lawson Road and County Road 13 for Family Entertainment Center/Bowling Center.

As current residents of the City of Daphne/Lake Forest, we are in support of this amended use.

34

Name	Address	Date
Doan Bares	Dundford 2200 E Bay Dr #29 Daphne AL	11/03/10
Linda BORNES	9354 Sanibel Loop Daphne AL	11-4-10
Robert Lavore	131 Greenbay Dr. Daphne AL	11/4/10
Brandon Cox	608 Magnolia Ave Daphne AL	11/4/10
Edward King	27944 Turkey Branch Tr Daphne	11/4/10
David Singleton	26001 Creston Dr Daphne	11/5/10
Nearna Farley	1512 Tiffany Lane Daphne	11/5/10
Dorella Farley	1512 Tiffany Lane Daphne	11/5/10
Sam Farley	1512 Tiffany Lane Daphne	11/5/10
Andrew Dannard	118 Buena Vista Ka. Daphne	11/5/10
Suzanne Wright	101 McMillan Ave. Daphne	11/5/10
Coline Johnson	" " " "	" "
Pam Stewart	25660 Austin Rd Daphne	11-5-10
Marla Vicker	25660 Austin Rd Daphne	11-5-10
Deanne Sore	8160 Conch Pkwy Daphne	11-5-10
Julie Cumming's	9424 Wind Central Daphne	11-6-10
Kathleen Carraway	114 Pineridge Rd, Daphne	11-7-10
Nathan Carraway	114 Pineridge Rd Daphne	11-7-10
Denise Harbison	7870 Landing Eagle Dr. NW. Daphne	11-7-10
Jennifer Kelly	279 Rolling Hill Dr. Daphne AL	11-7-10
Laurie Kelly	279 Rolling Hill Dr Daphne AL	11/7/10
Tyler Branning	104 Leigh Circle Daphne AL	11/7/10
Whitney Moore	135 Donna Cir Daphne AL	11/8/2010
Rebecca Sill	Willowbrook Cir Daphne AL	11-8-10
XXXXXXXXXX		
Terika Johnson	1803 Pillared Rd Daphne, AL	11-9-10
Laura Glasen	118 Cameron Circle Daphne AL	11-9-10
Jan M...	27161 Hwy 98 Daphne AL 36526	11-9-10
Mar...	27441 US Hwy 98 Apt 313 Daphne 36524	11-9-2010
Stephen	102 Lake Forest Blvd Daphne AL	11-9-2010
Ch...	107 Michael LN	11-9-2010
Victoria Mitchell	2333 Forward Rd Daphne AL	11-9-10
Angela Hammond	146 Bay View Dr. 36526	11-9-10
Ellist Jones	133 Lakeland Dr 36526	11-9-10
Keith Gardner	102 Iron Rock Cir Daphne 36520	11-9-10

To: City of Daphne
City Council Members

Subject: Support to allow amended use to B1 zoning of property at Lawson Road and County Road 13 for Family Entertainment Center/Bowling Center.

As current residents of the City of Daphne/Lake Forest, we are in support of this amended use.

205

34

Name	Address	Date
Nicole Hunsader	8087 Pine Run	11/16/10
Carrie Baynes	133 Lakefront Dr	11/16/10
Trisha Hinton	69100 N main st.	11/16/10
Joshua Jumbro	2200 E Bay Rd Apt 113	11/16/10
SARA Shrab	2093 Sea Cliff Dr South	11/16/10
Jeffrey Threadgill	2093 Sea Cliff Dr South	11/16/10
TI FRANK KIMBALL	912 Van Avenue #1612 Daphne	11/17/10
Valencia W. Rainey	912 Van Ave #1612, Daphne	11/17/10
Karen B. Koach	9239 Marchand Ave. Daphne	11/17/10
April White	493 Bridgewood Dr. Daphne, A	11/17/10
Carolee Turner	112 Timberline Dr Daphne	11/18/10
Charles [unclear]	912 Van Ave Apt 1214 Daphne AL 36526	11/18/10
Hilda [unclear]	106 Timberline Dr. Daphne	11/18/10
GREG PATRICK	323 GAY'S HARBOR DR DAPHNE	11/19/2010
Scott [unclear]	143 Brentwood Dr	11/19/2010
Shea Sedig		11/20/10
Jeniffer Robertson		11/20/10
ADAM FAUST	165 Brentwood Dr.	11/20/10
Jack Seyler	165 Brentwood Dr	11/20/10
Ann Strasser	706 Maxwell Dr	11/20/10
Rodney Strasser	706 Maxwell Dr	
Lon Ann Strasser	706 Maxwell Dr	
Chase Strasser	706 Maxwell Dr	
Jeff Gates	706 Maxwell Dr.	
Shawn Strasser	P.O. Box 455 Daphne	
Russell Strasser	P.O. Box 455 Daphne	
Robbie Reynolds	1001 Kelsey Ct	11/20/10
Brandon Roberts	102 Vista Cir.	11/20/10
He [unclear]	102 Vista Cir	11/20/10
Douglas [unclear]	131 Brentwood Dr Daphne	11-21-10
Dixie Moore	2751 Bay Branch Dr Daphne	11-21-10
Barbara Mullen	27048 Bit + Spur Drive Daphne	11/22/10
Rbin Letens	121 Harwood Cir Daphne 36526	11-21-10
Anthony Tidwell	26920 Poillard Rd apt 822 36526	11-22-10

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2011-**

**Ordinance to Rezone Property Located at the
Southwest Corner of Lawson Road and County Road 13**

WHEREAS, MPWS, L.L.C., as the owner of certain real property located within the City of Daphne, Alabama, has requested that said property be rezoned from B-1, Local Business District to B-2 General Business District; and,

WHEREAS, said property is located at the Southwest corner of Lawson Road and County Road 13, and being more particularly described as follows:

(TO BE KNOWN AS LOT 2, LAKE FOREST PLAZA)

COMMENCING AT THE SOUTHEAST CORNER OF LOT 198, LAKE FOREST, UNIT 22, AS PER PLAT RECORDED IN MAP BOOK 8, PAGE 73 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE EAST BOUNDARY OF SAID LAKE FOREST, UNIT 22, RUN N 00° 18' 45" E 439.46 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 00° 18' 45" E ALONG SAID EAST BOUNDARY OF SAID LAKE FOREST, UNIT 22, RUN A DISTANCE OF 668.84 FEET TO A POINT; THENCE RUN S 42° 00' 20" E 718.50 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BALDWIN COUNTY ROAD NO. 13; THENCE ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY ROAD NO. 13, RUN S 14° 34' 56" W 143.46 FEET TO A POINT; THENCE RUN N 89° 45' 17" W 448.37 FEET TO THE POINT OF BEGINNING. CONTAINING 4.4408 ACRES.

WHEREAS, at the City of Daphne Planning Commission meeting on November 18, 2010, the Commission considered said request and set forth an unfavorable recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, due notice of said proposed amendment has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on January 3, 2011; and,

WHEREAS, the City Council of the City of Daphne after due consideration and upon consideration of the recommendation of the Planning Commission, deemed that said application for rezoning of the above described real property is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and,

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

SECTION I: ZONING

That above described real property is hereby rezoned from B-1 Local Business District to B-2 General Business District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

SECTION II: REPEALER.

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

SECTION III: SEVERABILITY.

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

SECTION IV: EFFECTIVE DATE.

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2010.

**Cathy S. Barnette,
Council President**

**Fred Small,
Mayor**

ATTEST:

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

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

**CITY OF DAPHNE
RESOLUTION 2010-107**

**Acceptance of Streets and Drainage
for Oldfield Subdivision, Phase One**

Whereas, the Planning Commission of Daphne granted Final Plat approval for Oldfield Subdivision, Phase One on January 25, 2007; and,

Whereas, an inspection was conducted by the Public Works Director of the City of Daphne, and it was determined that said streets and storm water drainage are in conformity with city standards; and,

Whereas, the Division of Public Works of the City of Daphne have accepted said streets and storm water drainage of Oldfield Subdivision, Phase One for maintenance thereof; and,

Whereas, the City of Daphne believes it to be in the best interest of the City and to promote the health and safety of the citizens thereof to accept and dedicate the same for maintenance as outlined in Article XVII, entitled Subdivision Review of the City of Daphne Land Use and Development Ordinance; and,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS, that Oldfield Subdivision, Phase One according to the plat presented by Engineering Development Services as recorded in office of the Judge of Probate of Baldwin County, Alabama on slide 2328C&D, and said street(s) being named Devonfield Lane, Cumbria Drive, Weatherbee Park Drive, Cobham Park Drive and Camberwell Drive hereby accepted by the City of Daphne, Alabama as a City street for maintenance.

