

CITY COUNCIL BUSINESS MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
NOVEMBER 7, 2011
BUSINESS MEETING
6:30 P.M.

1. CALL TO ORDER

2. ROLL CALL/INVOCATION / PLEDGE OF ALLEGIANCE

3. APPROVE MINUTES: Council meeting minutes / October 17, 2011
Special Called Council meeting minutes / October 26, 2011 / *No Quorum / NO ACTION*

PRESENTATION/ PROCLAMATION : America Recycles Day / November 15, 2011 / Daphne Recycle Program

PRESENTATION: Bookmark Contest Winners / Daphne Public Library

PRESENTATION: Baldwin County Training School Heritage Fest 91 Foundation / Gartrell Agee

PUBLIC HEARING: Annexation: Audubon Holding, LLC
Property Located: Southeast of the intersection of County Road 64 and Pollard Road
Present Zoning: RMF-6, Multiple Family District in Baldwin County District 15
Requested Zoning: R-4, High Density Multi-Family Residential District
Recommendation: Unanimous Favorable

HEARING: Right-of-Way Ordinance Violation Ordinance 2004-23 / Richard Johnson, Public Works Director

SET DATE: Closing date for accepting resume's for the District #1 Council Seat vacancy

SET DATE: Interviews for the District #1 Council Seat vacancy

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE / Boulware

B. BUILDINGS & PROPERTY COMMITTEE - Lake
Review minutes / October 3rd

C. PUBLIC SAFETY COMMITTEE – Boulware
Review minutes / October 12th

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Boulware

E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Lake

Nomination: Environmental Advisory Board: Fred Nation

Nomination: Environmental Advisory Board: Carl A. Pinyerd, III

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Jones
Review minutes / October 6th

B. Downtown Redevelopment Authority – Barnette

C. Industrial Development Board – Yelding
Appoint a replacement council liaison

D. Library Board – Lake

E. Planning Commission – Barnette

Review minutes / September 22nd

Set a Public Hearing date for **December 19, 2011** to consider the following

Annexation: Well Road Right-of-Way

Location: Approximately 1,324 linear feet of an unimproved portion of the right-of-way of Well Road and the northeast portion of the Gipson Tract

Recommendation: Unanimous Favorable

F. Recreation Board – Reese

G. Utility Board - Scott

Review minutes / August 31st

Review minutes / September 21st

Review minutes / September 28th

MOTION: Appoint Mayor Yelding to the Utility Board for the remainder of the previous Mayor’s term

6. REPORTS OF OFFICERS:

A. Mayor’s Report

a.) **MOTION:** Authorize the Mayor to enter into a cooperative maintenance agreement the Alabama Department of Transportation for maintenance of the Right-of-Way of State Route 181

b.) **MOTION:** Authorize the Mayor to enter into an agreement with Daphne Utilities for a portable bathroom trailer at Bay Front Park

B. City Attorney’s Report

C. Department Head Comments

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

NO RESOLUTIONS

ORDINANCES:

2ND READ

a.) **Rezone: Hearthstone Multi-Asset Entity / Lot 1, Dunmore Subdv.**
Phase Two, Part C. /Ordinance 2011-70

b.) **Rezone: Hearthstone Multi-Asset Entity / Lot 2, Dunmore Subdv.**
Phase Two, Part C. /Ordinance 2011-71

c.) **Rezone: Hearthstone Multi-Asset Entity / Lot 3, Dunmore Subdv.**
Phase Two, Part C. /Ordinance 2011-72

d.) **Revision to Zoning Map. Ordinance 2011-73**

e.) **Appropriation of Funds: Feasibility Study: Transfer Station – Garbage. /Ordinance 2011-75**

f.) **Appropriation of Funds: Justice Center Roof Repairs. /Ordinance 2011-76**

- g.) Appropriation of Funds: PW Crew Cab Trucks. /Ordinance 2011-77
- h.) Appropriation of Funds: Fuel Management System. /Ordinance 2011-78

1ST READ

- i.) Annexation: Audubon Park Apartments, Phase One. /Ordinance 2011-79
- j.) Rescinding Hiring Freeze Enacted December 20, 2010. /Ordinance 2011-80
- k.) Adopting the Fiscal Year 2012 Budget. /Ordinance 2011-81

- 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 REESE	PRESENT__	ABSENT__	__
COUNCILMAN SCOTT	PRESENT__	ABSENT__	__
COUNCILMAN BOULWARE	PRESENT__	ABSENT__	__
COUNCILMAN PALUMBO	PRESENT__	ABSENT__	__

MAYOR

MAYOR SMALL	PRESENT__	ABSENT__	__
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CITY CLERK:

DAVID L. COHEN	PRESENT__	ABSENT__	__
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CITY ATTORNEY:

CITY ATTORNEY JAY ROSS	PRESENT__	ABSENT	
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MINUTE NOTES:

**CITY COUNCIL MEETING
MINUTES**

NOTES:

COMMITTEE RECOMMENDATIONS

**OCTOBER 17, 2011
REGULAR 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 Councilman Lake.

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

Also present: David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Buzz Jordan, Attorney; Erick Bussey, Attorney; James White, Fire Chief; David Carpenter, Police Chief; Adrienne Jones, Planning Director; Vickie Hinman, Human Resources Director; Tonja Young, Library Director; Richard Johnson, Publics Works Director; Margaret Thigpen, Civic Center Director; David McKelroy, Recreation Director; Christine Ciancetta, Deputy Finance Director; Suzanne Henson, Senior Accountant; Jane Ellis, Mayors Assistant; Ashley Campbell, Environmental Programs Manager; Officer Bill Menefee, Police Department; John Williams, Civic Center; Officer Kevin Willingham, Police Department; Scott Hutchinson, City Engineer; Joe Lemoine, Planning Commission; Dorothy Morrison, Beautification Committee; Victoria Phelps, Planning Commission; Bob Segalla, Utility Board; Willie Robison, BZA; Doug Dugat, Recreation Board; Al Guarisco, Village Point Foundation; Bradley Byrne, ES Chamber of Commerce.

Absent: Mayor Small; Kim Briley, Finance Director; Richard Merchant, Building Official; Jay Ross, City Attorney.

3. APPROVE MINUTES

MOTION BY Councilman Boulware to adopt the October 10, 2011 Special Called Council meeting minutes. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Boulware to adopt the October 10, 2011 Council Work Session minutes with the amendment to add Suzanne Henson to those present. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

**OCTOBER 17, 2011
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

PRESENTATION: Bradley Byrne / Eastern Shore Chamber of Commerce Economic Development Summit / November 16, 2011

Mr. Byrne invited council to the Economic Development Summit being held November 16, 2011 from 8:30 a.m.-11:30 a.m.

PRESENTATION: Mercy Medical / TEFRA Hearing / Richard Lacey

Mr. Lacey explained that the resolution was to authorizing the holding of public hearings according to the IRS code.

Councilman Scott requested that what TEFRA stands for be mentioned in the resolution.

NOMINATIONS TO FILL MAYOR POSITION:

Four (4) votes are required to become Mayor.

Councilman Reese nominated Councilman Boulware for the position of Mayor.

Councilman Palumbo nominated Councilman Lake for the position of Mayor.

<u>ROLL CALL VOTE FOR COUNCILMAN BOULWARE:</u>			
Yelding	Nay	Boulware	Abstain
Lake	Nay	Palumbo	Abstain
Reese	Aye	Barnette	Nay
Scott	Abstain		
AYE Reese		NAY Yelding, Lake, Barnette	
ABSTAIN Scott, Boulware, Palumbo		MOTION FAILED	

<u>ROLL CALL VOTE FOR COUNCILMAN LAKE:</u>			
Yelding	Aye	Boulware	Nay
Lake	Abstain	Palumbo	Aye
Reese	Nay	Barnette	Aye
Scott	Abstain		
AYE Yelding, Palumbo, Barnette		NAY Reese, Boulware	
ABSTAIN Lake, Scott		MOTION FAILED	

**OCTOBER 17, 2011
 REGULAR CITY COUNCIL MEETING
 1705 MAIN STREET
 DAPHNE, AL
 6:30 P.M.**

**Councilman Scott nominated Councilman Yelding for the position of Mayor.
 Council President Barnette nominated Councilman Palumbo for the position of Mayor.**

<u>ROLL CALL VOTE FOR COUNCILMAN YELDING:</u>			
Yelding	Abstain	Boulware	Abstain
Lake	Aye	Palumbo	Aye
Reese	Abstain	Barnette	Aye
Scott	Aye		
AYE Lake, Scott, Palumbo, Barnette		NAY NONE OPPOSED	
ABSTAIN Yelding, Reese, Boulware		MOTION CARRIED	

Councilman Yelding received the four (4) votes required to become Mayor.

PUBLIC HEARINGS:

- 1.) **Rezone:** **Hearthstone Multi-Asset Entity**
- Location:** **On the East side of AL Hwy 181, South of Austin Road, North of Dick Higbee Rd. Lot, 1, Dunmore Subdivision, Phase Two, Part C**
- Present Zoning:** **R-1, Low Density Single Family Residential and R-2, Medium Density Single Family Residential**
- Requested Zoning:** **R-3, High Density Single Family Residential**
- Recommendation:** **Unanimous Favorable / Ordinance 2011-70**

Mrs. Adrienne Jones gave the presentation.

Council President Barnette opened the Public Hearing at 6:44 p.m.

No one spoke for or against the proposed rezoning.

Council President Barnette closed the Public Hearing at 6:45 p.m.

**OCTOBER 17, 2011
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

- 2) Rezone: Hearthstone Multi-Asset Entity**
Location: On the East side of AL Hwy 181, South of Austin Road, North of Dick Higbee Rd.
Lot, 2, Dunmore Subdivision, Phase Two, Part C
Present Zoning: R-1, Low Density Single Family Residential
Requested Zoning: R-2, Medium Density Single Family Residential
Recommendation: Unanimous Favorable / Ordinance 2011-71

Mrs. Adrienne Jones gave the presentation.

Council President Barnette opened the Public Hearing at 6:46 p.m.

No one spoke for or against the proposed rezoning.

Council President Barnette closed the Public Hearing at 6:47 p.m.

- 3.) Rezone: Hearthstone Multi-Asset Entity**
Location: On the East side of AL Hwy 181, South of Austin Road, North of Dick Higbee Rd.
Lot, 3, Dunmore Subdivision, Phase Two, Part C
Present Zoning: R-1, Low Density Single Family Residential
Requested Zoning: R-4, High Density Single Family Residential
Recommendation: Unanimous Favorable / Ordinance 2011-72

Mrs. Adrienne Jones gave the presentation.

Council President Barnette opened the Public Hearing at 6:47 p.m.

No one spoke for or against the proposed rezoning.

Council President Barnette closed the Public Hearing at 6:48 p.m.

- 4.) Amend Land Use
& Development Ordinance Revision to Zoning Map**
Recommendation: Unanimous Favorable / Ordinance 2011-73

Mrs. Adrienne Jones gave the presentation.

Council President Barnette opened the Public Hearing at 6:50 p.m.

No one spoke for or against the proposed amendment to the Land Use and Development Ordinance revising the zoning map.

Council President Barnette closed the Public Hearing at 6:50 p.m.

OCTOBER 17, 2011
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE – Boulware

The minutes for the October 10th meeting are in the packet.

MOTIONS:

MOTION BY Councilman Boulware to approve the City Prosecutor contract for FY 2012, for \$30,000 annually to be paid upon receipt of a monthly itemized statement with an additional sum of \$100/ hour for appeals, not to exceed \$10,000, upon receipt of a monthly itemized statement, for representation of the City of Daphne and to authorize the Mayor to enter into this agreement. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Boulware to approve any remaining previously encumbered monies in the Lodging Tax Fund for the following projects: Building Foundation - \$29,354, Scardamalia Pavilion – \$33,819 (*subfloor/insulation*) restrooms - \$57,317 be utilized for other building repairs needed for the Scardamalia Pavilion after initial state projects have been completed. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTIONBY Councilman Boulware to recommend that Council reject Bid: 2011-CC-PW/Extended Cab-4Door Truck Bid and purchase off state bid list. *Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Boulware to accept the Treasurers Report as of September 30, 2011, in the amount of \$18,502,352.25. *Seconded by Mr. Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Sales and Use Taxes: August 31, 2011

Sales and Use Tax Collected for August 2011 - \$888,625
 Sales and Use Tax Budgeted for August 2011 - \$781,228
 Over Budget (for August) - \$107,397

YTD Budget Collections Variance – Over Budget - \$935,090

Lodging Tax Collections, August 2011

The Lodging Tax Collections report shows \$52,820.33 collected for August, 2011.

**OCTOBER 17, 2011
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

The next meeting will be November 14th at 4:00 p.m. in the Executive Conference room.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

No report.

C. PUBLIC SAFETY COMMITTEE – Boulware

No report.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Boulware

No report.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

MOTION BY Councilman Yelding to appoint Dr. Bret Webb to the Environmental Advisory Board. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Councilman Yelding asked Councilman Boulware to submit a resume for Mr. Fred Nation for the Environmental Advisory Board.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Mrs. Jones

The next meeting will be November 4th with two (2) petitions for variances. The minutes for the August meeting are in the packet.

B. Downtown Redevelopment Authority – Barnette

The Focus Group meeting for Olde Towne Daphne is October 26th at Vino e Bira.

MOTION BY Councilman Yelding to appoint Dayna Oldham to the Downtown Redevelopment Authority. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

C. Industrial Development Board – Yelding

The next meeting will be Monday at 6:00 p.m.

D. Library Board – Lake

The next meeting will be November 3rd at 4:00 p.m. at the Library.

OCTOBER 17, 2011
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

E. Planning Commission – Jones

The Site Review meeting is next Wednesday, and the Planning Commission meeting is on Thursday, October 27th.

F. Recreation Board - Reese

No report.

G. Utility Board – Scott

The next meeting will be Wednesday at 5:00 p.m. in the council chambers.

6. REPORTS OF THE OFFICERS:

A. Mayor's Report

- 1.) To approve the request from the Eastern Shore Chamber of Commerce for the 2012 Jubilee Festival**

MOTION BY Councilman Lake to approve the request from the Eastern Shore Chamber of Commerce for the 2012 Jubilee Festival as follows:

- 1. Permission to block Main Street from Magnolia Avenue South to Dryer Avenue. The closing of this area would still allow access by area residents and church visitors.**
- 2. Permission to use Centennial Park for KidsART.**
- 3. Permission to allow children to paint on the back fence in Centennial Park.**
- 4. Assistance from Police and Street Department with street closings and barricades from Friday, September 28, 2012 after 5:00 p.m. until Sunday, September 30, 2012 after 6:00 p.m.**
- 5. Coordination by the Mayor with Riviera Utilities for additional electrical power access at the City Hall entrance utility pole.**
- 6. Permission to use City Hall as headquarters for the festival staff and volunteers.**
- 7. Permission to place temporary banners to help promote the 24th Annual Jubilee Festival.**

Specifics of the banners are as follows:

- a. Banners to read: *Jubilee Festival, September 29th and 30th***
- b. Banners to be posted 2 weeks prior to event**
- c. Size of Banners to be 120" x 34"**

Locations to include:

- i. Santa Rosa & Main Street**
 - ii. Jubilee Mall**
 - iii. Lawson Road**
 - iv. Highway 98 at Montrose Village Welcome Sign**
- 8. Permission to place banners within the festival**

Seconded by Councilman Scott.

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

OCTOBER 17, 2011
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

B. City Attorney Report

Mr. Bussey requested council to adjourn into Executive Session at the end of the meeting to discuss pending litigation.

C. Department Head Comments

Vickie Hinman – Human Resources Director - reported that there will be a blood drive by the American Red Cross on October 28th in the council chambers.

Margaret Thigpen – Civic Center Director - reported that there will be a drive thru flu shot clinic October 18th from 10:00 a.m. until 2:00 p.m. at the Civic Center. Ballroom Dance tickets are on sale.

David Cohen – City Clerk – congratulated Councilman Yelding on being selected to be Mayor.

7. PUBLIC PARTICIPATION

Mr. Willie Robison – 560 Stuart Street – congratulated Councilman Yelding on his appointment as Mayor.

Mr. Rod Drummond –Ridgewood Drive – thanked Mayor Small for his seven (7) years of service as Mayor, and congratulated Councilman Yelding on becoming Mayor.

Mr. Kevin Spriggs – Business owner in the City of Daphne – spoke regarding the invitation to the council by Mr. Bradley Byrnes to the Economic Development Summit.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

- a.) **Modification of existing Median Crossover and Accesses to the West Service Road on US Hwy 98 between D’Olive Creek Bridge and Van Buren Street. /Resolution 2011-70**
- b.) **Authorizing the City Council to Hold a TEFRA Hearing Pursuant to Section 147(F) of the Internal Revenue Code of 1986, As Amended. /Resolution 2011-71**
- c.) **Bid Award: Fuel Management System. /Resolution 2011-72**
- d.) **Bid Award: Justice Center Re-Roof Project. /Resolution 2011-73**
- e.) **Bid Award: Fuel. /Resolution 2011-74**
- f.) **Prepaid Travel / John Lake. /Resolution 2011-75**

OCTOBER 17, 2011
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

g.) MBNEP National Estuary Program Matching Funds to Create
Low Impact Development/Green Infrastructure Regulations and
Incentives Program. /Resolution 2011-76

h.) Declare Certain Personal Property Surplus. /Resolution 2011-77

MOTION BY Councilman Palumbo to waive the reading of Resolutions 2011-70, 2011-71, 2011-72, 2011-73, 2011-74, 2011-75 and 2011-76. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to adopt Resolution 2011-70. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to adopt Resolution 2011-71 with the amendment made earlier in the meeting to include the meaning for the acronym TEFRA. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to adopt Resolutions 2011-72, 2011-73, 2011-74 and 2011-75. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to adopt Resolution 2011-76. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to adopt Resolution 2011-77. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to adopt Resolution 2011-78. *Seconded by Councilman Scott.*

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

MOTION CARRIED

ORDINANCES:

2ND READ

- a.) **Annexation: Right-of-Way of AL State Highway 181 from Lawson Road South to the Southernmost Corporate Limits of the City of Daphne. /Ordinance 2011-64**
- b.) **Appropriation of Funds: Lott Park Tennis Courts Resurfacing. /Ordinance 2011-68**

1ST READ

- c.) **Rezone: Hearthstone Multi-Asset Entity / Lot 1, Dunmore Subdv. Phase Two, Part C. /Ordinance 2011-70**
- d.) **Rezone: Hearthstone Multi-Asset Entity / Lot 2, Dunmore Subdv. Phase Two, Part C. /Ordinance 2011-71**
- e.) **Rezone: Hearthstone Multi-Asset Entity / Lot 3, Dunmore Subdv. Phase Two, Part C. /Ordinance 2011-72**
- f.) **Revision to Zoning Map. Ordinance 2011-73**
- g.) **Appropriation of Funds: TimberCreek Emergency Drainage Repairs. /Ordinance 2011-74**
- h.) **Appropriation of Funds: Feasibility Study: Transfer Station – Garbage. /Ordinance 2011-75**
- i.) **Appropriation of Funds: Justice Center Roof Repairs. /Ordinance 2011-76**
- j.) **Appropriation of Funds: PW Crew Cab Trucks. /Ordinance 2011-77**
- k.) **Appropriation of Funds: Fuel Management System. /Ordinance 2011-78**

MOTION BY Councilman Palumbo to waive the reading of Ordinances 2011-64 and 2011-68. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to adopt ordinance 2011-64. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Palumbo to adopt ordinance 2011-68. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to suspend the rules to consider Ordinance 2011-74. *Seconded by Councilman Boulware.*

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 waive the reading of Ordinance 2011-74. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt of Ordinance 2011-74. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES 2011-70, 2011-71, 2011-72, 2011-73, 2011-75, 2011-76, 2011-77 AND 2011-78 WERE MADE 1ST READ.