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

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

**CATHY S. BARNETTE,
COUNCIL PRESIDENT**

**FRED SMALL,
MAYOR**

ATTEST:

DAVID L. COHEN, CITY CLERK, MMC

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Acceptance of Streets and Drainage,
Oldfield Subdivision, Phase One
Date: November 22, 2010

MEMORANDUM

At the Thursday, November 18, 2010 regular meeting of the City of Daphne Planning Commission, eight members were present and the motion carried unanimously to set forth a favorable recommendation for the City Council to take action on the streets and drainage in Oldfield Subdivision, Phase One.

Upon receipt of said documentation, please place the resolution on the Monday, December 6, 2010 agenda for discussion by the City Council.

Thank you,
ADJ/jd

Attachment(s)

1. Copy of resolution
2. Record plat
3. Correspondence from Public Works Director requesting acceptance
4. Memorandum to Public Works Committee

cc: file
Mr. Richard Johnson, Public Works Director

20287D

AFFIDAVIT OF LICENSED PROFESSIONAL ENGINEER:

L. JASON N. GIBBS, a LICENSED PROFESSIONAL ENGINEER in the STATE OF ALABAMA, do hereby certify that I am the author of the drawings and specifications shown on this plan and that I have prepared the same in accordance with the provisions of the laws and regulations of the State of Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

CERTIFICATION OF OWNERSHIP AND DEDICATION:

THE UNDERSIGNED, the owners of the property described in this plan, do hereby certify that the same is their own property and that they have dedicated the same to the public use of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

CERTIFICATION OF APPROVAL FOR RECORDING:

THE UNDERSIGNED, the owners of the property described in this plan, do hereby certify that the same is their own property and that they have dedicated the same to the public use of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

CERTIFICATE OF APPROVAL BY BALDWIN COUNTY SEWER DEPARTMENT:

THE UNDERSIGNED, the Sewer Department of Baldwin County, Alabama, do hereby certify that the property described in this plan is within the sewer service area of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

MORTGAGEE'S ACCEPTANCE:

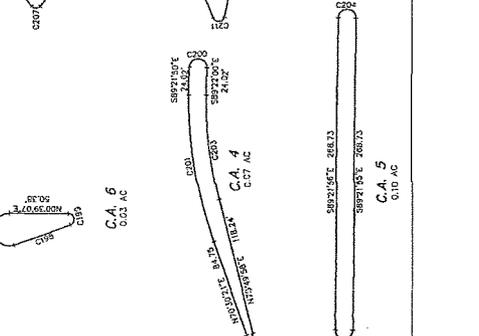
THE UNDERSIGNED, the mortgagee of the property described in this plan, do hereby certify that we have accepted the same for record. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

CERTIFICATION OF APPROVAL OF STREETS, DRAINAGE AND IMPROVEMENTS:

THE UNDERSIGNED, the City of Baldwin, Alabama, do hereby certify that the property described in this plan is within the street, drainage and improvement area of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

COMMON AREA DETAILS:

COMMON AREA DETAILS. N.T.S. C.A. 6 0.10 AC, C.A. 7 0.07 AC, C.A. 8 0.10 AC, C.A. 9 0.10 AC, C.A. 10 0.02 AC, C.A. 11 0.02 AC, C.A. 12 0.09 AC, C.A. 13 0.07 AC, C.A. 14 0.07 AC, C.A. 15 0.10 AC.



CERTIFICATION OF APPROVAL FOR THE CITY:

THE UNDERSIGNED, the City of Baldwin, Alabama, do hereby certify that the property described in this plan is within the jurisdiction of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

CERTIFICATION OF APPROVAL BY BALDWIN COUNTY SEWER DEPARTMENT:

THE UNDERSIGNED, the Sewer Department of Baldwin County, Alabama, do hereby certify that the property described in this plan is within the sewer service area of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

CERTIFICATE OF APPROVAL BY BALDWIN COUNTY SEWER DEPARTMENT:

THE UNDERSIGNED, the Sewer Department of Baldwin County, Alabama, do hereby certify that the property described in this plan is within the sewer service area of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

CERTIFICATE OF APPROVAL BY BALDWIN COUNTY SEWER DEPARTMENT:

THE UNDERSIGNED, the Sewer Department of Baldwin County, Alabama, do hereby certify that the property described in this plan is within the sewer service area of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

CERTIFICATE OF APPROVAL BY BALDWIN COUNTY SEWER DEPARTMENT:

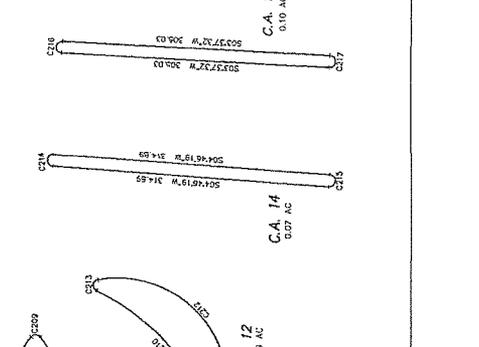
THE UNDERSIGNED, the Sewer Department of Baldwin County, Alabama, do hereby certify that the property described in this plan is within the sewer service area of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

CERTIFICATE OF APPROVAL BY BALDWIN COUNTY SEWER DEPARTMENT:

THE UNDERSIGNED, the Sewer Department of Baldwin County, Alabama, do hereby certify that the property described in this plan is within the sewer service area of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.

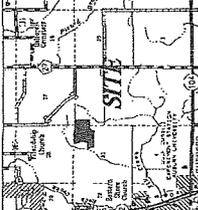
CERTIFICATE OF APPROVAL BY BALDWIN COUNTY SEWER DEPARTMENT:

THE UNDERSIGNED, the Sewer Department of Baldwin County, Alabama, do hereby certify that the property described in this plan is within the sewer service area of the City of Baldwin, Alabama. I am not aware of any fraud, error or deception in the preparation of the same. I am not aware of any fraud, error or deception in the preparation of the same.



SITE DATA

LOTS 1, 1 THRU 50: CURRENT ZONING: R-2 (SINGLE-FAMILY); MINIMUM LOT SIZE: 15,000 SF; LARGEST LOT: 11,164 SF; NUMBER OF LOTS: 50. REQUIRED SETBACKS: FRONT: 25 FEET; REAR: 5 FEET; SIDE: 6 FEET; SIDE STREET: 20 FEET. LOTS 51 THRU 88: CURRENT ZONING: R-1; MINIMUM LOT SIZE: 12,000 SF; LARGEST LOT: 8,200 SF; NUMBER OF LOTS: 38. REQUIRED SETBACKS: FRONT: 20 FEET; REAR: 5 FEET; SIDE: 6 FEET; SIDE STREET: 20 FEET. LOTS 133 THRU 132: CURRENT ZONING: R-2; MINIMUM LOT SIZE: 15,000 SF; LARGEST LOT: 31,433 SF; NUMBER OF LOTS: 44. REQUIRED SETBACKS: FRONT: 35 FEET; REAR: 5 FEET; SIDE: 6 FEET; SIDE STREET: 20 FEET. LOTS 133 THRU 131: CURRENT ZONING: R-1; MINIMUM LOT SIZE: 20,000 SF; LARGEST LOT: 20,400 SF; NUMBER OF LOTS: 19. REQUIRED SETBACKS: FRONT: 40 FEET; REAR: 5 FEET; SIDE: 6 FEET; SIDE STREET: 25 FEET. COMMON AREA 2: CURRENT ZONING: B-1; LIN. FT. STREETS: 11,437 LF; NUMBER OF LOTS: 151; TOTAL COMMON AREA: 11.435 AC; TOTAL AREA: 83.84 AC. WATER SERVICE: BALDWIN COUNTY SEWER SYSTEM; SEWER SERVICE: BALDWIN COUNTY SEWER SERVICE; TELEPHONE SERVICE: BELLSOUTH.



VICINITY MAP 1" = 1 MILE

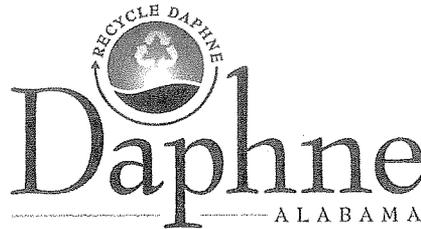
Table with columns: LOT, AREA, PERCENT, etc. containing lot numbers and their respective areas.

OLDFIELD
PHASE ONE
SINGLE FAMILY RESIDENTIAL
FINAL PLAN
BOUNDARY SURVEY AND PLAT OF SUBDIVISION

FEBRUARY 26, 2007 - SHEET 2 OF 2 SHEETS
ENGINEERING DEVELOPMENT SERVICES, LLC
Surveying, Engineering, Construction Management
1000 N. UNIVERSITY BLVD., SUITE 200
DODDSDALE, ALABAMA 36525
PHONE: 205-336-8888
FAX: 205-336-8889
WWW.EDS-LLC.COM

JUDGE OF PROBATE
STAMP

Fred Small
Mayor



Richard D. Johnson, PE
Public Works Director

The Jubilee City

REVISED

Memorandum

To: Adrienne Jones, Director; Community Development
From: Richard D. Johnson, P.E.; Public Works Director
CC: File
Date: November 22, 2010
Re: Oldfield Subdivision, Phase One – Final Acceptance of Roads & ROW

As a follow up to my October 8, 2010 Memorandum the following has been addressed for the above referenced development:

1. Complete set of "As Built" Drawings signed and sealed by the Project Engineer have been submitted.
2. Complete set of material test reports signed and sealed by the Geotechnical Engineer have been submitted.
3. Utility test reports have been submitted.

These documents have been reviewed, approved and couriered to Community Development for archiving.

I have inspected said roads and found no material defects or deficiencies. There were some signage issues, but Public Works Crews mistakenly replaced all deficient signage.

If you have further questions or need additional assistance, do not hesitate to contact me.

RDJ

Public Works Department
26435 Public Works Road P.O. Box 400 Daphne, Alabama 36526
Phone: (251) 621-3182 Fax: (251) 621-3189

Jan Dickson

From: "Adrienne Jones" <ajonesdpln@bellsouth.net>
To: "Jan Dickson" <jandplcr@bellsouth.net>
Sent: Wednesday, November 17, 2010 4:44 PM
Attach: Street Acceptance-Old Field.eml
Subject: FW: Oldfield Subdivision - Acceptance of Roads for Maintenance
Please print for PC distribution.

From: Adrienne Jones [mailto:ajonesdpln@bellsouth.net]
Sent: Wednesday, November 17, 2010 4:06 PM
To: 'DirectorPW'
Cc: 'Mayor Fred Small'; 'Councilwoman Barnette'; 'ed kirby'
Subject: RE: Oldfield Subdivision - Acceptance of Roads for Maintenance

Richard,
The mayor and Cathy are both Planning Commissioners, they know just as you do that I don't have any authority to get this before Council except through an action of the Planning Commission. If they chose, they can discuss the matter during Commission comments. Perhaps something can be agreed upon then.

Adrienne

From: DirectorPW [mailto:directorpw@bellsouth.net]
Sent: Wednesday, November 17, 2010 3:12 PM
To: Adrienne Jones
Cc: Mayor Fred Small; Councilwoman Barnette
Subject: Oldfield Subdivision - Acceptance of Roads for Maintenance

Adrienne:

We are apparently stuck in an endless "Do Loop" in the process to resolve our citizen's problem concerning public acceptance and maintenance of their neighborhood's roadways.

Let me restate the known facts of the case:

- The Final Plat for Oldfield, Phase One was approved, signed and certified by the Chairman of the Planning Commission, Director of Community Development and Interim Director of Public Works in March of 2007.
- The Final Plat for Oldfield, Phase One was recorded in the Office of the Judge of Probate, Baldwin County, Alabama as shown on Slide 2328 -- C&D dated March 12, 2007.
- Lots have been conveyed; homes built and are now occupied by Citizens of Daphne.
- All streets, alleys, walks, parks and other open spaces have been dedicated to the public and the roads and ROW have been in place and in use for 42 months.
- The City of Daphne has provided limited Public Works Services (garbage, trash & recycling) to the Citizens of the development.
- However, full acceptance of the roads and ROW has not been acted upon by the City.
- The failure of acceptance is due to a multitude of factors. The primary one being the financial failure of the developer and pending foreclosure by the lien holder.
- Also, contributing to the failure for acceptance was the change of leadership in Community Development and Public Works.
- As a result Citizen's of Daphne are being denied basic Public Works services: Street Lighting (they have been turned off by the utility), Maintenance, Sweeping, Mosquito Spraying, etc...
- The bank or developer has no practical means or ability to resolve the issue.

Furthermore:

- Public Works Staff has conducted cursory walk through inspection and inventory and found no significant material or workmanship deficiencies. ¹⁶⁵

- The original Developer has provided all documentation pertaining to material and utilities testing and a complete set of "As Built" Drawings. These are on file at Public Works and will be forwarded to Community Development for archiving.
- The Engineer of Record – EDS – Jason Estes, PE and Joe Bullock, PE have expressed clearly that they have no objections to street acceptance by the City.

Community Development has proposed that there remain the following issues:

1. The certification for the acceptance of a subdivision states a right-of-way, road or property shall be free of liens or encumbrances (Mr. Pickett, prior EDS employee-engineer would not sign necessary forms) *Response: This is a moot point: The property is being foreclosed by the Royal Bank of Canada – any liens or encumbrances will be quieted by the act of foreclosure. However, the Public ROW was established by the recordation of the final plat and are mapped and held as PUBLIC ROW and cannot be subject to lien or adverse possession. They are free and clear.*
2. The owner was to install a fire hydrant at the entrance required by the fire marshal upon completion of Alabama Highway 181 expansion/reconstruction. *Response: This was the responsibility of the Original Owner and is not transferable to the new. The judgment of foreclosure will absolve any future owners of any prior liabilities. Furthermore, the improvements to State Highway 181 could be 5-7 years out. Are we to wait until then to resolve this issue? I hope not. The City does not have jurisdiction for the ROW (State) or the involved utility (Belforest Water). If the new owner refuses to invest any more money in the project are we prepared to hold the nine homeowners hostage for the fire hydrant? I hope not.*
3. The owner could not obtain a maintenance bond in the amount of ten percent of the total cost of improvements. *Response: non-issue - the roads have been in service for 3 ½ years without signs of material or workmanship failure. Why would we need a maintenance bond now?*

I was exasperated to find that the action item recommended by the Public Works Committee had been pulled from the Council Agenda by you/Mrs. Barnette. I would have appreciated a call before this happened so that we could have hammered out potential problems and continued on with the acceptance.

As a City, we are here to serve our citizens and they come to rely on us for help with obstacles. Sometimes our hands are tied and we cannot do anything to alleviate their problems but sometimes we have a little room to maneuver. I think we are in the latter. We need to sit down and come up with solutions for the Citizens of Oldfield.

Can we get together (you, Mrs. Barnette, maybe an Oldfield Resident and myself) and get this before the Council? Your help and support, as always, is appreciated.