8. COUNCIL COMMENTS

Councilman Lake congratulated Mayor-elect Yelding for his appointment by the council. He also complimented the Police Department for their help in unlocking his wife's car after she locked the keys inside.

Councilman Reese congratulated Mr. Yelding and he looks forward to working with him during the coming year, and he thinks he will do a great job.

Councilman Scott congratulated Mr. Yelding, and he also looks forward to working with him in the coming year, and he hopes they can continue to do great stuff for the city. He also thanked Mayor Small for the service that he rendered to the city for seven (7) years, and he knows it was hard.

**OCTOBER 17, 2011
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

12

Councilman Boulware stated that only one of them on the council can say that they were born and raised in Daphne, and he thinks that nobody is more qualified, more fitting to assume the role and this position than Councilman Yelding. Over the years of his service, not only to Daphne, but the Eastern Shore, he has proven himself more times than not, and personally, he is proud of this and he is excited about this next year with him as Mayor.

Councilman Palumbo also congratulated Mr. Yelding. He said that it has been a pleasure to serve with him on the council. He thinks there is going to be a new spirit of cooperation between the council and the Mayor. He has no doubt of it, and he thinks they will be able to move forward from here with a lot of challenges before them for the next year. He said be careful what you wish for! He challenged the news media not take the easy stories that are fed to them for political reasons, obviously, but for them to do some old fashioned investigative work, some real journalism and report facts that are germane, and to show some steak and not sizzle, and have some consideration and compassion for the people that put themselves out front in public office. They do not have to go far to see why they have public officials, and he thinks every member of this council is an exception, and Mayor Small was an exception, you do not have to go far in public bodies to find inferior people serving. The reason is, and he talks to people every day who show some interest in public office, or folks who he thinks would be good public servants that he tries to interest in public office, and they do not want any part of it, because they do not want themselves or their families exposed to half-truths, to information that they hear or see in the news which they have to protect their children, because of political vendetta's or they have a personal ax to grind. He challenges the media to put that on their story tonight.

Council President Barnette reminded the media that they will have a vacancy in District #1, and council will be calling for resumes, and will be looking to replace Mr. Yelding, which certainly is impossible, but she is proud to call her friend Bailey Yelding the new Mayor, and she is happy to see him serve in this capacity, and she thinks the council will enjoy his leadership. The city will certainly grow and prosper from it, and she will miss her seat buddy, and she congratulated Mr. Yelding from the bottom of her heart.

Councilman Yelding said that he is ecstatic, elated and happy for council to think enough of him to select him to perform this task. He also said that he looks forward to working with the Department Heads and collaborating with each of them early. He said that he looks forward to this task, and he thanked everybody.

OCTOBER 17, 2011
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

9. ADJOURN

MOTION BY Councilman Palumbo to adjourn into Executive Session to discuss pending litigation. The City Attorney certified that the reason given above is according to the Open Meetings Act, and the session will last between 10 minutes. *Seconded by Councilman Lake.*

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

There being no further business to discuss the meeting adjourned at 7:40 p.m.

Respectfully submitted by,

David L. Cohen,
City Clerk, MMC

Certification by Presiding Officer:

Cathy S. Barnette,
Council President

**OCTOBER 26, 2011
SPECIAL CALLED CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
8:30 A.M.**

1. CALL TO ORDER

There was not a quorum of council present.

COUNCIL MEMBERS PRESENT: Ron Scott; Derek Boulware.

ABSENT: Cathy Barnette; John Lake; Kelly Reese; August Palumbo.

Also present: Mayor Yelding; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Richard Johnson, Public Works Director; Erick Bussey, Attorney; Andy Rutens, Attorney representing the city; Mr. Stankoski, Attorney for Mr. Curtis; Mr. Scott Curtis; Judge Kittrell.

There was not a quorum for the October 26, 2011 Special City Council meeting.

Councilman Scott and Councilman Boulware called for a Special Called Council meeting to be held on November 2, 2011 at 6:30 p.m. The purpose of the meeting is to discuss the results of the mediation of the lawsuit with Scott Curtis, Earth, Inc., held October 26, 2011, and to take whatever ever actions are deemed necessary.

2. ADJOURN

The meeting adjourned at 1:45 p.m.

Daphne, Alabama

PROCLAMATION

**America Recycles Day
November 15, 2011**

ARD's THEME: "Making It Second Nature"
KAB's THEME: "I Recycle"

Whereas, the City of Daphne recognizes the importance of protecting and preserving our natural resources and adopting conscientious habits that will improve our daily lives and bring about a cleaner, safer, and more sustainable environment

Whereas, although there has been significant increase in our recycling efforts in the City of Daphne to date, we must also continue to focus on other initiatives such as waste reduction, composting, the reuse of products and materials, and purchasing recycled products; and

Whereas, by encouraging businesses, state agencies, nonprofit organizations, schools and individuals to celebrate America Recycles Day 2011, we can further promote recycling as an environmentally efficient and economically smart habit; and

Whereas, state and community leaders can help encourage recycling by informing citizens about local recycling options, they can also help foster greater awareness of the need to expand collections programs by promoting the benefits of recycling investments for businesses; and

Whereas, it is important that all the City of Daphne citizens become involved in recycling activities and learn more about the many recycled and recyclable products available to them as consumers; it is also fitting for the City of Daphne to celebrate the 2011 America Recycles Day theme: Recycling: "Making it Second Nature". In acting upon this theme, we help ensure an improved quality of life for present and future generations.

NOW, THEREFORE, the Mayor and City Council of the City of Daphne do hereby proclaim **November 15, 2011**, as **AMERICA RECYCLES DAY** in the City of Daphne, and in the spirit of commitment encourage our citizens, businesses, and organizations to participate in this celebration and accept responsibility to protect the integrity of the Earth, by signing your pledge card to promote recycling.



ATTEST:

Bailey Yelding, Jr.
Bailey Yelding, Jr. Mayor

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

PUBLIC HEARING

NOVEMBER 7, 2011

- 1.) Annexation: Audubon Holding, LLC
- Property Located: Southeast of the intersection of County Road 64 and Pollard Road
- Present Zoning: RMF-6, Multiple Family District in Baldwin County District 15
- Requested Zoning: R-4, High Density Multi-Family Residential District
- Recommendation: Unanimous Favorable

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Audubon Holding, L.L.C.
Annexation Review
Date: June 27, 2011

MEMORANDUM

PRESENT ZONING: RMF-6, Multiple Family District, in Baldwin County District 15

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

LOCATION: Southeast of the intersection of County Road 64 and Pollard Road

RECOMMENDATION: At the June 23, 2011, regular meeting of the City of Daphne Planning Commission, seven members were present. The motion carried unanimously for a ***favorable recommendation*** of the above-mentioned petition for annexation.

Attached please find said documentation and a copy of an ordinance from the office of the City Attorney for placement on the Tuesday, July 5, 2011 City Council agenda for action by the City Council.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Planning Report
2. Petition
3. Legal Description
4. Map of Property (Plat)
5. Ordinance

Planning Commission



ANNEXATION & ZONING REVIEW

COMMUNITY DEVELOPMENT

AUDUBON PARK APARTMENTS ANNEXATION REVIEW

Owner: Audubon Holdings, LLC.

Contiguous to Daphne Corporate Limits: Yes, corporate lines adjoin the property to the east and west.

Existing Conditions: 262 unit apartment complex on 19.08 acres

Existing Zoning: RMF-6, Multiple Family District—Baldwin County District 15

See attached excerpt from Baldwin County Zoning Ordinance for RMF-6 district details.

Proposed Zoning: R-4, Multi-Family Residential district

See attached excerpt from Daphne Land Use & Development Ordinance for R-4 details.

Surrounding Zonings/Uses: District 15 Baldwin County

Northwest-(B-2) Local Business

Northeast-(RMF-6) Multi-family Baldwin County

South-(R-2B) Single family residential Baldwin County

East- (R-4) Multi-family townhomes-Jubilee Ridge

West-(R-4) Multi-family apartment district-Phase 2 Audubon Park

Existing Utility Service Providers:

Sewer and Gas Daphne Utilities

Electric—Riviera Utilities

Affected City Service Providers:

Fire Protection—Station 2 (North Main Street)

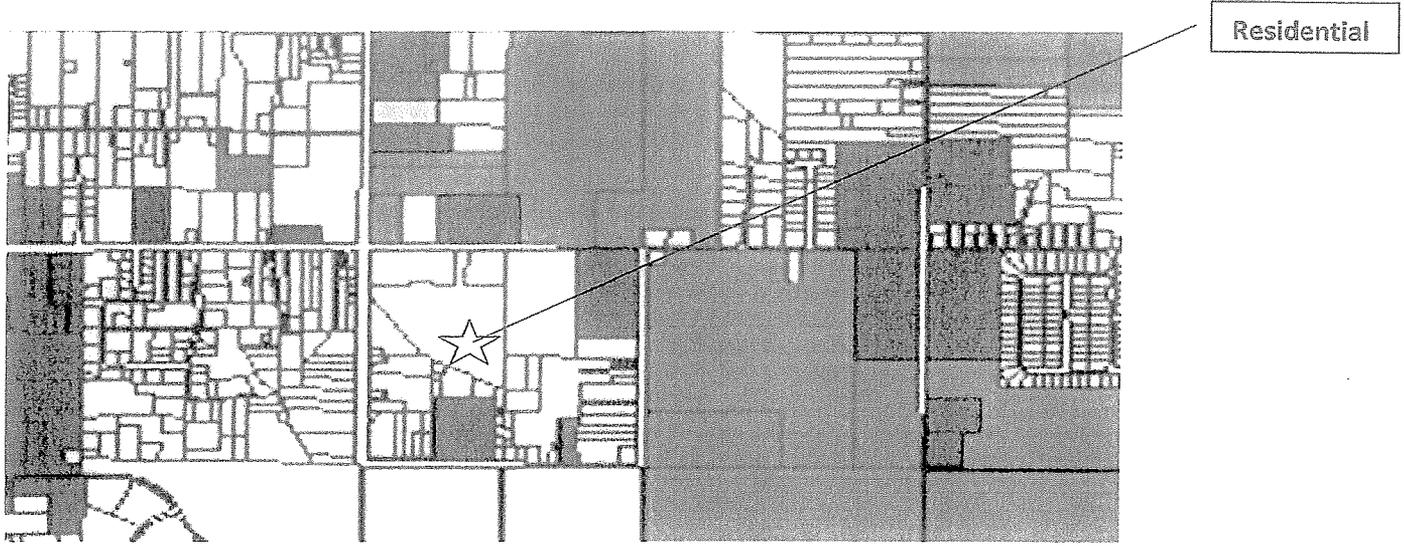
Police Protection—Police Beat 1

Public Works

Baldwin County Schools—School district zones are not set by municipal boundaries, therefore school districting will not be affected by annexation.

Comprehensive Plan

The Comprehensive Plan designates this area as a residential use. Therefore, the requested R-4 zoning is consistent with the Future Land Use Designation.



Future Land Use Map



Community Development

The well-established Audubon Park Apartment complex is located along County Road 64 between Pollard Road (west) and Friendship Road (east). The property is currently in Baldwin County, zoned RMF-6, Multiple Family District—Baldwin County District 15. The petitioner proposes to annex into the City of Daphne as R-4 which is the only district where such use is allowed. R-4 zoning would be appropriate here as the surrounding properties are also zoned R-4. **Recommend approval.**

Density Comparison

Audubon Park, Phase1	Approximate Density
Density at time of development (was 26.3 acre site)—no county zoning or density requirements were in place when originally constructed	9.96 units/acre
Current Density (now 19.08 acres-result of subdivision of property)	13.7 units/acre
Current Max Density RMF-6	6 units/acre
Current Max Density R-4	14 units/acre

STATE OF ALABAMA
COUNTY OF BALDWIN

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

(Audubon Park Apartments, Phase)

One

The undersigned, Audubon Holdings, L.L.C., files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as 19.08 acres adjacent to County Rd. 64 to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of its petition:

1. Description Of Property: The description of the property which Petitioner requests to be annexed into the City of Daphne is described in Exhibit "A" attached hereto and made a part of this Petition as if fully set out herein (the "Property").

2. Map Of Property: Attached hereto as Exhibit "B" and made a part of this Petition, is a map of the Property showing its relationship to the corporate limits of the municipality of the City of Daphne.

3. Owner: The Petitioner, Audubon Holdings, L.L.C., is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne.

4. Specific Conditions: This Petition is conditioned upon the adoption of an ordinance, which shall include specifically the conditions requested below upon annexing the said Property into the corporate limits of the City of Daphne. Please state the requested zoning, if other than R-1, or any other conditions which may apply upon annexation:

ZONE: R-4, High Density Multi-Family Residential

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

DATED this 19th day of May, _____,
2011.

Respectfully submitted,

Audubon Holdings, L.L.C.

Name of Corporation

By: John D. Blanchard

Its: Authorized Signatory

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that John D. Blanchard whose name as Authorized Signatory of Audubon Holdings, L.L.C., an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily on the day same bears date.

GIVEN under my hand and official seal on this the 19th day of May, 2011.

Michelle M. Powell (NOTARY SEAL)
NOTARY PUBLIC
My commission expires: 8/29/2012

AUDUBON PARK APARTMENTS,
PHASE ONE

SOUTHEAST OF THE INTERSECTION OF POLLARD ROAD AND COUNTY
ROAD 64

ANNEXATION REVIEW

EXHIBIT "A"

LEGAL DESCRIPTION:

LOT 2, FINAL PLAT (REVISED), AUDUBON PARK SUBDIVISION,
RESUBDIVISION OF LOT 2, AS PER PLAT RECORDED ON SLIDE NO.
2364-F OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY,
ALABAMA.

CITY OF DAPHNE, ALABAMA
ORDINANCE 2011-_____

**AN ORDINANCE TO ANNEX AUDUBON PARK APARTMENTS, PHASE ONE, INTO
THE CORPORATE LIMITS OF THE CITY OF DAPHNE**

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

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

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

WHEREAS, the Planning Commission of the City of Daphne, Alabama, at its regularly scheduled meeting of June 23, 2011, forwarded a unanimous favorable recommendation to the City Council of the City of Daphne, Alabama for annexation of the areas shown in Exhibit "A" with said property being zoned as a R-4, High Density Multi-Family Residential, District; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on August 1, 2011, concerning the petition for annexation; and,

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

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

SECTION I: ANNEXATION

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

Name: Audubon Park Apartments, Phase One

Legal Description: LOT 2, FINAL PLAT (REVISED), AUDUBON PARK SUBDIVISION, RESUBDIVISION OF LOT 2, AS PER PLAT RECORDED ON SLIDE NO. 2364-F OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA.

SECTION II: PUBLICATION

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

SECTION III: SEVERABILITY

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV: EFFECTIVE DATE

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE ____ DAY OF _____, 2011.

**CATHY S. BARNETTE,
COUNCIL PRESIDENT**

**FRED SMALL,
MAYOR**

ATTEST:

**DAVID COHEN
CITY CLERK, MMC**

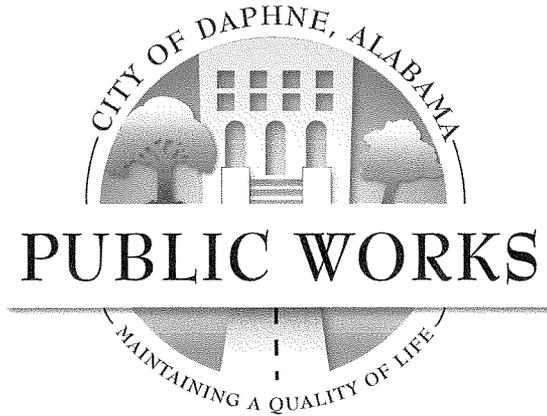
**VIOLATION OF RIGHT-OF-WAY ORDINANCE
INFORMATION**

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

To: David Cohen
City Clerk

From: Richard D. Johnson, P.E.
Public Works Director

A handwritten signature in black ink, appearing to read "Richard D. Johnson". The signature is written in a cursive style and is positioned over the printed name of the sender.

CC: Honorable Mayor Small
Council President

Date: October 17, 2011

Re: PATEL – NOTICE OF VIOLATION CITY OF DAPHNE ROW ORDINANCE 2004-23
29319 ACORN KNOLL DRIVE

As allowed for by Ordinance, Anil and Ramila Patel have chosen to exercise their right to appeal their Violation of ROW Ordinance 2004-23. The notice was accepted on Wednesday – October 5, 2011 via USPS Certified Mail. This was used as the start of the appeals timeline provided by the ordinance.

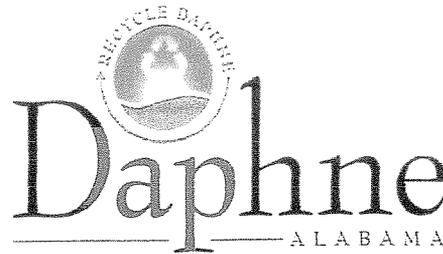
The appeal process provided by ordinance states:

“Should any person be aggrieved by the decision of the Public Works Director, such person may appeal by filing written notice with the Public Works Department within fifteen (15) days from the date of such decision. The Department shall send a copy of the appeal and all relevant documentation with fifteen (15) days, to the City Clerk’s office to be considered by the City Council at a public hearing.”