Yours,

RDJ

Richard D. Johnson, P.E.
Public Works Director
26435 Public Works Road
Daphne, AL 36526

Phone: (251) 621-3182
Fax: (251) 621-3189
Cell: (251) 379-1305

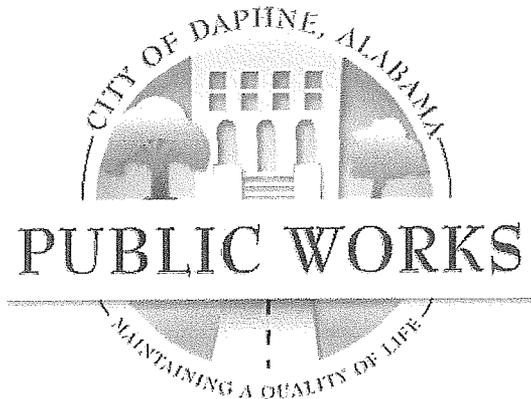
directorpw@bellsouth.net

Fred Small
Mayor

David Cohen
City Clerk

Kimberly Briley
Finance Director/Treasurer

Richard D. Johnson, P.E.
Director of Public Works



Bailey Yelding, Jr.
District 1

Cathy Barnette
District 2

John L. Lake
District 3

Kelly D. Reese
District 4

Ronald Scott
District 5

Derek Boulware
District 6

August Palumbo
District 7

Memorandum

To: Councilman Bailey Yelding, Chairman; Public Works Committee
From: Richard D. Johnson, P.E.; Public Works Director
CC: Honorable Mayor Fred Small; Adrienne Jones, Community Development Director; DMAP Inc. (Mike McLaughlin); File
Date: October 8, 2010
Re: Oldfield Subdivision, Phase One – Final Acceptance of Roads & ROW

Mr. Chairman:

These are the pertinent facts pertaining to the above reference development:

- The Final Plat for Oldfield, Phase One was approved, signed and certified by the Chairman of the Planning Commission, Director of Community Development and Interim Director of Public Works in March of 2007.
- The Final Plat for Oldfield, Phase One was recorded in the Office of the Judge of Probate, Baldwin County, Alabama as shown on Slide 2328 – C&D dated March 12, 2007.
- Lots have been conveyed; homes built and are now occupied by Citizens of Daphne.
- All streets, alleys, walks, parks and other open spaces have been dedicated to the public and the roads and ROW have been in place and in use for 42 months.
- The City of Daphne has provided limited Public Works Services (garbage, trash & recycling) to the Citizens of the development.
- However, full acceptance of the roads and ROW has not been acted upon by the City.
- The failure of acceptance is due to a multitude of factors. The primary one being the financial failure of the developer and pending foreclosure by the lien holder.
- Also, contributing to the failure for acceptance was the change of leadership in Community Development and Public Works.
- As a result Citizen's of Daphne are being denied basic Public Works services: Street Lighting (they have been turned off by the utility), Maintenance, Sweeping, Mosquito Spraying, etc...

- The bank or developer has no practical means or ability to resolve the issue.

It is my recommendation that immediate action is taken to accept these roads and ROW and authorize Public Works to provide all related services. This recommendation is conditioned on the following:

1. Public Works Staff conduct a walk through inspection and inventory all deficiencies.
2. The original Developer provides all documentation pertaining to material and utilities testing and other pertinent acceptance documentation.
3. Community Development and Planning Commission waive the two year maintenance and surety requirements for road acceptance (The roads have been in service for 3 ½ years without signs of material or workmanship failure).

These are unique circumstances and require equally unique response by the City.

Yours,

RDJ

Attachments: Final Plat – Oldfield, Phase One

RESOLUTION 2010-108

**Acceptance of Streets and Drainage
located in Caroline Woods Subdivision, Phase Two A**

Whereas, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to Caroline Woods Subdivision, Phase Two A on November 18, 2010, and the City of Daphne hereby recommends acceptance of said street(s) located in Caroline Woods Subdivision, Phase Two A; and,

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

Whereas, an inspection was made by the Director of the Division of Public Works, and has accepted said streets and storm water drainage of Caroline Woods Subdivision, Phase Two A; and,

Whereas, the Utilities Board of the City of Daphne has accepted the utilities of Caroline Woods Subdivision, Phase Two A; and,

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS, that Caroline Woods Subdivision, Phase Two A according to the plat presented by Engineering Development Services as recorded in the Judge of Probate, Baldwin County, Alabama, and said street(s) being named Lashay Drive and Kari Lane are hereby accepted by the City of Daphne, Alabama as a city street for maintenance.

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

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

**CATHY S. BARNETTE,
COUNCIL PRESIDENT**

**FRED SMALL,
MAYOR**

ATTEST:

DAVID L. COHEN, CITY CLERK, MMC

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Acceptance of Streets and Drainage,
Caroline Woods Subdivision, Phase Two "A"
Date: November 19, 2010

MEMORANDUM

At the Thursday, November 18, 2010 regular meeting of the City of Daphne Planning Commission, eight members were present and the motion carried unanimously to set forth a favorable recommendation for the acceptance of the streets and drainage in Caroline Woods Subdivision, Phase Two "A".

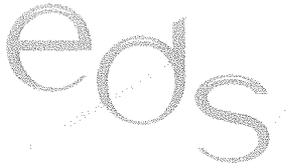
Upon receipt of said documentation, please place the resolution on the Monday, December 6, 2010 agenda for acceptance by the City Council.

Thank you,
ADJ/jd

Attachment(s)

1. Copy of resolution
2. Correspondence requesting acceptance
3. Petition of Acceptance of Road(s) and/or Right(s) of Ways
4. Copy of two-year maintenance bond

cc: file
Mr. Richard Johnson, Public Works Director



engineering development services

October 18, 2010

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

RE: Caroline Woods Phase 2A

Dear Ms. Jones:

I, Jason Estes, a professional engineer registered in the State of Alabama, Registration Number 22714, do hereby certify that the streets and drainage system **CAROLINE WOODS, PHASE 2A** have been constructed under my supervision in accordance with the approved construction plans.

I further certify I have checked all test reports and that all construction materials have been installed in accordance with the typical sections, profiles, and plan details and meet minimum requirements as set out in the State of Alabama Highway Department's Standard Specifications for Highway Construction, latest edition and current revisions. Additionally, the power has not been installed at this time. A cashier's check for \$36,150.00 (150% of the cost of the Aid To Construction and street lights) has been provided to the City of Daphne to be returned upon installation of power and street lights.

Therefore, I hereby request that the City of Daphne accept the streets for **CAROLINE WOODS, PHASE 2A**.

Sincerely,

ENGINEERING DEVELOPMENT SERVICES, L.L.C.

A handwritten signature in black ink, appearing to read 'Jason N. Estes', is written over a faint, larger version of the signature.

JASON N. ESTES, P.E.
Project Engineer

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

SUBDIVISION NAME: CAROLINE WOODS PHASE TWO-A

LOCATION: NORTH OF MADISON PLACE PHASE TWO

THIS ACCEPTANCE OF ROADS AND RIGHTS-OF-WAY is made this 18th day of October, 2010 by PLAN B INVESTMENTS LLC, hereinafter called the Subdivider, owner of certain property located in Baldwin County, Alabama known as _____ CAROLINE WOODS PHASE TWO-A Subdivision to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

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

WHEREAS, the Subdivider does hereby agree to provide a Maintenance Bond, as outlined in Article XVII, entitled Subdivision Review, in an amount equal to ten (10) percent of the total street and drainage improvements (\$ 11,835.00) in the subdivision for a period of two (2) years after the date of their acceptance and dedication of the same to the City. Said bond shall be required by the City as a condition to the acceptance and dedication of any new roads or rights-of-way within the City; and,

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

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

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

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

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the recommendation of the City of Daphne Planning Commission at their regular meeting of November 18, 2010. That said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named _____

LASHAY DR - 294 L.F. & KARI LANE - 362 L.F.

ROW width 50 feet

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

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

Respectfully submitted,

PLAN B INVESTMENTS LLC

Name of Individual or Corporation

By: _____

Its: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned Notary Public in and for said State and County, hereby certify that Jacob CUNNINGHAM whose name as MANAGER of PLAN B INVESTMENTS an Alabama corporation or as owner of CAROLINE WOODS PHASE TWO is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

Given under my hand and official seal on this the 18 day of October, 2010.