The notice of appeal from Mr. and Mrs. Patel’s agent was received on Friday – October 14, 2011 at 12:52 PM. I have enclosed a copy of the appeal and all relevant documentation.

RDJ:swc

Fred Small
Mayor



Richard D. Johnson, PE
Public Works Director

The Jubilee City

September 19, 2011

PATEL, ANIL and RAMILA
29319 ACORN KNOLL DRIVE
DAPHNE, AL 36526

RE: Notice of Violation – City of Daphne Right-Of-Way Ordinance No.: 2004-23
Tax Parcel: 05-32-08-33-0-001-018.067 (Acorn Knoll Dr. & Deciduous Ct.)

Dear Sirs and/or Madams:

This is a formal issuance of a "Notice of Violation" for the above referenced parcel fronting on or accessed from Acorn Knoll Drive and Deciduous Court. As of today's date the owner(s) of this property have been found in violation of City of Daphne Ordinance No.: 2004-23 (Right-Of-Way Ordinance) in relation to the construction of brick columns within the public Rights-Of-Way. More specifically, but not limited to:

Section III.A.1.(Permit requirements): *"Except as otherwise provided in this ordinance, no person may construct or obstruct any right-of-way without first having obtained one of the following right-of-way permits from the Public Works Department."*

Section V.B.3.(Work done without a Permit): *"Non-emergency situations. Except in the case of an emergency, any person who obstructs or excavates a right-of-way without a permit must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by City Codes, is subject to the issuance of a notice of violation and/or a Municipal Offense Ticket (M.O.T.), deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all requirements of this article."*

No record of an application for or an approval of a Right-Of-Way Permit for the construction of brick columns is on file with the City of Daphne, Division of Public Works. There is no dispute that these structures are within the City's Rights-Of-Way and pose a clear hazard to public health, safety and welfare. They violate the requirement that all structures within the clear-zone must be "breakaway" in nature and shall not impede the "sight triangle" (The intersection of Acorn Knoll Drive and Deciduous Court).

If an "after the fact" Permit was requested, I would be compelled to deny it for the reasons stated above. This authority is provided to me per Section V.A.2.(Denial of Permit):

"Permissive denial. The Director of Public Works may deny a permit in order to protect the public health, safety and welfare, to prevent interference with the safety and convenience of

Public Works Department
26435 Public Works Road P.O. Box 400 Daphne, Alabama 36526
Phone: (251) 621-3182 Fax: (251) 621-3189

ordinary travel over the right-of-way, or when necessary to protect the rights-of-way and its users. The Director of Public Works may consider one (1) or more of the following factors:

d) *The applicability of other ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;*"

The offending structure(s) shall be removed from the limits of the Rights-Of-Way and shoulders behind the curbing restored within 30 days of receipt of this letter. Failure to act will result in Code Enforcement action and the issuance of a Municipal Offense Ticket resulting in fines and court costs. Furthermore, failure to act will result in City forces removing the obstructions and restoring the Rights-Of-Way at the property owner's expense.

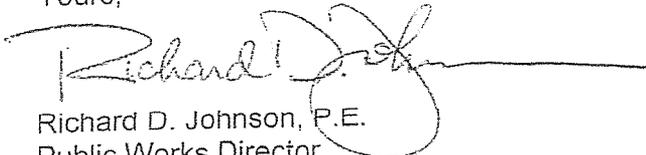
As a Citizen of Daphne you have rights. I have attached Section II.B.&C.(Appeals Procedure). Specifically:

"Should any person be aggrieved by the decision of the Public Works Director, such person may appeal by filing written notice with the Public Works Department within fifteen (15) days from the date of such decision. The Department shall send a copy of the appeal and all relevant Documentation within fifteen (15) days, to the City Clerk's Office to be considered by the City Council at a public hearing."

The observed violation is well documented and will be tracked by City Personnel. Once in compliance, please contact this office for an inspection. When the offense is brought into compliance a letter, stating such, will be issued.

If I may be of any assistance, or answer any question, do not hesitate to contact me.

Yours,


Richard D. Johnson, P.E.
Public Works Director

Cc: Honorable Mayor Fred Small
Lonnie Jones, Code Enforcement Officer
City Attorney
City Clerk
File

SECTION II. RIGHT OF WAY ADMINISTRATION

A. Administration. The City of Daphne Public Works Director shall be the principal City official responsible for the administration of the right-of-way, right-of-way permits, and the ordinances related thereto. The Public Works Director may amend from time to time, construction standards and other rules reasonable required to carry out the purposes of this ordinance. Any requirement not specifically covered by this ordinance or the construction standards shall be determined by the Public Works Director. The Public Works Director may delegate any or all of the duties hereunder.

B. Appeal Procedure. The Public Works Director may grant a special exception to the requirements of this ordinance if a permittee demonstrates, with written evidence, that:

1. The exception will not create any threat to public health, safety or welfare.
2. The permittee demonstrates that the increased economic burden and the potential adverse impact on the permittee's construction schedule resulting from the strict enforcement of this ordinance actually, or effectively, prohibits the ability of the permittee to provide utility services in the City.
3. The permittee demonstrates that the requirement unreasonably discriminates against the permittee in favor of another person.

C. Should any person be aggrieved by the decision of the Public Works Director, such person may appeal by filing written notice with the Public Works Department within fifteen(15) days from the date of such decision. The Department shall send a copy of the appeal and all relevant Documentation, within fifteen(15) days, to the City Clerks Office to be Considered by the City Council at a public hearing.

SECTION III. RIGHT-OF-WAY PERMITS

A. Permit requirements.

1. Except as otherwise provided in this ordinance, no person may construct or obstruct any right-of-way without first having obtained one of the following right-of-way permits from the Public Works Department.
 - a) Major Project;
 - b) Minor Project;

Assistant PW

From: U.S. Postal Service_ <U.S. Postal_Service@usps.com>
Sent: Wednesday, October 05, 2011 5:16 PM
To: ASSISTANTPW@BELLSOUTH.NET
Subject: USPS Shipment Info for 7007 0710 0000 5284 3206

This is a post-only message. Please do not respond.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 7007 0710 0000 5284 3206

Service Type: Certified Mail(TM)

Shipment Activity	Location	Date & Time
Delivered	DAPHNE AL 36526	10/05/11 4:19pm
Notice Left	DAPHNE AL 36526	09/22/11 12:56pm
Arrival at Unit	DAPHNE AL 36526	09/22/11 8:33am
Processed through Sort Facility	MOBILE AL 36619	09/22/11 12:31am

Reminder: Track & Confirm by email

Date of email request: 09/23/11

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at <http://www.usps.com/shipping/trackandconfirm.htm>

USPS has not verified the validity of any email addresses

For more information, or if you have additional questions
Frequently Asked Questions (FAQs) section of our Track &
<http://www.usps.com/shipping/trackandconfirmfaqs.htm>

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2012.0.1831 / Virus Database: 2085/4540 - Release

7007 0710 0000 5284 3206

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
(Domestic Mail Only - No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

DAPHNE AL 36526

Weight	44	\$0.44	0526
Postage	2.85	2.85	11
Return Receipt (hardcopy)	-	\$2.30	Postmark Here
Restricted Delivery (hardcopy)	-	\$0.00	
Total Postage & Fees	\$3.29	\$5.59	09/20/2011

Send To: Patel (PW)
29319 Acorn Knoll Dr
Daphne, AL 36526

PS Form 3800, August 2010

Attention Mr. Johnson,
Daphne Public Works Director

I am writing this request on behalf of Mr. Anil Patel [as his agent] concerning the columns at the front of his house.

Located at 29319 Acorn Knoll Dr.. We are requesting an appeal procedure to be considered, by the Daphne City Council in a public hearing.

As a citizen of Daphne Mr. and Mrs Patel wish to exercise their rights in their defense.

Thank You,

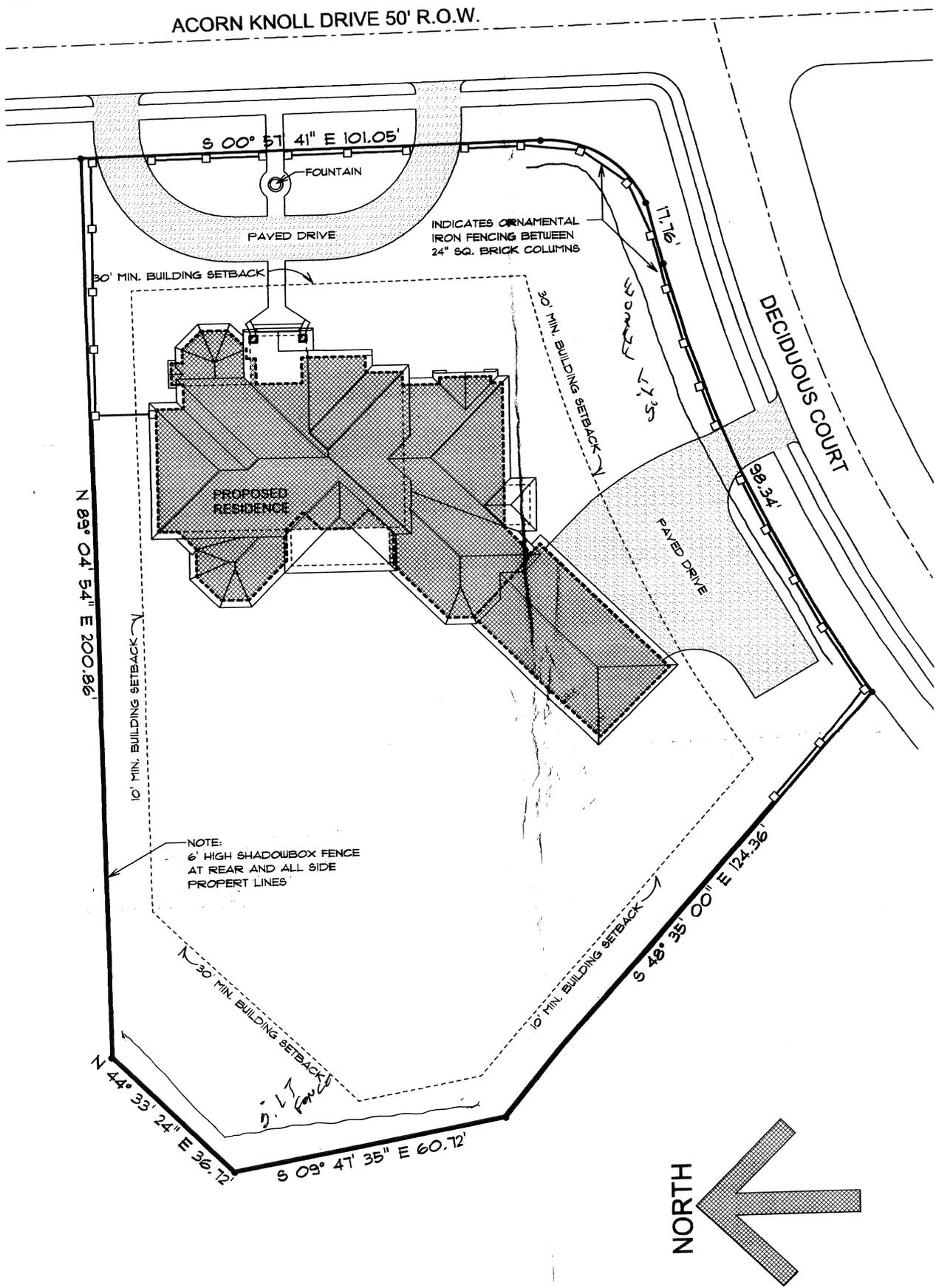
William F. Foster
For Mr. and Mrs. Patel
10-12-11

10-14-11 P12:52 IN

Patel (Acorn Knoll Drive) ROW Violation

Exhibits for Public Hearing

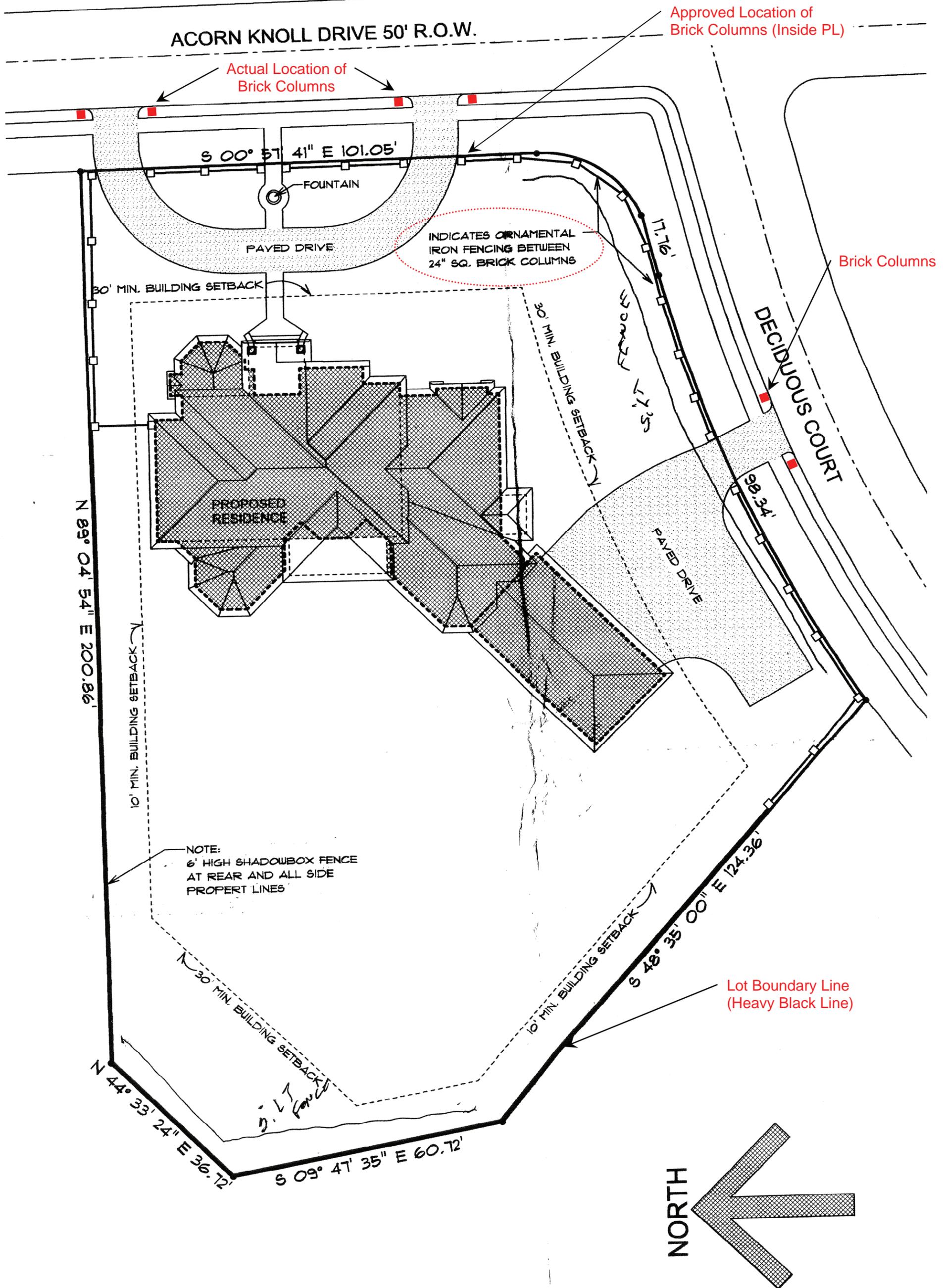
Exhibit	Description
A	Approved Site Plan (Cover sheet of permit drawings submitted to the City)
B	Site plan showing "As Built" Location of the brick columns
C	Building Department inspection report dated March 12, 2009 (Note no: final inspection was requested or conducted – no "Certificate of Occupancy" issued)
D	Pictures of "As Built" brick columns (August 16, 2011)
E	Notice of Violation Letter dated September 19, 2011
F	Delivery Confirmation/Return Receipt Confirmation USPS dated October 5, 2011 – 4:19 pm
G	Notice of Appeal – William F. Foster (as Mr. Patel's Authorized Agent) received October 14, 2011 – 12:52 pm
H	Transmittal of Notice of Appeal and related documents to the City Clerk dated October 17, 2011 – 1:15 pm
I	R.O.W. Ordinance 2004-23
J	Daphne's Codification of the Ordinance
K	Excerpts from ALDOT Utility Manual on Clear Zone Requirements



2004-23 ROW Ordinance Violation
 Patel Residence-29319 Acorn Knoll Drive
 Approved Building Permit Drawing
 Site Plan