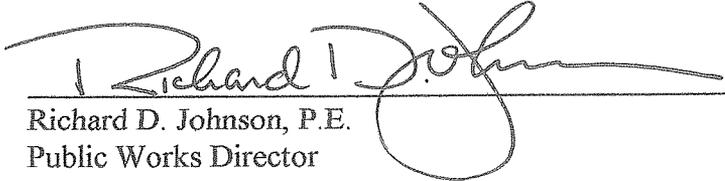
Nanda La Costa (NOTARY SEAL)

NOTARY PUBLIC

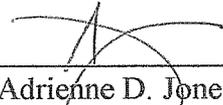
My commission expires: 11-18-2012

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

Recommendation:

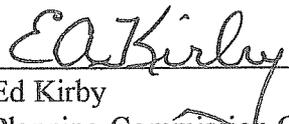


Richard D. Johnson, P.E.
Public Works Director
City of Daphne

 *pc recommend approved 11/18/10*

Adrienne D. Jones
Director of Community Development
City of Daphne

Approval:



Ed Kirby
Planning Commission Chairman
City of Daphne

MAINTENANCE BOND

BOND NUMBER 21BCSFL4657

KNOW ALL MEN BY THESE PRESENTS, That we, Summit Industries, LLC
P. O. Box 1040, Magnolia Springs, AL 36555

(hereinafter called the Principal), and HARTFORD FIRE INSURANCE COMPANY (hereinafter called the Surety),
are held and firmly bound unto City of Daphne

(hereinafter called the Obligee), in the full and just sum of Eleven Thousand Eight Hundred Thirty
Five and no/100-----(\$11,835.00)----- Dollars,
lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves,
our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Principal has entered into a certain contract with Plan B Investments, LLC (Owner) for
Roadway and Drainage for Caroline Woods Subdivision, Phase 2A

which contract has been or is about to be completed and accepted.

AND WHEREAS, specifications and contract provided that Summit Industries, LLC
should guarantee the project free from defects caused by faulty workmanship and materials for a period of
2 years, general wear and tear excepted.

NOW, THEREFORE, if the said project shall be free from defects of workmanship and materials, general
wear and tear excepted, for a period of 2 years, then this obligation shall be null and void; otherwise to
remain in full force and effect.

Signed, sealed and delivered 10/28/2010

Witness as to

Principal

[Signature]

[Signature]

Summit Industries, LLC

[Signature] (Seal)

HARTFORD FIRE INSURANCE COMPANY

[Signature] (Seal)
J. William Goodloe, III Attorney-in-fact

POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD

BOND, T-4

P.O. BOX 2103, 690 ASYLUM AVENUE
HARTFORD, CONNECTICUT 06115

call: 888-266-3488 or fax: 860-757-5835

Agency Code: 21-250403

KNOW ALL PERSONS BY THESE PRESENTS THAT:

- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of unlimited:**

*Gaylord C. Lyon, Jr., W.E. Cadden, Charlene C. Stout, Virginia M. Byrd, Rebecca Ward
Roland G. Fry, Jr., Erling Riis, III, J. William Goodloe, III, O.M. Otts, IV*
of
Mobile, AL

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on July 21, 2003 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Paul A. Bergenholtz

Paul A. Bergenholtz, Assistant Secretary

David T. Akers

David T. Akers, Assistant Vice President

STATE OF CONNECTICUT }
COUNTY OF HARTFORD } ss. Hartford

On this 4th day of August, 2004, before me personally came David T. Akers, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hampden, Commonwealth of Massachusetts; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

Scott E. Paseka

Scott E. Paseka
Notary Public

My Commission Expires October 31, 2007

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of October 28, 2010.

Signed and sealed at the City of Hartford.



Gary W. Stumper

Gary W. Stumper, Assistant Vice President

RESOLUTION 2010-109

**Acceptance of Streets and Drainage
located in Dunmore Subdivision, Phase Two, Part B**

Whereas, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to Dunmore Subdivision, Phase Two, Part A on November 18, 2010, and the City of Daphne hereby recommends acceptance of said street(s) located in Dunmore Subdivision, Phase Two, Part B; and,

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

Whereas, an inspection was made by the Director of the Division of Public Works, and has accepted said streets and storm water drainage of Dunmore Subdivision, Phase Two, Part B; and,

Whereas, the Utilities Board of the City of Daphne has accepted the utilities of Dunmore Subdivision, Phase Two, Part B; and,

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS, that Dunmore Subdivision, Phase Two, Part B according to the plat presented by Rester & Coleman Engineers as recorded in the Judge of Probate, Baldwin County, Alabama, and said street(s) being named Tullamore Lane and Scully Lane are hereby accepted by the City of Daphne, Alabama as a city street for maintenance.

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

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

**CATHY S. BARNETTE,
COUNCIL PRESIDENT**

**FRED SMALL,
MAYOR**

ATTEST:

DAVID L. COHEN, CITY CLERK, MMC

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Acceptance of Streets and Drainage,
Dunmore Subdivision, Phase Two, Part B
Date: November 19, 2010

MEMORANDUM

At the Thursday, November 18, 2010 regular meeting of the City of Daphne Planning Commission, eight members were present and the motion carried unanimously to set forth a favorable recommendation for the acceptance of the streets and drainage in Dunmore Subdivision, Phase Two, Part B.

Upon receipt of said documentation, please place the resolution on the Monday, December 6, 2010 agenda for acceptance by the City Council.

Thank you,
ADJ/jd

Attachment(s)

1. Copy of resolution
2. Correspondence requesting acceptance
3. Petition of Acceptance of Road(s) and/or Right(s) of Ways
4. Copy of two-year maintenance bond

cc: file
Mr. Richard Johnson, Public Works Director

RESTER AND COLEMAN ENGINEERS, INC.
CONSULTING ENGINEERS - LAND SURVEYORS
66 MIDTOWN PARK WEST · (251) 479-4518
MOBILE, AL 36606

October 18, 2010

City of Daphne
Director of Community of Development
P.O. Box 400
Daphne, AL 36526

Attn: Mrs. Adrienne Jones.

Re: Dunmore Subdivision, Phase Two, Part "B"

Dear Mrs. Jones:

Please accept this letter as our request for the City of Daphne to accept the streets and right-of-ways with the above mentioned subdivision. These include Scully Lane (337 l.f. - 50' R.O.W.) and Tullamore Drive (1327 l.f. - 50' R.O.W.).

Please notify us if you have any questions or require any further information.

Sincerely,

RESTER & COLEMAN ENGINEERS, INC.



D. Joel Coleman

jc

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

SUBDIVISION NAME: Dunmore, Phase Two, Part "B"
LOCATION: North and East of Dunmore, Phase One
At the North terminus of Tullamore Drive

THIS ACCEPTANCE OF ROADS AND RIGHTS-OF-WAY is made this 18th day of ~~November 2010~~ Hearthstone Multi-Asset Entity D L P, hereinafter called the Subdivider, owner of certain property located in Baldwin County, Alabama known as Dunmore, Phase Two, Part "B" Subdivision to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

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

WHEREAS, the Subdivider does hereby agree to provide a Maintenance Bond, as outlined in Article XVII, entitled Subdivision Review, in an amount equal to ten (10) percent of the total street and drainage improvements (\$43,79400) in the subdivision for a period of two (2) years after the date of their acceptance and dedication of the same to the City. Said bond shall be required by the City as a condition to the acceptance and dedication of any new roads or rights-of-way within the City; and,

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

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

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

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

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the recommendation of the City of Daphne Planning Commission at their regular meeting of November 18, 2010. That said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named _____

Tullamore Lane and Scully Lane

1327.17 ft + 1337.06 ft
50 ft ROW

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

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

Respectfully submitted,

Hearthstone Multi-Asset Entity D L P
Name of Individual or Corporation

By: Joe M. Mathis

Its: VP / SENIOR INVESTMENT MANAGER

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned Notary Public in and for said State and County, hereby certify that STEVE MATHESON whose name as VICE PRESIDENT of HEARTHSTONE, an Alabama corporation or as owner of Hearthstone Multi-Asset Entity D L P is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