THEODORE, ALABAMA
 PH. 251-973-0324 CELL 2



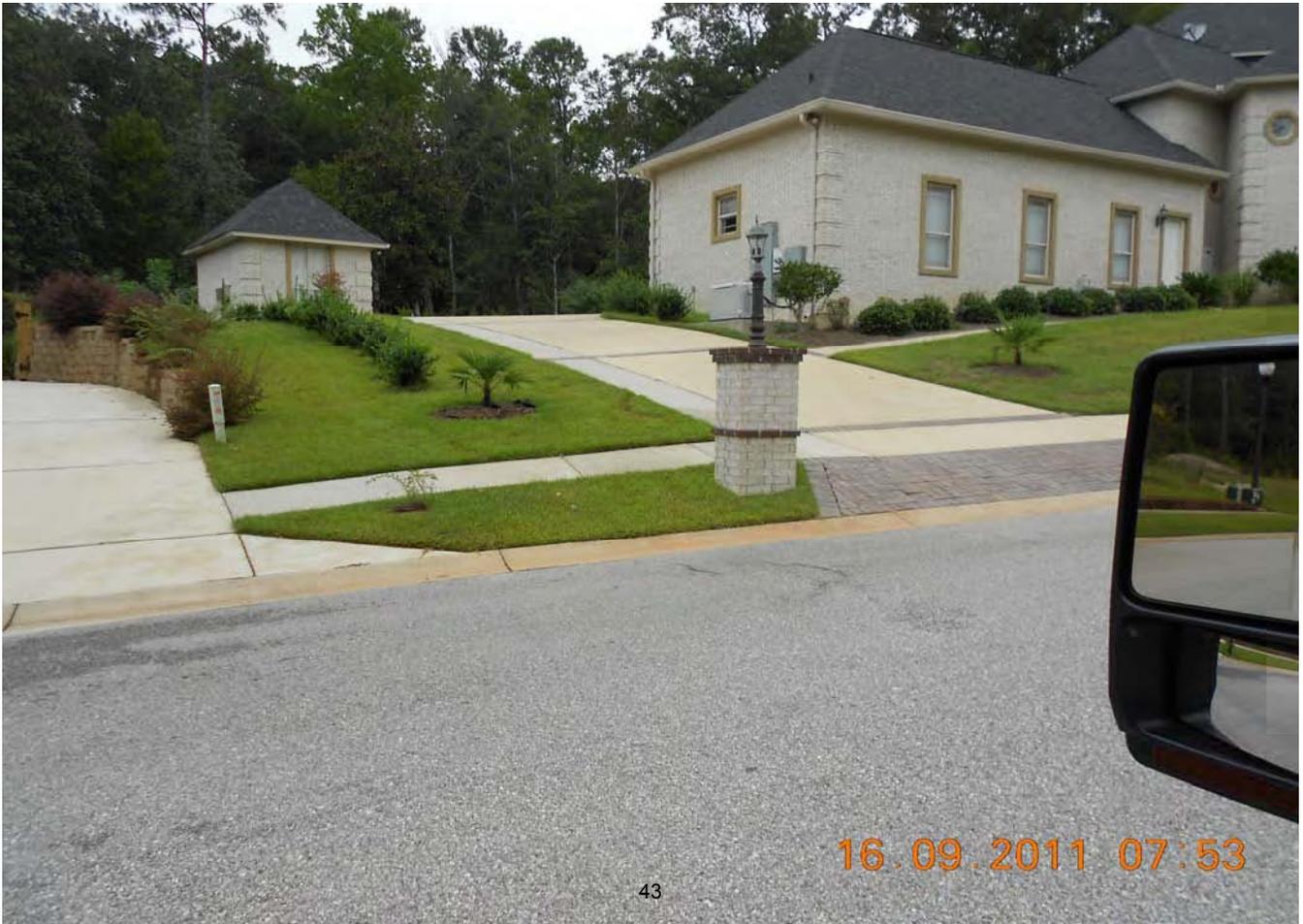
SITE PLAN

JOB INSPECTION REQUEST

CITY OF DAPHNE
 Building Inspection Department
 251-621-3080

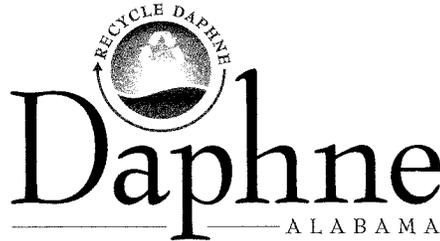
08-61

BUILDER Foster H/B		DATE 3/12/09	TIME 3:20
OWNER Same		CONTACT PERSON: Bill Foster	CALL TAKEN BY: Rayn
ADDRESS 29319 Oak Knoll Dr.	PHONE 377-5437	LOT 9	UNIT 1
BUILDING INSPECTOR NOTES: 1. GFI outside sink NOT working 2. shop outside Rec.s Req to be GFI 3. Lable Breakers AT outside AC units 4. Reinspection Req.		SUBDIVISION Oak Creek Estimate	TIME NEEDED Ready
		<input type="checkbox"/> FOOTING <input type="checkbox"/> SLAB/FOUNDATION <input type="checkbox"/> SETBACK <input checked="" type="checkbox"/> FINAL INSPECTION <input checked="" type="checkbox"/> A.C.O.	<input type="checkbox"/> FRAMING <input type="checkbox"/> ELECTRICAL <input type="checkbox"/> PLUMBING <input type="checkbox"/> HVAC <input type="checkbox"/> _____
INSPECTION DATE 3.13.09		INSPECTOR W.P. / W.W.	
SPECIAL REQUESTS			





Fred Small
Mayor



Richard D. Johnson, PE
Public Works Director

The Jubilee City

September 19, 2011

PATEL, ANIL and RAMILA
29319 ACORN KNOLL DRIVE
DAPHNE, AL 36526

**RE: Notice of Violation – City of Daphne Right-Of-Way Ordinance No.: 2004-23
Tax Parcel: 05-32-08-33-0-001-018.067 (Acorn Knoll Dr. & Deciduous Ct.)**

Dear Sirs and/or Madams:

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Section III.A.1.(Permit requirements): “Except as otherwise provided in this ordinance, no person may construct or obstruct any right-of-way without first having obtained one of the following right-of-way permits from the Public Works Department.”

Section V.B.3.(Work done without a Permit): “Non-emergency situations. Except in the case of an emergency, any person who obstructs or excavates a right-of-way without a permit must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by City Codes, is subject to the issuance of a notice of violation and/or a Municipal Offense Ticket (M.O.T.), deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all requirements of this article.”

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If an “after the fact” Permit was requested, I would be compelled to deny it for the reasons stated above. This authority is provided to me per Section V.A.2.(Denial of Permit):

“Permissive denial. The Director of Public Works may deny a permit in order to protect the public health, safety and welfare, to prevent interference with the safety and convenience of

Public Works Department
26435 Public Works Road P.O. Box 400 Daphne, Alabama 36526
Phone: (251) 621-3182 Fax: (251) 621-3189

ordinary travel over the right-of-way, or when necessary to protect the rights-of-way and its users. The Director of Public Works may consider one (1) or more of the following factors:

d) *The applicability of other ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;*

The offending structure(s) shall be removed from the limits of the Rights-Of-Way and shoulders behind the curbing restored within 30 days of receipt of this letter. Failure to act will result in Code Enforcement action and the issuance of a Municipal Offense Ticket resulting in fines and court costs. Furthermore, failure to act will result in City forces removing the obstructions and restoring the Rights-Of-Way at the property owner's expense.

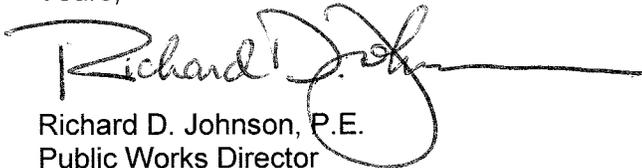
As a Citizen of Daphne you have rights. I have attached Section II.B.&C.(Appeals Procedure). Specifically:

"Should any person be aggrieved by the decision of the Public Works Director, such person may appeal by filing written notice with the Public Works Department within fifteen (15) days from the date of such decision. The Department shall send a copy of the appeal and all relevant Documentation within fifteen (15) days, to the City Clerk's Office to be considered by the City Council at a public hearing."

The observed violation is well documented and will be tracked by City Personnel. Once in compliance, please contact this office for an inspection. When the offense is brought into compliance a letter, stating such, will be issued.

If I may be of any assistance, or answer any question, do not hesitate to contact me.

Yours,



Richard D. Johnson, P.E.
Public Works Director

Cc: Honorable Mayor Fred Small
Lonnie Jones, Code Enforcement Officer
City Attorney
City Clerk
File

SECTION II. RIGHT OF WAY ADMINISTRATION

A. Administration. The City of Daphne Public Works Director shall be the principal City official responsible for the administration of the right-of-way, right-of-way permits, and the ordinances related thereto. The Public Works Director may amend from time to time, construction standards and other rules reasonable required to carry out the purposes of this ordinance. Any requirement not specifically covered by this ordinance or the construction standards shall be determined by the Public Works Director. The Public Works Director may delegate any or all of the duties hereunder.

B. Appeal Procedure. The Public Works Director may grant a special exception to the requirements of this ordinance if a permittee demonstrates, with written evidence, that:

1. The exception will not create any threat to public health, safety or welfare.
2. The permittee demonstrates that the increased economic burden and the potential adverse impact on the permittee's construction schedule resulting from the strict enforcement of this ordinance actually, or effectively, prohibits the ability of the permittee to provide utility services in the City.
3. The permittee demonstrates that the requirement unreasonably discriminates against the permittee in favor of another person.

C. Should any person be aggrieved by the decision of the Public Works Director, such person may appeal by filing written notice with the Public Works Department within fifteen(15) days from the date of such decision. The Department shall send a copy of the appeal and all relevant Documentation, within fifteen(15) days, to the City Clerks Office to be Considered by the City Council at a public hearing.

SECTION III. RIGHT-OF-WAY PERMITS

A. Permit requirements.

1. Except as otherwise provided in this ordinance, no person may construct or obstruct any right-of-way without first having obtained one of the following right-of-way permits from the Public Works Department.
 - a) Major Project;
 - b) Minor Project;

Assistant PW

From: U.S._Postal_Service_ <U.S._Postal_Service@usps.com>
Sent: Wednesday, October 05, 2011 5:16 PM
To: ASSISTANTPW@BELLSOUTH.NET
Subject: USPS Shipment Info for 7007 0710 0000 5284 3206

This is a post-only message. Please do not respond.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 7007 0710 0000 5284 3206

Service Type: Certified Mail(TM)

Shipment Activity	Location	Date & Time
Delivered	DAPHNE AL 36526	10/05/11 4:19pm
Notice Left	DAPHNE AL 36526	09/22/11 12:56pm
Arrival at Unit	DAPHNE AL 36526	09/22/11 8:33am
Processed through Sort Facility	MOBILE AL 36619	09/22/11 12:31am

Reminder: Track & Confirm by email

Date of email request: 09/23/11

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at www.usps.com/trackandconfirm

USPS has not verified the validity of any email addresses

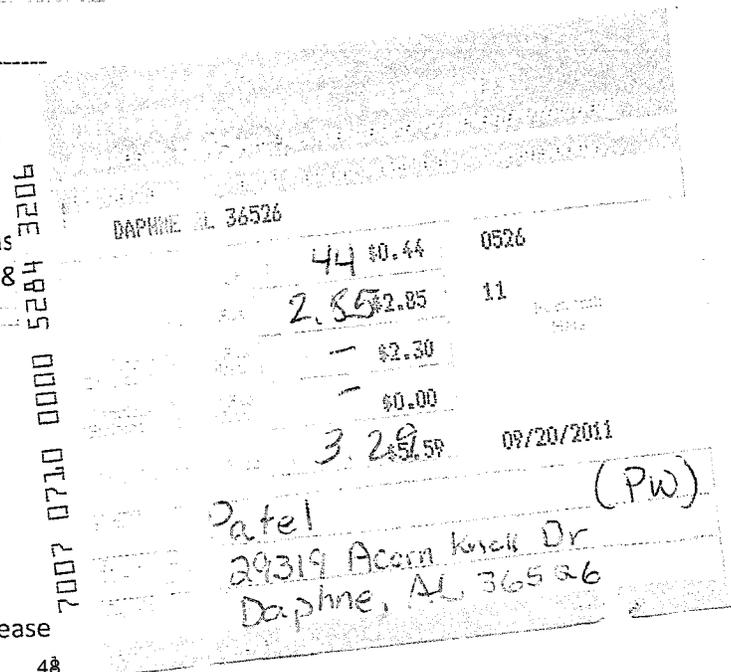
For more information, or if you have additional questions
Frequently Asked Questions (FAQs) section of our Track & Confirm

<http://www.usps.com/trackandconfirm>

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2012.0.1831 / Virus Database: 2085/4540 - Release



Attention Mr. Johnson,
Daphne Public Works Director

I am writing this request on behalf of Mr. Anil Patel [as his agent] concerning the columns at the front of his house.

Located at 29319 Acorn Knoll Dr.. We are requesting an appeal procedure to be considered, by the Daphne City Council in a public hearing.

As a citizen of Daphne Mr. and Mrs Patel wish to exercise their rights in their defense.

Thank You,

William F. Foster
For Mr. and Mrs. Patel
10-12-11

10-14-11 P12:52 IN

Letter of Transmittal



Date October 17, 2011

To: David Cohen, City Clerk
Honorable Mayor Small
Council President

From: Richard D. Johnson, Public Works Director

NOTICE OF VIOLATION - CITY OF DAPHNE RIGHT-OF-WAY ORDINANCE NO.: 2004-23
PATEL, ANIL AND RAMILLA
23919 ACORN KNOLL DRIVE

ATTACHMENTS:

NOTICE OF VIOLATION
USPS TRACKING CONFIRMATION
PATEL LETTER OF APPEAL

A circular postmark from the City of Daphne, Alabama, dated OCT 17 2011. The postmark includes a clock face with numbers 1 through 12. Overlaid on the postmark is a handwritten signature that reads "Rebecca A. Hayes" and the date "10-17-11" with "1:15 PM" written below it.

10-17-11 P01:44 IN

**CITY OF DAPHNE
ORDINANCE NO. 2004-23**

=====

RIGHT-OF-WAY ORDINANCE

=====

WHEREAS, the City Council of the City of Daphne, Alabama desires to protect, preserve and promote the health, welfare and safety of the citizens of Daphne by ensuring the structural integrity of public streets; and

WHEREAS, the City Council of the City of Daphne, Alabama desires to ensure that city rights-of-way are maintained in a state of good repair free from unnecessary encumbrances; and,

WHEREAS, the City Council of the City of Daphne, Alabama, possessing authority to manage and control its rights-of way, desires to establish the rules and regulations related to right-of-way work; to provide applicable definitions; to define prohibited acts; to provide penalties for the violation hereof; and to enact reasonable regulations in furtherance thereof.

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

SECTION I. DEFINITIONS

A. For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context the words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely derivative.

1. Applicant. Means any person or entity requesting permission to obstruct or construct in a City of Daphne right-of-way.
2. City. Means the City of Daphne, Alabama.
3. Code Enforcement Officer. Means any person authorized by the City of Daphne to enforce the Codes of the City and issue Municipal Offense Tickets for violations thereof.

4. **Construct.** Means to excavate, repair, rehabilitate, maintain, and install sanitary sewers, water mains, fire hydrants, valves, meters, manholes, service lines and connections, gas mains, telephone and electrical conduit and their miscellaneous service lines and connections, telecommunications Facilities cables, wires, lines, wave guides, antennas, and other equipment or Facilities, pedestals, and service cabinets, poles, guy wires, storm drains, manholes, inlets, catch basins, irrigation systems, driveways, sidewalks, pavement extensions, curbs, walks, steps, building canopies, balconies, overhead walkways, and temporary detour pedestrian walkways on, above, or under any part of the Rights of Way provided however, that Construct shall not mean installation, repair, rehabilitation or maintenance of Facilities that do not involve excavation of any portion of the Rights of Way.
5. **Construction Bond.** Means a bond posted to ensure proper and complete construction and/or repair of a permitted site pursuant to a permit issued by the Public Works Department.
6. **Construction Standards for miscellaneous construction, utility excavation, Right-of-way and pavement restoration.** Means the compilation of provisions and requirements that provide the technical specifications and details for the construction of facilities in the right-of-way.
7. **Department.** Means the City of Daphne Public Works Department.
8. **Department Inspector.** Any person designated/authorized by the Public Works Director to carry out inspections related to the provisions of this article.
9. **Emergency.** A condition that poses a clear and immediate danger to life or health, or of a significant loss of property or utility service. "Emergency" also includes requests for service which the applicant deems urgent and can be classified as small project types A and B.
10. **Excavation.** Means ant work on the surface or subsurface of the public right-of-way including but not limited to opening the right-of-way, installing, servicing, repairing, or repairing/modifying any facilities/sites in or under the surface or subsurface, and restoring the surface and subsurface of the public right-of-way.

11. **Facilities.** Means any tangible thing located in any right-of-way; and shall include boulevard plantings or gardens planted & maintained in the right-of-way between a persons property and the street edge of pavement.
12. **Geo-technical Engineer.** Means a professional engineer experienced in soils engineering and materials testing.
13. **Geo-technical Company.** Means a professional engineering company that provides soils engineering and testing services, laboratory and field testing services, construction material testing, and possesses a certificate of authorization from the state board of registration for professional engineers and land surveyors.
14. **In.** Means, when used in conjunction with " right-of-way", means over, above, in, within, on or under a right-of-way.
15. **Landscape or Landscaping.** Means trees, shrubs and other plantings of materials that are or may grow to a height of eighteen(18) inches or more, and irrigation systems (in unpaved areas), in the right-of-way.
16. **Major Project.** Means construction of water, sewer, gas, telephone, fiber optic, electrical power conduit, cable and duct, TV cable, jacking, boring, pushing and tunneling, retrofitting existing facilities/sites, storm drain and any other miscellaneous major facility construction projects that involve more than one continuous block or five hundred (500) linear feet of right-of-way.
17. **Minor Project.** Means construction of miscellaneous utility service lines, manhole installation not associated with Major Project construction, main line point repairs and installation, miscellaneous utility service line repair, storm drain and inlet repairs, vaults, irrigation systems and other miscellaneous construction and repair projects that involve less than one(1) block or five hundred (500) linear feet of right-of-way.

18. **Municipal Court.** Means the part of the City of Daphne Municipal Court System designed to enforce local laws and ordinances relating to the physical appearance of the City, and the health and safety of the public.
19. **Municipal Offense Ticket (M.O.T.).** Means a citation issued for a violation of this ordinance. A M.O.T. may require payment of a fine as defined by the municipal offense ticket system (M.O.T.) fine schedule, as may be amended from time to time, appearance in municipal court and if determined by the judge of said court, jail or community service.
20. **Notice of Violation.** Means a written warning issued by the Department, or the City of Daphne Code Enforcement Officer, for a violation or possible violation of this ordinance.
21. **Obstruct.** Means to place any tangible object in a right-of-way so as to hinder free and open passage over, under or through that or any part of the right-of-way.
22. **Permit Fee.** Means money charged by the City of Daphne to cover the costs as provided in Appendix A (Schedule of fees) of this ordinance.
23. **Permittee.** Means any person or company to whom a permit to construct or obstruct a right-of-way has been granted by the City.
24. **Person.** Means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have facilities/sites located in any right-of-way.
25. **Restoration.** Means the process by which a constructed or obstructed right-of-way is restored as specified in the constructed standards.
26. **Right-Of-Way.** Means the surface and space above and below any real property in which the City has an interest in law or equity, whether held in fee, or other estate or interest including easements, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, river, tunnel, viaduct, bridge, park, or any other place, area, or real property owned by or under the control of the City.