Given under my hand and official seal on this the 19TH day of OCTOBER, 2010

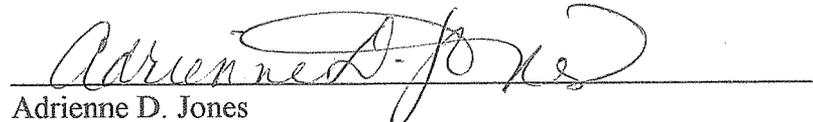
David P. Donoghue (NOTARY SEAL)
NOTARY PUBLIC
My commission expires: 04-01-2012

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

Recommendation:

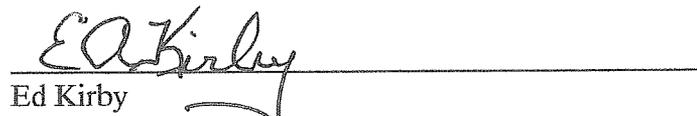


Richard D. Johnson, P.E.
Public Works Director
City of Daphne



Adrienne D. Jones
Director of Community Development
City of Daphne

Approval:



Ed Kirby
Planning Commission Chairman
City of Daphne

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Los Angeles

On 10.25.2010 before me, R.Rangel, Notary Public

Date

Here Insert Name and Title of the Officer

personally appeared Michael E. Cundiff

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____



ULLICO Casualty Company
1625 Eye Street, N.W. Washington D.C. 20006
Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That ULLICO CASUALTY COMPANY (the Company), a corporation organized and existing under the laws of the State of Delaware, does hereby constitute and appoint: Michael E. Cundiff and Michael G. Hall of Ullico Casualty Company.

Its true and lawful Attorney (s) in fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$5,000,000.00.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of ULLICO Casualty Company at a meeting duly called the 15th day of July, 2009.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company to: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with the respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, ULLICO CASUALTY COMPANY has caused this instrument to be signed and its corporate seal to be affixed by its authorized office this 16th day of July, 2009.



PRESIDENT

Daniel Aronowitz
President ULLICO Casualty Company, a Delaware Corporation.

On this 16th day of July 2009, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the ULLICO CASUALTY COMPANY; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public

CATHERINE M. OBRIEN
NOTARY PUBLIC STATE OF MARYLAND
MONTGOMERY COUNTY
MY COMMISSION EXPIRES JANUARY 21, 2012
CERTIFICATE

I, Teresa E. Valentine, Senior Vice President, General Counsel and Secretary of ULLICO Casualty Company, do hereby certify that the foregoing resolution of the Board of Directors and this Power of Attorney issued pursuant thereto on this 16th day of July 2009 are true and correct and are still in full force and effect. I do further certify that that Daniel Aronowitz, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of ULLICO Casualty Company,

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 25th day of OCTOBER, 2010.

Teresa E. Valentine
Senior Vice President, General Counsel & Secretary
ULLICO Casualty Company

RESOLUTION 2010-110

**AIG Baker Development Agreement:
Sixth Amendment and Supplement**

BE IT RESOLVED by the City Council of the City of Daphne, Alabama, as follows:

SECTION 1: FINDINGS

Having made due and proper investigation of the matters herein referred to, the City Council has ascertained and does hereby find and declare the following facts are true and correct.

- A. The City of Daphne (hereafter "City") has heretofore entered into a Development Agreement dated the 20th day of July, 2000 (the "Development Agreement"); the First Amendment and Supplement thereto dated the December 21, 2000; the Second Agreement and Supplement thereto dated January 31, 2003; the Third Amendment and Supplement thereto dated July 18, 2005; the Fourth Amendment and Supplement dated October 16, 2006; and the Fifth Amendment and Supplement dated March 19, 2007 by and between AIG Baker Development, LLC, also doing business as AIG Baker Daphne, LLC and AIG Baker Shopping Center Properties, LLC (collectively referred to as the "Developer").
- B. The City and Developer have deemed it to be mutually beneficial to execute a Sixth Amendment and Supplement to the Development Agreement for the purpose of authorizing the installation of a temporary ice skating rink, by CimCo Refrigeration LLC, in the Jubilee Square Parking Lot.

SECTION II: AUTHORIZATION OF SIXTH AMENDMENT AND SUPPLEMENT TO DEVELOPMENT AGREEMENT

The Mayor and City Clerk are hereby authorized and directed to execute and deliver, for and on behalf of the City, the Sixth Amendment and Supplement to the Development Agreement which will be approved in form and content by the City Attorney for the temporary installation and operation of an ice skating rink, by CimCo Refrigeration LLC, in the Parking Lot of Jubilee Square.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, on this the _____ day of _____, 2010.

Cathy S. Barnette, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk, MMC

Kim

From: mayorsmall [mayorsmall@bellsouth.net]
Sent: Thursday, December 02, 2010 10:54 AM
To: Kim Briley
Subject: FW: Daphne Temporary Rink

From: Jose Mergulhao [mailto:JMergulhao@toromont.com]
Sent: Monday, November 29, 2010 9:53 AM
To: mayorsmall@bellsouth.net
Cc: Patrick Ledbetter; Neil G. Simmons; Jose Mergulhao
Subject: Daphne Temporary Rink

Fred,

As requested here is a simple proforma I set up for the rink. Take a look at it and call me with any questions or comments.

I think the Jubilee Center will be a great venue for the city and the residents of the area.

Let me know what else you need to get this going. Keep in mind that if it is a go we will need at least a couple of weeks to get all the items organized to be installed.

If you need further information on Ice-World you can visit www.ice-world.com

Talk to you soon.

<<Mobile Rink ProForma Nov. 5, 2010.xlsx>>

Jose D. Mergulhão, P.Eng.
Vice President
U.S.A. Operations
CIMCO Refrigeration Inc.
Phone: (251) 471-2425
Fax: (251) 476-7337

This e-mail and any attachments may be confidential or legally privileged. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited. Please notify us immediately by email at corpmail@toromont.com or by telephone (collect if necessary). Please delete this email and destroy any copies. Thank you for your cooperation. Toromont Industries Ltd., 3131 Highway 7 West, Concord, ON, L4K 1B7 (416)667-5511.

OUTDOOR SKATING - JUBILEE CENTER - DAPHNE, AL

Admission			
Adults	Kids (6 and Under)	Skate Rental	Schools (or rebate)
\$10.00	\$8.00	\$3.00	\$5.00

Revenue Based on Mixed Attendance per Month					
adults/kids ratio	1000	2000	3000	4000	5000
100/0	\$12,700.00	\$25,400.00	\$38,100.00	\$50,800.00	\$63,500.00
80/20	\$12,300.00	\$24,600.00	\$36,900.00	\$49,200.00	\$61,500.00
70/30	\$12,100.00	\$24,200.00	\$36,300.00	\$48,400.00	\$60,500.00
60/40	\$11,900.00	\$23,800.00	\$35,700.00	\$47,600.00	\$59,500.00
50/50	\$11,700.00	\$23,400.00	\$35,100.00	\$46,800.00	\$58,500.00

Net Income based on Attendance matrix					
80/20	\$29,110.53	\$6,810.53	\$5,489.47	\$17,789.47	\$30,089.47
70/30	\$19,310.53	\$7,210.53	\$4,889.47	\$16,989.47	\$29,089.47
60/40	\$19,510.53	\$7,610.53	\$4,289.47	\$16,189.47	\$28,089.47
50/50	\$19,710.53	\$8,010.53	\$3,689.47	\$15,389.47	\$27,089.47

Expenses per Month		Notes
Event Management	\$9,000.00	
Staffing	\$15,840.00	
Chiller Rental	\$13,000.00	
Decorations	\$2,000.00	
Chiller Electrical	Riviera Utilities	700 amps. About 350 RLA while running approx. 16 hrs/day
Chiller Electrical disconnect	Riviera Utilities	700 amps. New Sub panel from transformer (approx. \$10k)
Sound & Lighting	City of Daphne	
Fencing	City of Daphne	
Zamboni	City of Mobile	On loan to City of Daphne
Tent	Optional	Source by the City or another sponsor
Security	City of Daphne	
Floor Grading	City of Daphne	Wood border with sand fill (Approx. 1 foot)
Insurance	City of Daphne	
Rental Skates	Ice-World	
Portable floor	Ice-World	
Advertisement	City of Daphne	
Food & Beverage	Baumhower/Wings	
Event Clothing	Ice-World/Daphne/CIMCO	Jackets and Shirts
Technical Oversight	CIMCO	
Water	Daphne Utilities	1 3/4" Hose Connection
Miscellaneous	\$1,570.53	
Total Expenses \$31,411		Break even Point per Day \$1,047.02