27. **Right-Of-Way Permit.** Means the permit which must be obtained before a person may construct in, or obstruct in a right-of-way as required by Section III (Right-of-way permits) of this ordinance.
28. **Service or Utility Service.** Means services provided by utilities.
29. **Sidewalk.** Means the paved pedestrian walkway between the edge of the road and the street right-of-way line.
30. **Small Project (Type A).** Means the installation of equipment cabinets, junction boxes, terminal boxes, splice boxes, regulator stations, meters and valves in paved areas, utility poles, guy poles and appurtenances not associated with a major or minor project.
31. **Small Project (Type B).** Means the installation, repair and routine maintenance of miscellaneous utility drop lines, overhead wires and cables, traffic signal poles, light poles, traffic signs, meters, valves and other miscellaneous construction, repair, routine maintenance and inspection, that requires minimal excavation or right-of-way disruption.
32. **Supplementary Application.** Means an application made to construct or obstruct more of the right-of-way than allowed in, or to extend, a permit that has already been issued.
33. **Trenchless Technology.** Means the use of directional boring, horizontal drilling and microtunneling and other techniques in the construction of underground portions of facilities which result in the least amount of disruption and damage to right-of-way as possible.
34. **Underground Facilities.** Means all lines, cables, conduits, posts, tanks and any other facilities owned or operated by persons other than the City which are located wholly or partially underneath right-of-way.
35. **Utilities.** Means any water, sewer, gas, drainage, irrigation or culvert pipe and any electric power, telecommunication, signal, communication, or cable television conduit, fiber / fiber optic, wire, cable, or operator thereof.

SECTION II. RIGHT OF WAY ADMINISTRATION

A. Administration. The City of Daphne Public Works Director shall be the principal City official responsible for the administration of the right-of-way, right-of-way permits, and the ordinances related thereto. The Public Works Director may amend from time to time, construction standards and other rules reasonable required to carry out the purposes of this ordinance. Any requirement not specifically covered by this ordinance or the construction standards shall be determined by the Public Works Director. The Public Works Director may delegate any or all of the duties hereunder.

B. Appeal Procedure. The Public Works Director may grant a special exception to the requirements of this ordinance if a permittee demonstrates, with written evidence, that:

1. The exception will not create any threat to public health, safety or welfare.
2. The permittee demonstrates that the increased economic burden and the potential adverse impact on the permittee's construction schedule resulting from the strict enforcement of this ordinance actually, or effectively, prohibits the ability of the permittee to provide utility services in the City.
3. The permittee demonstrates that the requirement unreasonably discriminates against the permittee in favor of another person.

C. Should any person be aggrieved by the decision of the Public Works Director, such person may appeal by filing written notice with the Public Works Department within fifteen(15) days from the date of such decision. The Department shall send a copy of the appeal and all relevant Documentation, within fifteen(15) days, to the City Clerks Office to be Considered by the City Council at a public hearing.

SECTION III. RIGHT-OF-WAY PERMITS

A. Permit requirements.

1. Except as otherwise provided in this ordinance, no person may construct or obstruct any right-of-way without first having obtained one of the following right-of-way permits from the Public Works Department.
 - a) Major Project;
 - b) Minor Project;

- c) Small projects;
 - 1) Type A;
 - 2) Type B; or

d) Landscape

2. Right-of-way permit. A right-of-way permit is a permit which allows the holder to construct, obstruct, or landscape in that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein. A permit is valid only for the date(s) and the area(s) of right-of-way specified in the permit. No person may construct in or obstruct the right-of-way beyond the date or dates specified in the permit unless such person:

- a) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and
- b) A new permit or permit extension is granted.

However, if no work is initiated within six months or if the project lies dormant for a period of thirty(30) calendar days after being started, the Permit is rendered invalid.

3. Emergencies. When the work must commence immediately because of an emergency, the permittee shall comply with the provisions in subsection V, B, 1.

4. Exemptions. No permits shall be required for the following activities:

a) Installation and repair of facilities by, or for, City of Daphne Departments; and

b) Installation of landscaping materials which are, or may grow, to a height of not more than eighteen(18) inches.

5. Permit authorizing routine work. Applicants may be allowed, if determined by the Public Works Department, to obtain in advance, an annual, quarterly or semi-annual permit for minor projects outside roadway limits and some small projects that involve minimal excavation. Permit fees shall be calculated as an estimate of similar work conducted over the past twelve months.

B. Permit applications. Application for a permit is made to the Public Works Director.

1. All permit applications shall contain, and will be considered complete only upon compliance with the requirements of the construction standards, as appropriate.

a) Tree and landscaping requirements of this article shall be administered and enforced by the Director of Community Development, in cooperation with the Director of Public Works.

C. Issuance of permit; conditions.

1. If the Director of Public Works determines that the applicant has satisfied the requirements of this ordinance, he may issue a permit or issue notification and reason for denial of same.

2. The Director of Public Works may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder in order to protect the public health, safety and welfare, to insure the structural integrity of the right-of-way, to protect the property of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public, including notification to property owners.

D. Permit fees.

1. Permit fees shall be established by the City Council upon recommendation by the Director of Public Works. Said fees shall be in an amount sufficient to recover the following costs:

a) The City costs, including administration, inspection, and enforcement; and

b) The cost for obstructing the right-of-way, including costs associated with traffic management that results from street obstruction, lost tax revenues resulting from streets blocked and as an encouragement to minimize costs and to encourage timely, efficient use of the right-of-way.

c) The current schedule of permit fees is set forth in Appendix A to this article.

2. Payment of permit fees. No permit shall be issued without payment of such fees unless the Public Works Director authorizes payment to be made thirty (30) days following billing. All changes in fees shall be approved by the City Council.
3. Nonrefundable fees. All permit fees are nonrefundable.
4. Joint applications. Applicants are encouraged to make joint applications for permits to construct or obstruct the right-of-way at the same place and time.

SECTION IV. CONSTRUCTION; RESTORATION

A. Compliance with construction standards. All construction or maintenance of facilities shall be in accordance with this ordinance, the construction standards and such other conditions imposed on the permit by the Public Works Director under Section III, C.

B. Location of facilities. The Public Works Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests or permittees to occupy and use the right-of-way. In making such decisions, the Public Works Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of public interest, the public's need for the particular utility service, the condition of the right-of-way, the protection of existing facilities/sites in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

C. Least disruptive technology. Applicants are encouraged to perform construction and maintenance of facilities in a manner resulting in the least amount of damage and disruption of the right-of-way. Applicants will be required to use trenchless technology for major and minor construction projects, within roadway limits, in arterial and other high volume streets constructed or resurfaced within the last five (5) years, unless otherwise approved by the Director of Public Works and such approval shall not be unreasonably withheld. The Director of Public Works may require trenchless technology in other locations, where extreme circumstances prevent or make open cut methods impractical. Applicants may use the open cut method or trenchless technology for major and minor projects outside roadway limits.

D. Right-of-way restoration.

1. The work to be done under the permit, and the restoration of the right-of-way as required herein, must be completed within the dates specified in the permit. In addition to its own work, the permittee must restore the general area of the work, including all disturbed landscaping materials and the permitted areas, including the paving and its foundations, per the City of Daphne construction standards.
2. The permittee shall perform the work according to the standards and with the materials specified by the City of Daphne Public Works Director including but not limited to the construction standards.
3. By restoring the right-of-way, the permittee guarantees its work for twenty-four (24) months following its completion. During this twenty-four month period, the permittee shall, upon notification from the Public Works Director, correct all restoration work to the extent necessary using the method required by the Director. Said work shall be completed within the time frame specified by the Director of Public Works.

E. Installation requirements. The excavating, backfilling, restoration, and all other work performed in the right-of-way shall be done in conformance with specifications set forth in the construction standards.

F. Inspection. Except for routine work, when the work under any permit for major and minor projects hereunder is completed, the permittee shall notify the Public Works Director.

1. Permittee shall make the work site available to the Public Works Director or his authorized representative and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the work.
2. At the time of the inspection, the Director of Public Works or his authorized representative may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well being of the public.

3. The Director of Public Works or his authorized representative may issue a notice of violation to the permittee for any work which does not conform to the applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for issuance of a Municipal Offense Ticket (M.O.T.) and/or a stop work order. Within the time frame indicated on the notice after issuance of the order, the applicant shall present proof to the Director of Public Works that the violation has been corrected. If such proof has not been presented within the required time, the Director of Public Works may issue a stop work order and/or have a Municipal Offense Ticket (M.O.T.) issued.

G. Other obligations. Obtaining a right-of-way permit does not relieve the permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other city, county, state, or federal rules, laws or regulations.

1. A permittee shall comply with all requirements of local, state and federal laws, including a franchise duly adopted by the City Council. Contact shall be made to the one call excavation notice system, Alabama Statutes @ 1-800-292-8525, or such other number which may be applicable.
2. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who performs the work.
3. Except in the case of an emergency, and with the approval of the Director of Public Works, no right-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work.
4. A permittee shall not so obstruct a right-of-way that the natural and free passage of water through the gutters or other waterways shall be interfered with.
5. Private vehicles not owned by or under contract to permittee may not be parked within or adjacent to a permit area.

SECTION V. ENFORCEMENT OF PERMIT OBLIGATION

A. Denial of permit.

1. **Mandatory denial.** Except in the case of emergency, no right-of-way permit will be granted:

a) To any person who has failed to comply with the requirements of this article;

b) To any person who is delinquent in paying a debt owed to the City;

c) If, in the discretion of the Director of Public Works, the issuance of a permit for the particular date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event. The Director of Public Works, in exercising this discretion, shall be guided by the safety and convenience of ordinary travel of the public over the right-of-way, and by considerations relating to the public health, safety and welfare.

2. **Permissive denial.** The Director of Public Works may deny a permit in order to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the rights-of-way and its users. The Director of Public Works may consider one(1) or more of the following factors:

a) The extent to which the right-of-way space where the permit is sought is available;

b) The competing demands for the particular space in the right-of-way;

c) The availability of other locations in the right-of-way or in other right-of-way for the facilities of the particular company;

d) The applicability of other ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;

e) The degree of compliance of the applicant with the terms and conditions of its franchise, this ordinance, and other applicable ordinances and regulations; the degree of disruption to surrounding neighborhoods and businesses that will result from the use of that part of the right-of-way; and

f) The condition and age of the right-of-way, and whether and when it is scheduled for total or partial construction; and the balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the expansion into additional parts of the right-of-way.

B. Work done without a permit.

1. Emergency situations. Each permittee shall notify the Director of Public Works (by telephone or in person) of any event regarding its facilities which it considers to be an emergency immediately upon its discovery of same. The applicant may proceed to take whatever actions are necessary in order to respond to the emergency. Within one(1) business day after the occurrence of the emergency, the applicant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this ordinance for the actions it took in response to the emergency.
2. In the event that the Director of Public Works becomes aware of an emergency regarding a permittees' facilities/site, the Department shall attempt to contact the local representative of each permittee affected, if known, or potentially affected, by the emergency, who must comply with subsection b) 1. of this section. In any event, the Department may take whatever action deemed necessary in order to respond to the emergency.
3. Non-emergency situations. Except in the case of an emergency, any person who obstructs or excavates a right-of-way without a permit must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by City Codes, is subject to the issuance of a notice of violation and/or a Municipal Offense Ticket (M.O.T.), deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all requirements of this article.

C. Enforcement.

1. Permittee's hold permits issued pursuant to this ordinance as a privilege and not as a right.
2. If the Director of Public Works determines that the permittee has violated a material term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the Director of Public Works shall issue a notice of violation to the permittee to remedy such violation. The demand shall state that continued violations may cause for the issuance of a stop work order and issuance of a Municipal Offense Ticket (M.O.T.). Further, a substantial breach, as stated above, will allow the Director of Public Works, at his or her discretion, to place additional or revised conditions on the permit.
3. A material violation by permittee shall include, but shall not be limited to, the following:
 - a) The violation of any material provision of the permit;
 - b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
 - c) Any material misrepresentation of fact in the application for a permit;
 - d) The failure to maintain the required bonds and/or insurance;
 - e) The failure to complete the work within a timely manner; or
 - f) The failure to correct a condition indicated on an order issued pursuant to Section IV, F.
3. Within forty-eight (48) hours of receiving a notice of violation, permittee shall contact the Director of Public Works with a plan, acceptable to the Director of Public Works, for its correction. Permittee's failure to so contact the Director of Public Works, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate issuance of a stop work order and issuance of a Municipal Offense Ticket (M.O.T.).

4. From time to time, the Director of Public Works may establish a list of conditions of the permit that will automatically warrant the issuance of a Municipal Offense Ticket (M.O.T.) to the permittee.

SECTION VI. INDEMNIFICATION AND LIABILITY

A. The City does not accept liability. By reason of the grant of a right-of-way permit, the City does not assume any liability:

1. For injuries to persons, damage to property, or loss of service claims by parties other than the applicant or the City; or
2. For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of facilities by permittees or activities of permittees.

b) Applicant or permittee indemnifies the City. By accepting a permit, a permittee is required to, indemnify and hold the City whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its facilities/site, or out of any activity undertaken in or near a right-of-way, whether any act or omission complained of is authorized, allowed, or prohibited by a right-of-way. It further agrees that it will not bring, nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the City for any claim nor for any award arising out of the presence, installation, maintenance or operation of its facilities/site, or any activity undertaken in or near a right-of-way, whether the act or omission complained of is authorized, allowed or prohibited by a permit. The foregoing does not indemnify the City for its own negligence. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the applicant or to the City; and the applicant, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert on its own behalf.

c) Exceptions. The provisions of subsection (b) of this section shall not apply to a permittee that has, as effective date of this ordinance, a valid franchise duly granted by the City, and said franchise requires the permittee to hold harmless the City for damages occasioned by the presence, operations or maintenance of the permittee's facilities/site. This exemption shall not apply where said franchise does not afford the City at least the level of protection stated in section (b) of this section, unless the permittee agrees to provide the same or greater level of protection to the City.

SECTION VII. PENALTY.

A. Any person found guilty of violating any provision of this Ordinance shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment for a period not exceeding six (6) months, or both, in the discretion of the Municipal Judge.

B. This Ordinance shall also be subject to enforcement by the issuance of a summons and complaint pursuant to the provisions of Ordinance No. 1993-02, as the same may be from time to time amended.

SECTION VIII. NON-EXCLUSIVITY

The remedies provided in this ordinance are not exclusive or in lieu of other rights and remedies that the City may have at law or in equity. The City is hereby authorized to seek legal and equitable relief for actual or threatened injury to the public right-of-way, including damages to the right-of-way, whether caused by a violation of any of the provisions of this chapter or other provisions of this ordinance.

SECTION IX. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

SECTION X. REPEALER

Any Ordinances or parts of Ordinances conflicting with the provisions of this Ordinances are hereby repealed insofar as they conflict.

SECTION XI. EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of Daphne and publication as required by law.(b) Severability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF DAPHNE, ALABAMA,
ON THE 21st DAY OF June, 2004.

CITY OF DAPHNE


E. HARRY BROWN, MAYOR

ATTEST:


DAVID COHEN, CITY CLERK, MMC

**APPENDIX A
SCHEDULE OF FEES**

RIGHTS-OF-WAY AND EXCAVATION PERMIT FEES

Description	Permit Fee
Longitudinal and traverse excavation for major utility projects (paved areas)	\$0.50 per L.F. (minimum fee \$100.00)
Longitudinal and traverse excavation for major utility projects (unpaved areas)	\$0.10 per L.F. (minimum fee \$25.00)
Longitudinal and traverse excavation for point repairs, service	\$15.00 per square yard
Lines, storm drains, manholes, etc. (paved areas) and excavation for utility construction, point repairs (unpaved areas)	\$6.00 per square yard
Boring and jacking operations, tunneling, retrofitting of existing utility lines, (pipe lining), etc. Irrigation systems (paved areas)	\$0.40 per L.F. (minimum fee \$25.00)
Utility poles (new installation) including guy and anchor	\$2.00 per pole
Communication towers (new installation)	\$25.00 per tower
Terminal boxes, junction boxes, equipment cabinets, splice boxes, regulator stations, meters & valves in paved areas, vaults	\$5.00 each
Sidewalk, driveway, curb, gutter (new construction, replacement and repair):	
0 sq. yds. to 2 sq. yds.	\$10.00
2 sq. yds. to 25 sq. yds.	\$30.00
25 sq. yds. to 100 sq. yds.	\$40.00
100 sq. yds. to 500 sq. yds.	\$50.00
500 sq. yds. or greater	\$60.00
Steps	\$50.00 per location
Monitoring wells	\$50.00 each
Temporary pedestrian walkway	\$50.00 per location
Balconies, Canopies	\$10.00 per location

Note: Applicants may be allowed, if determined by the Department to obtain, in advance, an annual, quarterly, or semi-annual permit for minor projects outside roadway limits and some small projects that involve minimal excavation. Permit fees shall be calculated as an estimate of similar work conducted over the past twelve (12) months.

No fee/permit shall be required for replacing existing poles of similar size or routine inspection.

*****Please note: all fees are non-refundable*****

OBSTRUCTION FEES

The following conditions shall apply in determining obstruction fees:

1. The obstruction of commercial pedestrian walkways will be charged at the rate of five dollars (\$5.00) per calendar day for each twenty (20) linear feet of length.
2. Fees will not be charged for obstruction of less than eight(8) hours.

APPENDIX B
CONSTRUCTION STANDARDS FOR MISCELLANEOUS
CONSTRUCTION UTILITY EXCAVATION, AND
RIGHT-OF-WAY AND PAVEMENT RESTORATION

SECTION I. CONSTRUCTION PLAN SUBMITTAL REQUIREMENTS WITHIN
PUBLIC RIGHT-OF WAYS AND EASEMENTS

A. Major projects.

1. Major projects within roadway limits:

a) Construction plan submittal. Applicants for right-of-way permits shall submit three (3) sets of construction plans and specifications, including the following information, for review and approval:

1) The location of all topographic features affected by the project within the right-of-way.

b) Complete plan & profile sheets indicating the horizontal and vertical location of all components of the proposed project and other related information including, but not limited to, pipe and manhole flow line elevations, type and size of pipe, and other related structures, profile and other elevations necessary for roadway and right-of-way restoration, and the design details of the proposed construction and pavement and right-of-way restoration will be required for gravity flow systems including sanitary sewer, storm drain and related projects.

Note: Complete plan & profile sheets and other information currently required for gravity flow systems will be required for projects submitted after future ordinance amendment to include provisions for implementation of GIS mapping requirements.

c) A plan indicating the location of the proposed project with respect to the centerline, edge of road, and right-of-way, tie-in to nearest street intersection, components and material type used, and dimensions and depth of the proposed installation, will be required for non-gravity flow systems including water distribution systems, gas systems, communication, cable TV and electric power distribution systems, unless otherwise authorized by the Director of Public Works.

d) An erosion control plan and best management practices (BMP's) complying with provisions of the City Stormwater Management Ordinance.

e) A safety plan to include methods to be used to protect the general public from injury, and including the proposed use of barricades,

signs, lights, fencing and other barriers.

f) A traffic control plan complying with all of the provisions of the Federal Manual on Uniform Traffic Control Devices, current edition, shall be submitted to the Director of Public Works.

g) A landscape plan complying with the tree landscaping and protection ordinance; and

h) Complete as-built construction plans of the construction project shall be submitted to the Director of Public Works, after final inspection of the project. The as-built plans shall be submitted in hard copy medium as well as CAD files in DXF Format.

2. Major projects outside roadway limits:

a) Construction plan submittal. Applicants for right-of-way permits shall submit three (3) sets of construction plans & specifications, including the following information for review and approval:

The location of all visible topographic features within the right-of-way that will be impacted by the proposed project.;

b. anchor;

c. Complete plan and profile sheets indicating the horizontal and vertical location of all components of the proposed project and other related information including, but not limited to, pipe and manhole flow line elevations, type and pipe size, and other related structures, profile and other elevations necessary for right-of-way restoration and the design details of the proposed construction, including the right-of-way restoration will be required for gravity flow systems including sanitary sewer, storm drain and related projects.

Note: Complete plan & profile sheets and other information currently required for gravity flow systems will be required for projects submitted after ordinance amendment to include provisions for the implementation of GIS mapping requirements.

d) A plan indicating the location of the proposed project with respect to the centerline, edge of road, and right-of-way, tie-in to nearest street intersection, components and type of material used, and dimensions and depth of the proposed installation, will be required for non-gravity flow systems including water distribution systems, gas systems, communication, cable TV and electric power distribution systems, unless otherwise authorized by the Director of Public Works.

e) An erosion control plan with best management practices (BMP's) complying with the City's Stormwater Management Ordinance.

f) A safety plan to indicate methods to be used to protect the general public from injury, and including the proposed use of barricades, signs, lights, fencing and other barriers.

g) A traffic control plan complying with all the provisions on the Manual on Uniform Traffic Control Devices, current edition, shall be submitted to the Director of Public Works, if any roadway is affected.

h) A landscape plan complying with the tree landscaping and protection ordinance; and

i) Complete as-built construction plans of the construction project shall be submitted to the Director of Public Works, after final inspection of the project. The as-built plans shall be submitted in hard copy form and CAD files in DXF Format.

B. Minor projects.

1. Minor projects within roadway limits.

a) Construction plan submittal. Applicants for right-of-way permits shall submit a plat of the proposed project including the following information:

1) A plat prepared at a scale acceptable to the Director of Public Works to indicate the plan view of the proposed project, location with respect to centerline, edge of roadway, and right-of-way, tie-in to nearest street subdivision lot corner or street intersection, components and type of material used for the project, and dimensions and depth of proposed installation.

2) An erosion control plan with best management practices (BMP's) complying with provisions of the City's Stormwater Management Ordinance.

3) A safety plan to indicate methods to be used to protect the general public from injury, and including the proposed use of barricades, signs, lights, fencing and other barriers.

4) A traffic control plan complying with all the provisions of the Manual on Uniform Traffic Control Devices, current edition, shall be submitted to the Director of Public Works, if any roadway traffic is affected; and

5) Complete as-built construction plans of the construction project shall be submitted to the Director of Public Works, after final inspection of the project. As-built plans shall be submitted in hard copy medium and CAD files in DXF Format.

2. Minor projects outside roadway limits.

a) Construction plan submittal. Applicants for right-of-way permits shall submit a plat of the proposed project including the following information:

1) A plat prepared at a scale acceptable to the Director of Public Works to indicate a plan view of the proposed project, location with respect to edge of roadway, centerline, and right-of-way, tie-in to nearest subdivision lot corner or street intersection, components and type of material used, dimensions and depth of proposed excavation.

2) An erosion control plan with best management practices (BMP's) complying with the City's Stormwater Management Ordinance.

3) A safety plan to indicate methods to be used to protect the general public from injury, and including the proposed use of barricades, signs, lights, fencing and other barriers.

4) A traffic control plan complying with all the provisions of the Manual on Uniform Traffic Control Devices, current edition, shall be submitted to the Director of Public Works, if any impact on traffic movement is involved.

5) A landscape plan complying with the tree landscaping and protection ordinance.

6) Complete as-built construction plans of the construction project shall be submitted to the Director of Public Works, after final inspection of the project. The as-built plans shall be submitted in hard copy medium and CAD files in DXF Format.

C. Small projects. The applicant will not be required to submit a construction plan or plat for small projects. However, a location sketch will be required for the approval of small projects (Type A). Any pavement or areas in the right-of-way that is disturbed, shall be restored in conformance with sections 6 and 7 of this ordinance.

SECTION II. BOND REQUIREMENTS

A. Construction bond. The applicant shall be required to provide an irrevocable, unconditional letter of credit or bond to guarantee the proper construction and completion of right-of-way restoration. The amount of the bond shall be based on the estimated cost of the right-of-way restoration provided by the permittee and approved by the Director of Public Works. A construction bond will not be required for small projects if no paved area or right-of-way is disturbed by the project. The Director of Public Works may waive the requirement for the construction bond for permittees who evidence financial ability to pay

the cost of the repairs to City rights-of-way resulting from their permittee activity.

B. City Departments performing installation of facilities/sites, routine maintenance and repair, and other agencies working in the right-of-way that are not involved in the installation, repair and maintenance of utilities, are exempt from the requirements of section 2.

SECTION III. NOTIFICATION PROCEDURES FOR MAJOR AND MINOR PROJECTS

A. Except for emergencies, the following notification procedures will be followed for major & minor projects, prior to the commencement of any construction activities:

1. The one call line location center will be notified forty-eight (48) hours prior to any excavation. The location of all utilities shall be verified before commencing construction.
2. The Director of Public Works shall be notified twenty-four (24) hours prior to commencing any construction activity involving major and minor projects within roadway limits.
3. The Public Works Director will be notified seventy-two (72) hours prior to the closure of any roadway or interruption in traffic flow.
4. A written notice will be distributed to each occupant of premises adjacent to the project site five (5) days prior to commencing construction activity relating to major projects.

SECTION IV. INSPECTION

A. City engineering department personnel will conduct periodic inspections of utility construction, right-of-way and pavement restoration. The contractor will schedule a final inspection for major & minor projects when construction is complete.

SECTION V. TRENCH EXCAVATION AND GENERAL UNDERGROUND CONSTRUCTION REQUIREMENTS FOR MAJOR AND MINOR PROJECTS

A. Excavation.

1. Trench excavating methods (trench box, shoring, etc.) shall be used to keep the width of the trench to a minimum. Extra wide excavation to accommodate equipment will not be permitted. Sheeting, bracing, shoring, pre-fabricated steel trench boxes and other trench restraint system will be used to keep trench width to a minimum and to comply with OSHA regulations.
2. Hazardous materials. The applicant will comply with all federal, state

and local laws, regarding hazardous material. For purposes of this section, hazardous material shall mean any material, substance or waste which, because of its quantity, concentration, or physical or chemical characteristics, is deemed to pose a present or potential hazard to human health, safety or to the environment.

3. Utility construction. The construction of utilities will be conformance with the plans which constitute a part of the permit approval process.

A. Depth requirements for underground installation:

1) Within roadway limits. The minimum clear depth for open cut installation, and jacking, boring,, and pushing operations shall be thirty-six(36) inches, unless otherwise authorized or directed by the Director of Public Works.

2) Outside roadway limits and driveways. The minimum clear depth for open cut installation and jacking, boring, and pushing operations shall be thirty (30) inches, unless otherwise authorized or directed by the Director of Public Works.

4. Housekeeping and excavated material. The permittee shall keep the area surrounding the excavation clean (including trash, loose materials or other debris).

B. Backfill material.

1. Backfill material for major projects will be select granular soil material approved by the geotechnical engineering company or the Director of Public Works. Excavated material from the trench will not be used unless approved. Material excavated from utility poles, guy wire installation, replacing existing poles and routine pole inspections may be used for backfill.

2. Backfill material for minor projects within the roadway shall be comprised of crushed stone material up to subgrade elevation, unless otherwise approved by the Director of Public Works. Backfill material for other areas will be select granular soil material approved by a geotechnical engineering company or the Director of Public Works.

3. Installation of backfill material:

a) Backfilling of the excavated area shall follow closely behind the installation project.

b) The backfill material shall be compacted at near optimum moisture content, in layers not exceeding six (6) inches compacted thickness, to a density of not less than ninety-five (95) percent, unless otherwise

approved by the geotechnical company. Mechanical tampers shall be used unless another method of compaction is approved. Jetting will not be permitted. The backfill material shall be installed uniformly and brought up evenly in layers for the full length of the trench.

4. Geotechnical testing and compaction for major & minor projects.
 - a) Major projects. A geotechnical engineering company will perform compaction tests at intervals of no more than 200 feet along the main trench line. Tests will be conducted at the installation of service lines within these limits where directed by the Director of Public Works or a contracted City engineer. The geotechnical engineering company will perform tests at as many levels of backfill installation, and at lateral locations to certify that compaction requirements have been achieved. Documented test reports will be prepared and submitted to the Director of Public Works and the contracted City engineer before any right-of-way restoration proceeds.
 - b) Minor projects. Compaction tests may be requested for minor projects at specific locations. In-house geotechnical engineers may be employed for performing compaction tests for minor projects.
5. General public safety: Every effort will be taken by the contractor to protect the safety and welfare of the general public, and to insure compliance with the safety and traffic plans submitted with the permit application.
6. Steel plates may be required by the Director of Public Works, in congested or heavily traveled areas, to cover open trenches. Temporary patching will be required for any trench excavation in the roadway prior to opening the area to traffic. The Director of Public Works may also require the temporary covering of any excavated area that will be left open overnight, if he so deems that not covering the excavated area will present a threat to public safety or health.
7. For major projects a construction sign will be placed adjacent to the utility construction area where traffic flow is to be obstructed. The signs will be placed seventy-two (72) hours prior to construction, at least every five hundred (500) feet along the project. The name of the utility/company involved and phone numbers that may be contacted on a twenty-four hour basis to be shown on the sign(s).

SECTION VI. RIGHT-OF WAY RESTORATION WITHIN ROADWAYS

A. All construction procedures and materials utilized will be in compliance with Alabama Department of Transportation Standard Specifications for Highway Construction, current edition. A geotechnical engineering company will be retained by the utility/company or permittee, to conduct field testing to document and certify that all materials and compaction efforts are in compliance with Alabama Department of Transportation Standard

Specifications for Highway Construction, latest edition and procedures specified in the City engineering department's design details for right-of-way restoration.

B. Major projects.

1. Asphalt road surface.
 - a) Base construction.
 - 1) Granular soil, sandy clay base. The base course of the affected lanes shall be reconstructed full width.
 - 2) Bituminous base, stone base. The base course of the affected lanes be patched with equivalent base material if the structural integrity of the roadway has not been affected by the project, as determined by the geotechnical engineering company. Otherwise, the affected lanes shall be reconstructed full width.
 - b) Wearing surface. The full width of the roadway surface shall be resurfaced within the limits of the project. Existing traffic striping and markings will be replaced.
2. Asphalt roadway surface overlay on existing concrete pavement.
 - a) Base construction. The existing concrete street may be patched with concrete, if the structural integrity of the roadway has not been affected by the project, as determined by the geotechnical engineering company. Otherwise, the affected panels of the existing concrete street shall be reconstructed.
 - b) Wearing surface. The full width of the roadway surface shall be resurfaced within the limits of the project. Existing traffic striping and markings will be replaced.
3. Concrete roadway surface.
 - a) Base construction. The base course of the affected lanes shall be reconstructed full width as determined by the geotechnical engineering company.
 - b) Concrete pavement. The entire roadway panel sections of the affected lanes shall be reconstructed. If the structural integrity of the roadway has been significantly affected by the project, the Director of Public Works may require the entire concrete surface, within the project limits, be reconstructed full width. Existing traffic striping and markings will be replaced.
4. Unpaved roadway surface. The entire roadway shall be surfaced with six (6) inches of stone within project limits.

B. Minor projects.

1. Asphalt roadway surface sixteen (16 square) feet or greater. For transverse service lines and miscellaneous installation and repair projects within excavated areas sixteen (16) square feet or greater, the entire width of the lane disturbed will be resurfaced from a point measured five (5) feet from the edge of the excavation each way longitudinally along the centerline of the roadway. If more than one (1) lane is disturbed, the entire width of the disturbed lanes will be resurfaced. If the replacement pavement is more than seventy (70) feet long or more than ten (10) percent of the roadway area within a block is affected, the entire roadway will be resurfaced within the block. Existing traffic striping and markings will be replaced.
2. Asphalt roadway surface less than sixteen (16) square feet. For miscellaneous construction involving excavated areas less than sixteen (16) square feet, the area from the edge of the excavation extending one (1) foot outside the perimeter of the cut area will be resurfaced. If more than one (1) lane is disturbed, the entire width of the disturbed lanes will be resurfaced. If the replacement pavement is more than seventy (70) feet long or more than ten (10) percent of the roadway area within a block is affected, the entire roadway will be resurfaced within the block. Existing traffic striping and markings will be replaced.
3. Concrete roadway surface. The entire affected roadway panel sections, including base course, will be reconstructed joint to joint. Existing traffic striping and markings will be replaced.
4. Unpaved roadway surface. The entire roadway width will be resurfaced with six (6) inches of stone from a point five (5) feet measured longitudinally along the roadway from the center of the excavation each way.

C. Jacking, boring, pushing, tunneling, retrofitting and pipe lining projects. Any pavement damage caused by these types of projects will be restored in conformance with provisions of sections 5, 6 & 7 of this ordinance. Any existing pavement damage relating to the replacement, retrofitting, or pipe lining of damaged utilities will be restored in conformance with sections 5, 6 & 7 of this ordinance.

**SECTION VII. RIGHT-OF-WAY AND EASEMENT RESTORATION
OUTSIDE ROADWAY AREAS**

A. Driveways.

1. Asphalt.
 - a) Asphalt driveways affected by the construction project shall be Replaced from the right-of-way line to the curb or edge of road.

b) Construction of asphalt driveways will comply with Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 416.

2. Concrete.

a) Construction of concrete driveways affected by the construction project shall be replaced to the nearest control joint.

b) Construction of concrete driveways will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 618.

B. Concrete sidewalks.

1. Concrete sidewalks affected by the construction project shall be replaced to the nearest control joint in the affected construction area. Joints will be sawed unless at an expansion joint.

2. Construction of sidewalks will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 618.

C. Curb and gutter.

1. Concrete curb and gutter, affected by the construction project, will be replaced from joint to joint in the affected area.

2. Concrete curb and gutter construction will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 623.

D. Miscellaneous structures.

1. All walls, steps, and other miscellaneous structures, affected by the construction, will be replaced as required by the Director of Public Works.

E. Drainage systems and structures.

1. All disturbed drainage channels, structures, and pipe systems affected by the construction will be replaced as required by the Director of Public Works.

F. Unpaved areas.

1. All established lawn areas, affected by the construction project, will be replaced with similar landscaping materials which were existing prior to the project construction beginning, or upgraded at the discretion of the Director of Public Works. Other areas will be restored with approved topsoil replacement, and or sodding or seeding.

2004-23 Ordinance ROW adopted
June 21, 2004

Chapter 18

STREETS AND SIDEWALKS*

Article I. In General

- Sec 18-1 Accommodation of utilities on roads and streets.
- Sec. 18-2. Operation of motor-driven vehicles upon sidewalks
- Secs 18-3--18-20. Reserved

Article II. Right-of-Way

- Sec 18-21. Definitions.
- Sec. 18-22. Right-of-way administration.
- Sec. 18-23. Right-of-way permits
- Sec. 18-24. Construction; restoration.
- Sec 18-25. Enforcement of permit obligation.
- Sec. 18-26. Indemnification and liability.
- Sec. 18-27. Penalty.
- Sec. 18-28. Nonexclusivity.
- Sec 18-29. Schedule of fees.
- Sec. 18-30. Construction standards for miscellaneous construction utility excavation, and right-of-way and pavement restoration.

*Cross references--Restoration of surface, §§ 12-20(3), 12-23(3); consent required for use of streets, § 13-9

ARTICLE I. IN GENERAL

Sec. 18-1. Accommodation of utilities on roads and streets.

The city council hereby formally adopts the state highway department standards for accommodating utilities on highway rights-of-way as standards (as written and future amendments thereto) for use by the city for accommodating utilities on roads and streets under the jurisdiction of the city, on those roads and streets which have or will involve the expenditure of state or federal highway funds.

(Ord. No. 1971-1, § 1, 7-6-71)

Sec. 18-2. Operation of motor-driven vehicles upon sidewalks.

(a) *Unlawful.* It shall be unlawful for any person to drive a motorcycle, moped, golf cart, or any other motor-driven vehicle upon any sidewalk within the City of Daphne.

(b) *Exceptions.* This section shall not prohibit the operation of motor-driven wheelchairs or any other device used by handicapped persons within the City of Daphne, nor shall it apply to any police or law enforcement officer during the discharge of his or her official duties.

(c) *Enforcement.* This section shall be subject to enforcement according to the Daphne Municipal Offense Ticket Ordinance, Ordinance No. 1998-33, which ordinance is incorporated by reference.

First violation shall be punishable by a fine of ten dollars (\$10.00), plus applicable court cost.

Second violation shall be punishable by a fine of twenty dollars (\$20.00), plus applicable court cost.

(Ord. No. 1999-05, §§ I—III, 3-1-99)

Secs. 18-3—18-20. Reserved.

ARTICLE II. RIGHT-OF-WAY

Sec. 18-21. Definitions.

For the purpose of this article the following terms, phrases, words and their derivations shall have the meaning given herein. When not incon-

sistent with the context the words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely derivative.

Applicant. Any person or entity requesting permission to obstruct or construct in a City of Daphne right-of-way.

City. The City of Daphne, Alabama.

Code enforcement officer. Any person authorized by the City of Daphne to enforce the codes of the city and issue municipal offense tickets for violations thereof.