Includes any Sponsorships

Sponsorships	
Sponsor 1	\$10,000.00
Sponsor 2	\$5,000.00
Sponsor 3	\$5,000.00
Sponsor 4	\$2,500.00
Sponsor 5	\$2,500.00
Sponsor 6	\$2,500.00
Sponsor 7	\$2,500.00
Sponsor 8	
Sponsor 9	
Total Sponsors \$30,000	
Total Available per Month \$10,000	

Other Revenues	
Corporate Skate (2 hrs)	\$500.00
School Outings (Per day)	\$1500 - \$2000
Event Sponsors	\$500-1000
Other Revenues \$500	

ORDINANCE 2010-68

U.S. 98 Median Safety Improvements

WHEREAS, the Fiscal Year 2011 Budget is being considered by the City Council; and

WHEREAS, prior to the adoption of the Fiscal Year 2011 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2011 budget; and

WHEREAS, ALDOT has requested the City pay the engineering costs associated with the medians in order to enhance and further the safety improvements to be made at certain locations on US 98; and

WHEREAS, such Highway (Hwy) 98 improvements were chosen by ALDOT due to the high number of traffic accidents in this area.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that contingent upon receiving a commitment letter from ALDOT to fund 100% of the remainder of the project: the Fiscal Year 2011 Budget is hereby amended to include 1) an appropriation from the General Fund in the amount of \$48,500 for the Engineering, construction Observation, and Geotechnical testing for US 98 Medians, 2) the Mayor is hereby authorized to execute any and all documents required in order for the City of Daphne to participate in the cost of engineering of the US 98 Medians for such safety improvements, and 3) such engineering services will be provided by Volkert & Associates according to the scope of work attached hereto and made a part hereof.

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

Cathy S. Barnette, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2010-69**

**Ordinance to Amend the City of Daphne
Land Use and Development Ordinance's
Table of Permitted Uses and Conditions**

WHEREAS, the Planning Commission of the City of Daphne, Alabama at its regular meeting held on September 23, 2010, considered certain proposed amendments to Article XXXV titled "Table of Permitted Uses and Conditions", of the City of Daphne Land Use and Development Ordinance No. 2002-22, and any amendments to the same; and,

WHEREAS, after consideration the Planning Commission sent a favorable recommendation to the City Council of the City of Daphne for the approval of amendment to the Table of Permitted Uses and Conditions contained within said Article XXXV of the City of Daphne Land Use and Development Ordinance to amend the Use District for a Family Entertainment Center; and,

WHEREAS, after consideration of amendment to said Table of Permitted Uses and Conditions contained in Article XXXV of said Ordinance the Planning Commission sent an unfavorable recommendation to the City Council of the City of Daphne for amendment to the Use District for Bowling Alley; and

WHEREAS, due notice of said proposed amendments has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on December 6, 2010; and,

WHEREAS, the City Council of the City of Daphne after due consideration and review and consideration of the recommendations, both favorable and unfavorable, of the Planning Commission, deemed that said amendments to the City of Daphne Land Use Ordinance, Article XXXV titled "Table of Permitted Uses and Conditions", is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and,

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

SECTION I. AMENDMENT

The Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance shall be amended

(a) to permit “Family Entertainment Center” as a defined Use allowed by Planning Commission approval in Use District B-1, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments;

(b) to permit a “Bowling Alley” as a defined Use allowed upon Planning Commission approval in Use District B-1 and by right in Use District B-2, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments;

ARTICLE XXXV	USE DISTRICT								
TABLE OF PERMITTED USES AND CONDITIONS	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Bowling alley						P	R		
Family Entertainment Center						P			

All other sections, uses, conditions and/or contents of the Table of Permitted Uses and Conditions shall remain the same and shall be unchanged by this Ordinance; this Ordinance is only to amend the “Family Entertainment Center” and “Bowling Alley” designations.

SECTION II: REPEALER.

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

SECTION III: SEVERABILITY.

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

SECTION IV: EFFECTIVE DATE.

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2010.

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

**CATHY S. BARNETTE,
COUNCIL PRESIDENT**

**FRED SMALL,
MAYOR**

ATTEST:

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

CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2010-_____

**Ordinance to Amend the City of Daphne
Land Use and Development Ordinance's
Table of Permitted Uses and Conditions**

WHEREAS, the Planning Commission of the City of Daphne, Alabama at its regular meeting held on September 23, 2010, considered certain proposed amendments to Article XXXV titled "Table of Permitted Uses and Conditions", of the City of Daphne Land Use and Development Ordinance No. 2002-22, and any amendments to the same; and,

WHEREAS, after consideration the Planning Commission sent a favorable recommendation to the City Council of the City of Daphne for the approval of amendment to the Table of Permitted Uses and Conditions contained within said Article XXXV of the City of Daphne Land Use and Development Ordinance to amend the Use District for a Family Entertainment Center; and,

WHEREAS, after consideration of amendment to said Table of Permitted Uses and Conditions contained in Article XXXV of said Ordinance the Planning Commission sent an unfavorable recommendation to the City Council of the City of Daphne for amendment to the Use District for Bowling Alley; and

WHEREAS, upon further consideration the Planning Commission of the City of Daphne, Alabama at its regular meeting held on November 18, 2010, reconsidered the amendment of the Table of Permitted Uses and Conditions contained in Article XXXV of said Ordinance and voted to send a favorable recommendation to the City Council of the City of Daphne for amendment to the Use District for Bowling Alley; and

WHEREAS, due notice of said proposed amendments has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on _____; and,

WHEREAS, the City Council of the City of Daphne after due consideration and review and consideration of the recommendations of the Planning Commission, deemed that said amendments to the City of Daphne Land Use Ordinance, Article XXXV titled "Table of Permitted Uses and Conditions", is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and,

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

SECTION I. AMENDMENT

The Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance shall be amended

(a) to permit “Family Entertainment Center” as a defined Use allowed by Planning Commission approval in Use District B-1, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments;

(b) to permit a “Bowling Alley” as a defined Use allowed upon Planning Commission approval in Use District B-1 and by right in Use District B-2, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments;

ARTICLE XXXV	USE DISTRICT								
TABLE OF PERMITTED USES AND CONDITIONS	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Bowling alley						P	R		
Family Entertainment Center						P			

All other sections, uses, conditions and/or contents of the Table of Permitted Uses and Conditions shall remain the same and shall be unchanged by this Ordinance; this Ordinance is only to amend the “Family Entertainment Center” and “Bowling Alley” designations.

SECTION II: REPEALER.

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

SECTION III: SEVERABILITY.

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

SECTION IV: EFFECTIVE DATE.

This Ordinance shall take effect and be in force from and after the date of its

approval by the City Council of the City of Daphne and after publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2010.

THE CITY OF DAPHNE,

AN ALABAMA MUNICIPAL CORPORATION

AUGUST A. PALUMBO, COUNCIL PRESIDENT

Date and Time Signed:

FRED SMALL, MAYOR

Date and Time Signed:

ATTEST:

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

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2010-70**

**Ordinance to Amend the City of Daphne
Land Use and Development Ordinance’s
Table of Permitted Uses and Conditions**

WHEREAS, the Planning Commission of the City of Daphne, Alabama at its regular meeting held on August 26, 2010, considered certain proposed amendments to Article XXXV titled “Table of Permitted Uses and Conditions”, of the City of Daphne Land Use and Development Ordinance No. 2002-22, and any amendments to the same; and,

WHEREAS, after such consideration the Planning Commission sent a favorable recommendation to the City Council of the City of Daphne for the approval of said amendment to the Table of Permitted Uses and Conditions contained within said Article XXXV of the City of Daphne Land Use and Development Ordinance; and,

WHEREAS, due notice of said proposed amendment has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on December 6, 2010; and,

WHEREAS, the City Council of the City of Daphne after due consideration and upon recommendation of the Planning Commission, deemed that said amendment to the City of Daphne Land Use Ordinance, Article XXXV titled “Table of Permitted Uses and Conditions”, is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and,

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

SECTION I. AMENDMENT

The Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance shall be amended to permit “Convenience Store” as a defined Use allowed by right in Use District B-2 and by Planning Commission approval in Use District B-1, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments:

ARTICLE XXXV	USE DISTRICT								
TABLE OF PERMITTED USES AND CONDITIONS	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Convenience Store						P	R		

All other sections, uses, conditions and/or contents of the Table of Permitted Uses and Conditions shall remain the same and shall be unchanged by this Ordinance; this Ordinance is only to amend the "Convenience Store" designation.

SECTION II: REPEALER.

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

SECTION III: SEVERABILITY.

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

SECTION IV: EFFECTIVE DATE.

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2010.

THE CITY OF DAPHNE,

AN ALABAMA MUNICIPAL CORPORATION

AUGUST A. PALUMBO, COUNCIL PRESIDENT

FRED SMALL, MAYOR

ATTEST:

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

ORDINANCE 2010-71

AN ORDINANCE ADOPTING THE FISCAL YEAR 2011 BUDGET

WHEREAS, the Mayor of the City of Daphne has submitted to the City Council a budget for Fiscal Year 2011 which begins October 1, 2010 and ends September 30, 2011; and

WHEREAS, the City Council has reviewed and considered such proposed budget and submitted certain revisions to such proposed budget; and

WHEREAS, the City Council believes that the amended proposed budget is a viable spending plan for the City during the next fiscal year; and

WHEREAS, the City's procedures require the adoption of the budget by Ordinance; and

WHEREAS, if the amounts budgeted for departmental operating items or purposes are not required to be utilized for such items or purposes, then these amounts may be expended for other departmental items or purposes, provided that the total amount of the adopted budget is not exceeded.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Daphne, Alabama, that the Fiscal Year 2011 budget Option _____ as attached hereto and made a part hereof for Fiscal Year 2011 beginning October 1, 2010 and ending September 30, 2011 is hereby approved.

FURTHERMORE, as of the date of this adoption, a hiring freeze is hereby enacted. Authorized positions vacated, for any reason, may only be advertised and filled upon express approval by the City Council.

Approved and adopted on this the _____ day of _____, 2010.

Cathy S. Barnette, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk, MMC

FY 2011
Balanced Budget Proposal #1
General Fund

Projected Exp>Rev	(806,147)	
Fund Balance- Paving	500,000	
<u>Release Encumbered \$ to Fund Balance</u>		
FY 99: Speed Tables	5,000	
FY 03: Bay Front Bldg Imprvmnts	32,000	
FY 04: Decorative Street Lightng	58,800	
Bay Front Bldg Imprvmnts	10,365	
FY 06: Bay Front Water Main/Swr	<u>25,380</u>	
		131,545
<u>Revenue Adjustments:</u>		
Riviera PILOT	(150,000)	Actual FY10 revenues 1,610,000; so proposed budget is 190,000 over FY10 actual not reduced the full 190,000 b/c of Publix impact on the shopping area.
Property Taxes	83,000	
Business Licenses	70,000	
Investment Earnings	<u>130,000</u>	
		133,000
<u>Expenditures:</u>		
Finance- Investment Mgt Fee	(12,000)	
Ruff Wilson Youth Org	(27,205)	Note: Add to exp to match the cigarette tax paid to the organization
Reduce Council Training to 2,500	17,500	
Reduce City Attorney	25,000	
Property/Liability Insurance	<u>15,000</u>	
		18,295
<u>Transfers:</u>		
Apply Interest from Debt Svc Fund to Reduce Transfers to Debt Svc	<u>24,000</u>	
		24,000

Revenues> Expenditures 693

Note: Changing the Medical Insurance to Self-Insured will not result in a "savings" this fiscal year. The "savings" will be next FY if the amount paid into the plan this FY is more than the total claims paid out.

FY 2011
Balanced Budget Proposal #2
General Fund

Projected Exp>Rev (806,147)

Fund Balance- Paving 500,000

Release Encumbered \$ to Fund Balance

FY 99: Speed Tables	5,000	
FY 03: Bay Front Bldg Imprvmnts	32,000	
FY 04: Decorative Street Lighting	58,800	
Bay Front Bldg Imprvmnts	10,365	
FY 06: Bay Front Water Main/Swr	25,380	
Library Roof Repair	13,070	
FY 07: Main St Conceptual Streetsca	4,000	
FY 08: Abatement & Demolition	9,729	
		158,344

Revenue Adjustments:

Riviera PILOT	(150,000)	Actual FY10 revenues 1,610,000; so proposed budget is 190,000 over FY10 actual not reduced the full 190,000 b/c of Publix impact on the shopping area.
Property Taxes	83,000	
Business Licenses	35,000	
Investment Earnings	130,000	
		98,000

Expenditures:

Finance- Investment Mgt Fee	(12,000)	
Ruff Wilson Youth Org	(27,205)	Note: Add to exp to match the cigarette tax paid to the organization
Reduce Council Training to 2,500	17,500	
Reduce Overtime	18,264	
Reduce City Attorney	15,000	
Property/Liability Insurance	15,000	
		26,559

Transfers:

Apply Interest from Debt Svc Fund to Reduce Transfers to Debt Svc	24,000	
		24,000

Revenues> Expenditures 756

Note: Changing the Medical Insurance to Self-Insured will not result in a "savings" this fiscal year. The "savings" will be next FY if the amount paid into the plan this FY is more than the total claims paid out.

FY 2011
Balanced Budget Proposal # 3
General Fund

Projected Exp>Rev	(806,147)	
Fund Balance- Paving	500,000	
Allowance for Vacant Positions	300,000	
<u>Release Encumbered \$ to Fund Balance</u>		
FY 99: Speed Tables	5,000	
FY 03: Bay Front Bldg Imprvmnts	32,000	
FY 04: Decorative Street Lighting	58,800	
Bay Front Bldg Imprvmnts	10,365	
FY 05: Civic Center Elec Signage	14,755	(remaining encumb for future consideration 30,000)
FY 06: Bay Front Water Main/Swr	25,380	
Library Roof Repair	13,070	
FY 07: Main St Conceptual Streetscape	4,000	(Original appropriation 10,000)
FY 08: Abatement & Demolition	9,729	
	173,099	
<u>Revenue Adjustments:</u>		
Riviera PILOT	(150,000)	Actual FY10 revenues 1,610,000; so proposed budget is 190,000 over FY10 actual not reduced the full 190,000 b/c of Publix impact on the shopping area.
Property Taxes	83,000	
Business Licenses	50,000	
Investment Earnings	220,000	Takes into account an additional 2,000,000 investment in Jan 2011
	203,000	
<u>Expenditures:</u>		
Finance- Investment Mgt Fee	(22,000)	
Ruff Wilson Youth Org	(27,205)	Note: Add to exp to match the cigarette tax paid to the organization
Reduce Council Training to 2,500	17,500	
Reduce Overtime	18,264	
Reduce City Attorney	15,000	
Property/Liability Insurance	15,000	
Chamber of Commerce	(6,000)	
SARPC	(12,944)	
Community Contributions	(10,556)	
4th of July Fireworks	(12,000)	
	(24,941)	
<u>Transfers:</u>		
Apply Interest from Debt Svc Fund to Reduce Transfers to Debt Svc	24,000	
	24,000	
Revenues> Expenditures		369,011

Note: Changing the Medical Insurance to Self-Insured will not result in a "savings" this fiscal year. The "savings" will be next FY if the amount paid into the plan this FY is more than the total claims paid out.

Positions required to remain due to grant funding: 1) the Police Dept COPS award states " your agency is expected to make a good faith effort to retain the positions funded by the grant funds at the conclusion of the grant." Furthermore, a requirement of the grant is that the number of positions must be above the May 1, 1995 funding level. 2) Still awaiting official word and documentation for the fire SAFER grant. However, the funded and accepted grant application states "the City Council committed to the matching funds for these positions and sustaining the positions from the end of the grant period forward." 2011 Cost: 224,896; 2012 Cost 323,743; 2013 Cost 462,968.