Construct. To excavate, repair, rehabilitate, maintain, and install sanitary sewers, water mains, fire hydrants, valves, meters, manholes, service lines and connections, gas mains, telephone and electrical conduit and their miscellaneous service lines and connections, telecommunications facilities cables, wires, lines, wave guides, antennas, and other equipment or facilities, pedestals, and service cabinets, poles, guy wires, storm drains, manholes, inlets, catch basins, irrigation systems, driveways, sidewalks, pavement extensions, curbs, walks, steps, building canopies, balconies, overhead walkways, and temporary detour pedestrian walkways on, above, or under any part of the rights-of-way; provided, however, that "construct" shall not mean installation, repair, rehabilitation or maintenance of facilities that do not involve excavation of any portion of the rights-of-way.

Construction bond. A bond posted to ensure proper and complete construction and/or repair of a permitted site pursuant to a permit issued by the public works department.

Construction standards for miscellaneous construction, utility excavation, right-of-way and pavement restoration. The compilation of provisions and requirements that provide the technical specifications and details for the construction of facilities in the right-of-way.

Department. The City of Daphne Public Works Department.

2.7 CLEAR ZONE

The Department intends to provide reasonable protection to motorists through adoption of a clear roadside policy and establishment of a roadside clear zone. These actions are taken to provide a motorist who leaves the travelway a reasonable opportunity to recover control of his vehicle and avoid accidents.

The clear zone is that area beside the traveled way provided for vehicular recovery. Obstacles normally are removed to provide a lateral clearance. This clearance is not a fixed, mandatory dimension. It is site specific and varies with the type of obstacle, the category of highway, the allowed speed of vehicles, the presence of horizontal curves, the steepness of roadside slopes, and other factors.

The most desirable treatment is the removal of objects from the clear zone. Where this is not practical, acceptable treatments such as making the object breakaway or shielding the object so that vehicles will not hit it should be investigated. The criteria in this document are to be applied on a site-by-site basis for individual obstacles or conditions. The appropriate clearance and treatment will be based upon an evaluation of safety, economics, and other factors pertinent to an engineering analysis. In all cases, the clearance and treatment are guidelines rather than absolute standards.

2.7.1 National Guidelines

The basis for the Department's clear-zone policy as applied to utilities within State ROW may be found in the *AASHTO Roadside Design Guide* (hereafter called the *AASHTO Roadside Guide*) and the *AASHTO Geometric Design of Highways and Streets* (hereafter called the *Green Book*). These AASHTO documents contain a comprehensive discussion of the clear-zone concept, pertinent portions of which are summarized in this document.

For a normal highway situation, the calculation process to determine the minimum clearance has been simplified. Charts and tables have been provided in the *AASHTO Roadside Guide* to assist in selecting the appropriate lateral clearances. One of these charts, [figure 2-1](#), has been selected for use in utility locations within State ROW. The figure does not dictate exact values which must always be used. Instead, the figure suggests the approximate center of a range to be considered. Engineering judgment of factors affecting the site should be applied to determine the applicable value within this range.

For horizontal curves the minimum clearance may need to exceed the values shown on [figure 2-1](#). The designer may choose to increase the clear zone width by using the expansion factors found in [table 2-1](#). The factors from the table are multiplied by the normal clear zone clearance to provide an increased clearance width. This modification is especially applicable where accident histories or site investigations show that accident potential could be significantly lessened by using the increased clear zone width and that such an increase is cost effective.

Figure 2-1 Minimum Clear Zone Distances



25 Mph = 40 Kmh

EXAMPLE # 1

1:6 SLOPE
(FILL SLOPE)
100 km/h
5000 V.P.D.

ANSWER:

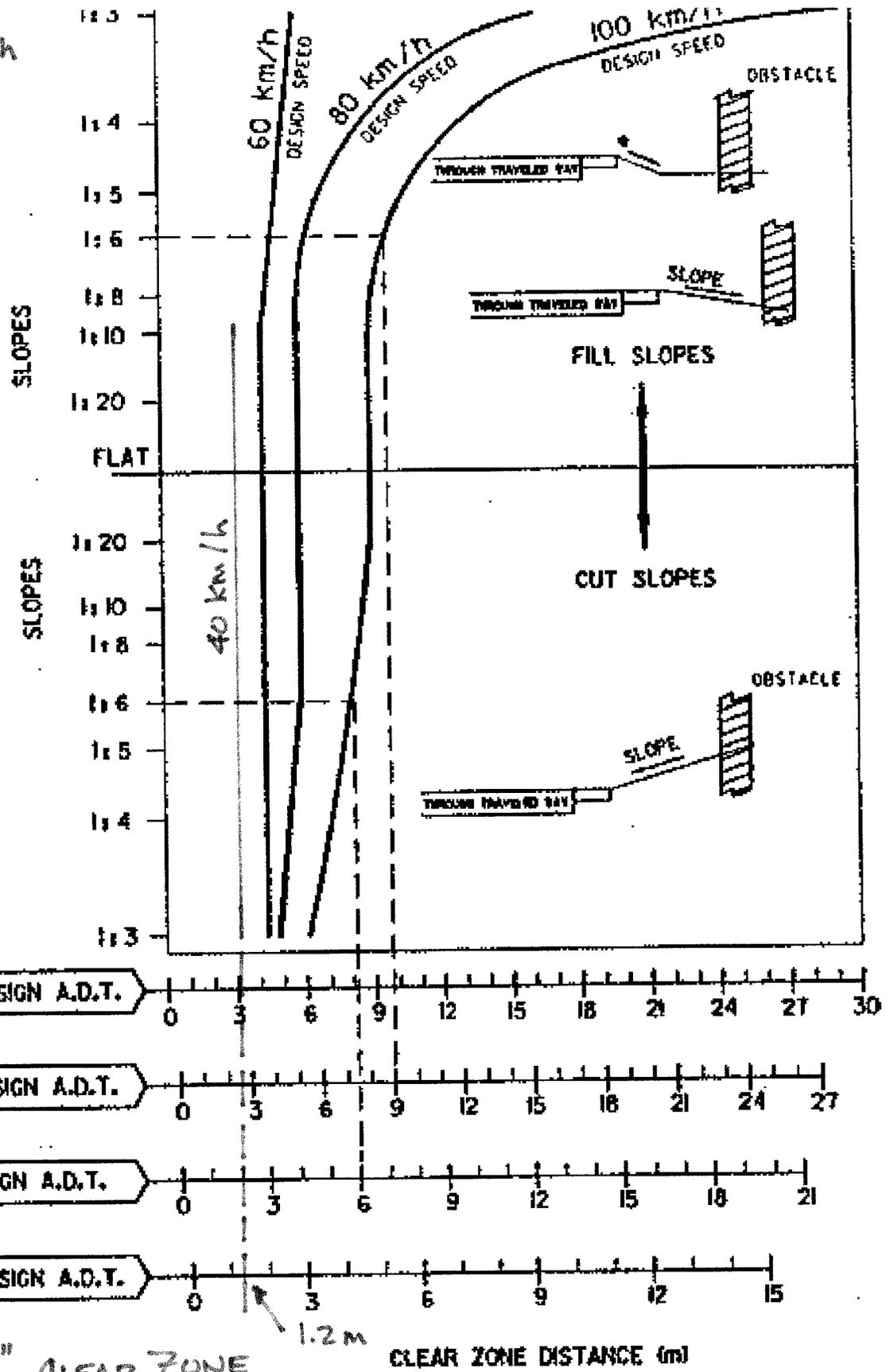
CLEAR ZONE
WIDTH = 9 m

EXAMPLE # 2

1:5 SLOPE
(CUT SLOPE)
100 km/h
750 V.P.D.

ANSWER:

CLEAR ZONE
WIDTH = 6 m



1.2m = 4'-0" CLEAR ZONE

CLEAR ZONE DISTANCE (m)

* See Section 3.3.4 of the Roadside Design Guide for discussion on variable slope determination.

**CITY COUNCIL MEETING
STANDING COMMITTEE RECOMMENDATIONS:**

FINANCE COMMITTEE REPORT

BUILDINGS & PROPERTY COMMITTEE REPORT

PLANNING/ZONING/CODE ENFORCEMENT COMMITTEE REPORT

PUBLIC SAFETY/ORDINANCE COMMITTEE REPORT

PUBLIC WORKS/BEAUTIFICATION/MUSEUM COMMITTEE REPORT

**Buildings & Property Committee Meeting
Monday, October 3, 2011 5:30 PM
Daphne City Hall**

Committee

Councilman John Lake
Councilman Derek Boulware
Mayor Fred Small
Richard Merchant, Building Official
Frank Barnett, Maintenance Supervisor
Margaret Thigpen, Civic Center Director

Committee Minutes (Summary)

Present: Councilman Derek Boulware, Councilman John Lake, Richard Johnson, Public Works Director; Frank Barnett, Maintenance Supervisor; Margaret Thigpen, Civic Center Director; Richard Merchant, Building Official; Jane Ellis, Mayor's Assistant; Michele Hanson, HR Department.

- A.) Minutes from September Meeting:** Motion made to approve minutes from September Meeting. Approved.
- B.) Council Chamber Request for Use – Michele Hanson, HR Department,** requested that the employees be able to use the council chambers in December for a retirement party for Donald Bettner which will be paid for by the employees. They will be responsible for clean up as well. Also, HR, would like to have a “wreath decorating” gathering for those employees interested in participating on their own time. **Motion was made to approve both of these events.**
- C.) Civic Center Report – Margaret** distributed her revenue comparison report for Civic Center and Bayfront facilities (attached). The Church of His Presence is using the civic center a couple of nights during the week for youth activities.
- She also reported that they had purchased class room style tables to use for business meetings. Margaret continues to meet with the hotels to partner in business and serving on the Tourism Council and they are working on a brochures and a website.
- D.) Building Department Reports – Richard Merchant** reported on the September activity (see attached). He reported on the commendation efforts and the process to condemn. First, notify the owner that property needs to be improved or condemned. If not response – notify owner that City will condemn in 30-60 days. Then a letter at that time

that the City is taking down the property. He is working on a house on Van Avenue that has a historical marker – he has to work this one a little different.

E. Old Business – Frank Barnett got quotes for fire alarms at Nicholson Center for \$9850 and Ruff Wilson Youth Club \$11,750. Our insurance company does not require we obtain the fire alarm and the building code does not require it but is recommended.

F. New Business-Bayfront Roof – would like to go with Thomas Roofing Co. using an exposed fastener metal roof for \$44,570. It is under the \$50,000 bid requirement (he got three quotes). Frank asked that we add \$5000 extra for possible replacement of decking that may be needed once the work is in progress. **Derek Boulware made motion that this request go to Finance Committee with favorable recommendation using lodging tax monies.**

Meeting Adjourned.

B & P October 2011

- **Civic Center** = 8 events; 9 days used (not including set up days); 1 cancellation = \$14,903.00 (\$2,260.00 was discounted netting \$12,643.00)
 - September Deposits = \$16,356.50
 - 2010-2011 Deposits = \$133,364.72
 - 2010-2011 Discounts = \$43,222.10

- **Bayfront** = 10 events; 10 days used (not including set up days); 1 cancellation = \$7,143.00 (\$0.00 was discounted netting \$7,143.00)
 - September Deposits = \$6,431.25
 - 2010-2011 Deposits = \$56,193.25
 - 2010-2011 Discounts = \$3,390.00

- **Upcoming Public Events** =
 - October 4-7, 2011 – Jack N Jill Children’s Clothing Sale
 - October 13, 2011 - Ducks Unlimited (ticketed event)
 - October 18, 2011 - EMA /AL Public Health Drive Thru Flu Clinic
 - October 20, 2011 - Emeril Lagasse (ticketed event)
 - October 28, 2011 - Habitat for Humanity (ticketed event)
 - November 4, 2011 – Black & White Ballroom Dance (ticketed event)
 - December 6, 2011 – Holiday Baldwin Pops (Free)
 - December 18, 2011 – Forgotten Carols Musical (ticketed event)

- **Miscellaneous**
 - Bridal Show
 - Church of His Presence - Returned
 - Rev Comparison Report

Civic Center

Month	<u>2009-2010</u>			Month	<u>2010-2011</u>			<u>2011-2012</u>	<u>2012-2013</u>	<u>2013-2014</u>
	Revenue	COHP	w/out COHP		Revenue	COHP	w/out COHP	Revenue	Revenue	Revenue
Oct	\$10,305.00	\$6,763.00	\$3,542.00	Oct	\$10,618.00	\$0.00	\$10,618.00	\$9,545.00		
Nov	\$11,633.00	\$8,100.00	\$3,533.00	Nov	\$4,727.00	\$895.00	\$3,832.00	\$6,757.50	\$1,790.00	
Dec	\$8,985.25	\$7,729.50	\$1,255.75	Dec	\$9,253.20	\$7,159.20	\$2,094.00	\$6,571.00		
Jan	\$15,499.50	\$7,295.00	\$8,204.50	Jan	\$7,423.20		\$7,423.20	\$3,580.00		
Feb	\$20,334.00	\$1,751.00	\$18,583.00	Feb	\$12,692.00		\$12,692.00	\$1,080.00		
March	\$18,268.00	\$6,479.00	\$11,789.00	March	\$16,778.95		\$16,778.95	\$2,690.00		
April	\$34,493.25	\$30,840.25	\$3,653.00	April	\$6,683.95	\$211.00	\$6,472.95	\$7,200.00		\$1,440.00
May	\$16,572.78	\$6,263.75	\$10,309.03	May	\$9,381.45		\$9,381.45	\$4,000.00		
June	\$14,677.75	\$8,918.75	\$5,759.00	June	\$13,831.95	\$125.00	\$13,706.95	\$0.00		
July	\$21,709.23	\$15,717.23	\$5,992.00	July	\$19,481.00		\$19,481.00	\$2,725.00		
Aug	\$17,885.30	\$16,395.60	\$1,489.70	Aug	\$11,129.50	\$125.00	\$11,004.50	\$895.00		
Sep	\$10,008.00	\$3,558.00	\$6,450.00	Sep	\$12,693.00	\$205.00	\$12,488.00			
TOTAL	\$200,371.06	\$119,811.08	\$80,559.98		\$134,693.20	\$8,720.20	\$125,973.00	\$45,043.50	\$1,790.00	\$1,440.00

Bayfront

Month	<u>2009-2010</u>	<u>2010-2011</u>	<u>2011-2012</u>	<u>2012-2013</u>	<u>2013-2014</u>
	Revenue	Revenue	Revenue	Revenue	Revenue
Oct	\$1,539.00	\$5,707.00	\$4,955.00		
Nov	\$2,395.00	\$2,347.00	\$1,808.00		
Dec	\$2,284.00	\$6,709.00	\$2,290.00		
Jan	\$495.00	\$2,635.00			
Feb	\$2,540.00	\$3,881.00	\$460.00		
March	\$3,164.00	\$3,088.00	\$765.00		
April	\$2,944.00	\$6,365.00	\$380.00		\$280.00
May	\$5,931.00	\$4,786.00	\$1,140.00		
June	\$4,143.00	\$4,834.00	\$760.00		
July	\$6,004.00	\$7,288.00			
Aug	\$7,282.00	\$7,892.25			
Sep	\$6,263.99	\$6,258.00			
TOTAL	\$44,984.99	\$61,790.25	\$12,558.00		

Permit Activity Report

New Construction 9/1/11 - 9/30/11

Monday, October 03, 2011

Issue Date From: 9/1/2011 To: 9/30/2011

Permit Code: BL BUILDING PERMIT

Residential - NEW - R3 BL Permits

Conld - Loc#	Contractor Name / Location Name	Permit # / Project	Master Permit #	Job Location Address	Paid	Status	Issue Date	App Date	Job Value/Cost	Permit Fee
5373-1	COLONY HOMES	11-815		24664 ADALADE	Yes	A	09/22/2011	09/22/2011	\$214,380.00	\$1,090.00
	COLONY HOMES			Daphne, AL 36526					Total Living: 3187	Total Non Living: 772

Proposed Use: NEW RESIDENTIAL

Notes:

2159-1	INFINITY HOMES	11-796		7452 REED LANE	Yes	A	09/16/2011	09/16/2011	\$125,580.00	\$645.00
	INFINITY HOMES			Daphne, AL 36526					Total Living: 2036	Total Non Living: 114

Proposed Use: NEW RESIDENTIAL

Notes:

Total Residential - NEW - R3 BL Permit(s) 2 \$339,960.00 \$1,735.00

Residential - NEW - R4 - HIGH DENSITY RESIDENTIAL BL Permits

Conld - Loc#	Contractor Name / Location Name	Permit # / Project	Master Permit #	Job Location Address	Paid	Status	Issue Date	App Date	Job Value/Cost	Permit Fee
2106-1	HONS BUILDERS	11-774		10321 ESTIA STREET	Yes	A	09/12/2011	09/12/2011	\$117,870.00	\$605.00
	HONS BUILDERS			Daphne, AL 36526					Total Living: 1592	Total Non Living: 745

Proposed Use: NEW RESIDENTIAL

Notes:

5278-1	D R HORTON INC	11-818		10465 FIONN LOOP	Yes	A	09/26/2011	09/26/2011	\$115,680.00	\$595.00
	D R HORTON INC			Daphne, AL 36526					Total Living: 1670	Total Non Living: 516

Proposed Use: NEW RESIDENTIAL

Notes:

Total Residential - NEW - R4 - HIGH DENSITY RESIDENTIAL BL Permit(s) 2 \$233,550.00 \$1,200.00

Total Residential - NEW BL Permit(s) 4 \$573,510.00 \$2,935.00

Total Residential BL Permit(s) 4 \$573,510.00 \$2,935.00

Non Residential - NEW - MU - MULTI-USE BL Permits

Conld - Loc#	Contractor Name / Location Name	Permit # / Project	Master Permit #	Job Location Address	Paid	Status	Issue Date	App Date	Job Value/Cost	Permit Fee
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5764-1 WACHTER & COMPANY INC 11-817 811 TRIONE STREET Yes A 09/23/2011 09/23/2011 \$112,500.00 \$678.00
WACHTER & COMPANY LLC Daphne, AL 36526 Total Living: Total Non Living:

Proposed Use: COTTAGES

Notes:

Total Non Residential - NEW - MU - MULTI-USE BL Permit(s)	1	\$112,500.00	\$678.00
Total Non Residential - NEW BL Permit(s)	1	\$112,500.00	\$678.00
Total Non Residential BL Permit(s)	1	\$112,500.00	\$678.00
Total BL Permit(s)	5	\$686,010.00	\$3,613.00
Grand Totals	5	\$686,010.00	\$3,613.00

Public Safety Committee

Wednesday, October 12, 2011

Councilman Derek Boulware
Councilman Kelly Rerese
Councilman Ron Scott
Fire Chief James White
Public Works, Melvin McCarley

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

Committee Members Attending:

Councilman Derek Boulware, Councilman Kelly Reese, Councilman Rob Scott, Captain Danny Bell, Chief James White, and Melvin McCarley.

CALL TO ORDER

Councilman Boulware convened the meeting at 4:30 p.m.

PUBLIC PARTICIPATION – None.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Minutes from September 2011 – Councilman Reese made a motion to postpone the reading of the minutes, motion was seconded by Councilman Boulware.



POLICE DEPARTMENT

- A. **New Business** - Chief Carpenter went over the stats and D-Runs from August 2011. D-Runs were also done for Ottawa Springs Subdivision and Hwy 98 Office Park. Captain Bell talked to the complainants from these two locations by telephone several times since last month's meeting to report to them. They were not in attendance on this date. At office park there was speeding and cut through traffic noted with 17 warning tickets being written. Captain Bell also stated that they had been working hard with the State Troopers on an accident tally for Hwy 181 but no results as of yet. Chief advised that Lt. Jud Beedy was sent to polygraph examiner school in Selma for 8 weeks. We got the training slot for free and we only paid for room and meals for a total of \$2,080.00. This normally would have cost \$15,000 in Atlanta, Georgia for 11 weeks.

- B. **Old Business** – None

FIRE DEPARTMENT

- A. **New Business** – Chief White went over his stats, but is looking into revamping his monthly report. Kenny Hanak is in Fire School in Maryland. The council requested an inventory of

his firefighting fleet and the year they were acquired (attached). Chief White would like to purchase one engine every other year to get there fleet up to date. He added that they had a fire at Pina's Trailer Park which makes the second one in a month at that location.

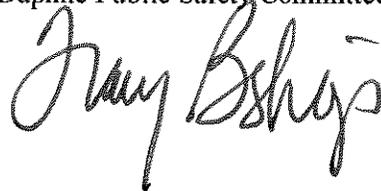
B. Old Business-

OTHER BUSINESS

ADJOURN

There being no further business to discuss, Mr. Boulware adjourned the meeting at 4:50 p.m. The next meeting will be Wednesday, November 9, 2011 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,
Daphne Public Safety Committee

A handwritten signature in black ink, appearing to read "Tracy Bishop". The signature is written in a cursive style with a horizontal line above the "y" and "i".

CITY OF DAPHNE
FIRE DEPARTMENT MONTHLY REPORT
Report Period: August 2011

	Current:	FY to Date:
Suppression:		
1-Fire/Explosion:	-	-
10-Fire, Other	1	5
11-Structure Fire/Commercial	1	2
11-Structure Fire/Residential	5	29
12-Fire in Mobile Property used as fixed structure	0	1
13-Mobile Property (vehicle) Fire	1	4
14-Natural Vegetation Fire	2	14
15-Outside Rubbish Fire	1	13
16-Special Outside Fire	2	5
17-Cultivated Vegetable Crop Fire	0	0
2-Overpressure Rupture:	0	1
3-Rescue Call and Emergency Medical Service Incidents:	133	1157
4-Hazardous Conditions (No fire):	4	33
5-Service Call:	13	94
6-Good Intent Call:	23	128
7-False Alarm & False Call:	22	178
8-Severe Weather & Natural Disaster:	0	3
9-Other Situation:	0	2
Total Emergency Calls:	208	1624
Monthly Total Calls:	221	1695
Highest:		
	34:00	34:00
Lowest:		
	<1	>1
Average (Minutes/Seconds) :		
	5:45	5:45
Miscellaneous Reports:		
Training Hours	46:00	259.50
Property Loss - \$	\$436,300	\$1,094,662
Fire Personnel Injuries by Fire/Civilian Injuries by Fire	0	1
Advance Life Support Rescues	90	773
Number of Patients Treated	126	1156
Child Passenger Safety Seat Inspections/Installations	17	110
Classes		
	0	22
Persons Attending		
	0	4113
Plan Reviews		
	7	21
Final/Certificate of Occupancy		
	1	3
General/Annual Inspections		
	99	488
General/Re-Inspections (Violation Follow-up - Annual)		
	70	107
Business Licenses		
	6	47
Consultations-		
	0	0
All Other/Misc. Activities		
	1	10
Total Activities:	184	670

Authorized by:

James White

Chief James White

6

City of Daphne Fire Department MEMORANDUM

Date: October 12, 2011
To: Daphne City Council & Public Safety Committee
From: Chief White *J.W.*
Subject: Fire Apparatus

There are no hard facts about the service life of fire engines. The criteria used by most industries and fire departments are based on age. There are other critical factors that can be tracked to determine replacement such as out of service time, mileage, work order history, cost per mile and technology changes. The recommendation of the Daphne Fire Department is to use a 10-15 year replacement cycle for guidelines. ISO will not give credit for any trucks that are 20 years or older.

Below please find an inventory of our firefighting fleet and the year that they were acquired:

1979	Ford Chass Cab Truck	1000 GPM Pumper
1988	E-One	1250 GPM Pumper
1993	E-One	1250 GPM Pumper
1996	E-One Aerial Ladder Truck	
2000	E-One Freightliner	1250 GPM Pumper
2003	E-One	1250 GPM Pumper
2005	E-One	1250 GPM Pumper

ENVIRONMENTAL ADVISORY BOARD NOMINEE

Professional Qualifications Statement
Fred Nation
120 Havenwood Circle
Daphne, AL 36526

Vocational Background

1999 – Present

Self-employed Environmental Consultant and Field botanist. Professional references are available upon request.

Major business activities include:

Control of invasive exotic plant species. Site assessments and development and implementation of invasive exotic control prescriptions for natural habitats.
Alabama Commercial Applicator Permit # 11052, exp. 03/31/2012.

Site assessments and plant inventories. Clients include municipalities, schools, foundations, landscape architects, state agencies, and homeowners.

Design, layout, and construction of interpreted nature trails:

Identification of plant species.

Design and composition of interpretive signs.

Design and composition of instructional trail brochures, with plant ecology and history.

May, 1972 – September, 1999:

Federal Employee, Dept of Health & Human Services. Highest grade held: GS-13; Final position: Technical Analyst, Systems, Fairhope, AL

Presentations.

Prepare and deliver instructional lectures on botanical and environmental topics.

Selected presentations include:

Invasive Exotic Plant Species in South Alabama Pinelands; Identification, Ecology, and Control. Monroe County, Alabama Treasure Forest Land Owners' Association, Monroeville. May, 2005; Weeks Bay Reserve, July 2007, July 2008, July and December 2009.

Habitats and Ecosystems on Weeks Bay Reserve. Orientation and refresher training for volunteers at Weeks Bay Reserve. Semiannual, 1999 – present.

Instructor, "Plant Identification," 4-day workshop; lectures and field trips; 2005 – 2009, offered by Wetland Resources, Fairhope, AL.

Longleaf Pine; History and Ecology. Mobile Botanical Gardens, in partnership with Alabama Urban Forestry Assn, 2008. Mobile County Master Gardeners, 2009.

Instructor, "Wildflowers and Native Plants of Baldwin County." 1999 – present. Classes held at Weeks Bay Reserve; offered through the Adult Learning Center in Fairhope, Alabama.

The Botany and Ecology of Invasive Plant Species. September, 1999. Workshop for landowners and timber interests, jointly sponsored by Alabama Cooperative Extension System, USDA Forest Service, and Weeks Bay Reserve.

Same as above, April, 2000. Workshop for Homeowners, Landscapers, and Nurserymen.

Invasive Exotic Plant Species in Alabama. Presentation to Alabama Treasure Forest members, State Convention, November, 2002.

Instructor, Baldwin and Mobile County Master Gardeners, 1996 to present. *Pro bono* activity, at the request of the Alabama Cooperative Extension System. Conduct formal instruction on botanical nomenclature, and the uses of native plants in landscapes.

Publications

Selected Publications: A complete list of publications is available upon request.

Alabama Plant Atlas. Contributing photographer, 600 – 700 photos to date.
<http://www.floraofalabama.org/>

Publications, Continued

Atlas of Florida Vascular Plants. Contributing photographer; 300 -- 400 species photos to date.
<http://florida.plantatlas.usf.edu/>

"Control of Exotic Pest Plants in Coastal Alabama." Co-authored, with Dr. James Miller, USDA Forest Service, and Dr. Tom Ellis, USDA Forest Service, retired. Two-sided, illustrated card for the identification and control of exotic plant species. Published by the Baldwin County Forestry Planning Committee. 2000; second edition, August, 2002. Third edition, May 2008. Offered for Sale by the Cooperative Extension System Office. Listed in the Index of Publications, USDA Forest Service.

Where the Wild Illicium Grows; Historic Plants of Alabama and the Central Gulf Coast. September, 2002. Published by the Alabama Historical Commission, and the Baldwin County Historical Society, with financial support from the Gulf Coast Resource Conservation and Development District.

"Trees of Alabama." Regular feature in *Alabama's Treasured Forest Magazine*. 15 installments to date. 2004 -- present

"Pitcher Plants in Alabama." Article, with photographs, in *Alabama's Treasure Forest*, Summer, 2002. Published by the Alabama Forestry Commission.

"Invasive Exotic Species in Alabama." Article, with photographs, in *Alabama's Treasure Forest*, Winter, 2003, Published by the Alabama Forestry Commission.

Affiliations:

Alabama Invasive Plant Council, Board of Directors, August, 2011 – present

Alabama Invasive Plant Council, charter member, 2001(?) – present

Historic Blakeley Foundation Board of Directors, March 18, 2005 – present

Baldwin County Forestry Planning Committee, 2000 - present.

Weeks Bay Reserve Volunteers Board of Directors, 2004 – 2008

Mobile Botanical Gardens Board of Directors 2008 - 2010

Baldwin County Environmental Advisory Board, 1999 - 2004

Sea Oats Wildflower Society, Gulf Coast Chapter of the Wildflower Society of Alabama. Past President, 2001 - 2003.

Recognition:

W. Kelley Mosley Environmental Award for Achievement in Forestry, Wildlife and Related Resources, presented by Auburn University, February, 2005

Honorary State of Alabama Master Gardener, presented by Alabama Cooperative Extension System and Alabama Master Gardeners Association, February, 2005.

Award for Individual Achievement in Urban Forestry, presented by the Alabama Urban Forestry Association, November, 2002.

Environmental Responsibility Award, Individual, August, 2000, presented by the Baldwin County Commission.

Honorary Baldwin County Master Gardener, presented by the Baldwin County Cooperative Extension System, December, 1998.

Education

University of Florida; BA, English, 1972

Okaloosa-Walton (Florida) Community College; AA, Biology (academic scholarship), 1969

Naval Electronics Laboratory Satellite Facility, Eglin AFB, FL. 26 weeks ; Electronics Technician certificate 1965

Choctawhatchee High School, Fort Walton Beach, FL, 1964



Memorandum

To: Councilman Derek Boulware
From: Ashley Campbell
Date: September 21, 2011

Re: Environmental Committee Nomination

Mr. Boulware,

I would like to recommend Fred Nation for the City of Daphne's Environmental Committee. Fred lives at 120 Havenwood Circle in Lake Forest and is an Environmental Consultant and Field botanist. Fred has assisted the City in several invasive species control projects at Village Point. He is very knowledgeable in his field of study. I think that he would be an asset to the Environmental Committee. I have attached Fred's Professional Qualifications Statement for your review. If you have any question, let me know.

Ashley Campbell, CPESC
Environmental Programs Manager
City of Daphne
agcampbell@bellsouth.net
Phone 251-621-3080
Cell 251-234-7122

ENVIRONMENTAL ADVISORY BOARD NOMINEE

Carl A. Pinyerd, III, CPSSc, CHMM, CPESC
Senior Environmental / Soil Scientist

Assignment: Senior Scientist

Firm: Thompson Engineering

Years Experience: With This Firm: 22
With Other Firms 15

Education: BS/1975/Biology (Chemistry Minor)
MS/1983/Soil Science

Active Registration: CPSSc #3111
CHMM #3784
CPESC #1722

Project Experience

Austal USA, LLC, New Bulkhead, Cove Reclamation Area, and Break Room Facility, Mobile, AL – Providing NPDES compliance for the Design/Build of a new bulkhead, cove reclamation, and a 400-employee capacity break room. The project included: demolition, a pipe/sheet pile wall system, utility stations, dredge design; land reclamation / site development on the Mobile River over the Bankhead Tunnel, 80-ton mooring bollards and fenders; and the design and construction of a 6,000 sq. ft. break room.

University of South Alabama, New Engineering and Science Building, Mobile, AL – Providing NPDES compliance for the construction of a new 4-story, 145,000 sq. ft. engineering and science building. The facility includes 63 laboratories, 17 classrooms, 3 multimedia auditorium classrooms, 5 computer labs, 5 student areas, 7 student design rooms, and faculty and staff offices. Thompson Engineering's responsibilities included geotechnical engineering, testing, permitting, inspection, virtual construction / 3D modeling, LEED design and review, and building commissioning.

Mobile Bay National Estuary Program, D'Olive Bay Comprehensive Watershed Management Plan, Baldwin County, AL – Project Scientist for developing a CWMP to address the impact from increased sediment loadings on the watersheds of D'Olive Creek, Tiawasee Creek, and Joe's Branch. Thompson Engineering was responsible for data compilation, evaluation, and synthesis; watershed characterization; wetlands assessment; stream geomorphological and erosion activity assessment; environmental restoration and mitigation alternatives; conceptual engineering and feasibility evaluation.

CB& I, Construction NPDES Permitting and SWPPP for a Nuclear Fabrication Facility, South Pittsburgh, TN, Ongoing - The 61 acre site is situated along the Tennessee River and included a 440,000 square foot manufacturing facility, a 10,500 square ft. administration building and a riverfront dock facility. To obtain the NPDES Permit from the Tennessee Department of Environment and Conservation (TDEC), Thompson Engineering performed multi-agency coordination that included the USFWS, TVA, TDEC, and USACE. The NPDES Permit was issued following completion of

Experience and Qualifications

Mr. Pinyerd is a Certified Professional Soil Scientist (CPSSc), a Certified Hazardous Materials Manager (CHMM), and a Certified Professional in Erosion and Sediment Control (CPESC) with broad experience in construction-related environmental issues. Mr. Pinyerd directs stormwater pollution prevention planning, BMP design and implementation, NPDES stormwater permitting, and sediment remediation activities. He has directed Phase I Environmental Site Assessments and environmental audits at numerous industrial facilities and commercial properties.

His experience includes:

- Construction Industrial and Municipal NPDES Permits
- Stormwater Pollution Prevention Plans (SWPPP) and Best Management Practices (BMP) Plans
- Training of ADEM, FDEP and MDOT Certified Stormwater Management Inspectors
- Asbestos Surveys (ASHERA, NESHAP, OSHA)
- Environmental Sampling And Chemical Analysis
- Statistical Analysis For RCRA / CERCLA Investigations
- Environmental Site Assessments and Hazardous Materials Surveys
- Water Quality Assessments And Monitoring Programs



the Notice of Intent (NOI) application and submittal of the Stormwater Pollution Prevention Plan (SWPPP). Mr. Pinyerd served as lead scientist for development of the SWPPP under LEED sustainable site development criteria.

Eagle Chemical, Chemical Manufacturing Facility NPDES Stormwater Compliance, Mobile, AL, Ongoing - Mr. Pinyerd served as lead scientist on NPDES compliance tasks required by Alabama Department of Environmental Management (ADEM). Project consultation included facility inspection and assessment of potential pollutant sources, providing stormwater pollution prevention training, review of records, assisting company personnel with the development of a pollution prevention team, review of monitoring data, along with developing an updated facility BMP Plan.

Wright Bros. Construction Company, Inc. NPDES Compliance, Soil Disposal Area for the ALDOT I-22 Construction Project APD-0471 (503), near Birmingham AL, 2009 - Mr. Pinyerd served as lead scientist on a team of engineers and scientists that obtained ADEM NPDES Permit Registration for a 1.3 million cubic yard soil and rock disposal area. The disposal pile was designed to contain the excess excavated soil and rock materials removed during the construction of ALDOT Project No. APD-471(503), which is a segment of Interstate I-22. The road construction contractor acquired approximately 47 acres adjacent to the I-22 highway construction project that contained critical canyon slopes and the environmentally sensitive Five-Mile Creek. To avoid the critical and sensitive areas an ensemble of BMPs were incorporated into a disposal pile design that utilized less than 25 acres.

Gulf Coast Entertainment, LLC, Alabama Motor Sports Park, Prichard and Saraland, AL, Ongoing - Mr. Pinyerd serves as the lead soil scientist for the site development of a \$600-million motor sports park. The project site is 2,400-acres and will involve the grading and filling of 6-million cubic yards of soil. Responsibilities included the development of a Construction Best Management Practices Plan (CBMPP) as required to obtain an ADEM CWA Section 401 Water Quality and Coastal Consistency Permit, in conjunction with applying for and receiving a USACE wetland permit. In addition, silviculture BMP planning for selected tree harvest outside of environmental sensitive areas was reviewed and inspected for the landownership prior to acquisition by the developer.

Alabama Department of Transportation, Off-Site Sediment Assessment and Remediation, U.S. Highway 98 Relocation, Mobile County, AL, Ongoing - Mr. Pinyerd was the lead soil scientist on a team of engineers and scientists performing an evaluation of BMP implementation and assessment of off-site impacts of an approximate eight-mile 4-lane divided highway on new location that included 34 outfalls sites. Critical and sensitive issues included protection of habitats and the quality of water in a watershed that served as the source of public drinking for more than 300,000 people. The project involved receiving access permission from multiple adjacent property owners. Project work included BMP inspection, report production, in-stream sampling, review of aerial photographs, and coordination of remedial activities with regulatory agencies and landowners. A comprehensive report of findings was completed on a very expeditious schedule of less than one month. Thompson Engineering's evaluation included stream geomorphic assessment, measurement of the horizontal extent, depths of the sediment deposits, and calculations estimating sediment volumes on flood plains and in stream channels. The final report described both off-site sedimentation for soils eroded from the roadway project as well as existing conditions and provided recommendations for remedial actions. Sediment volumes measured in stream channels and on floodplains were compared with the Revised Universal Soil Loss Equation (RUSLE) calculations. In addition, this project included highly visible in-depth press coverage

Alabama Department of Transportation, Wright's Pond Sediment Removal and Remediation Plan in the City of Andalusia, AL, Ongoing - Wright's pond is utilized for recreational waters sports and includes many types of waterfowl such as swans and geese. Following widening of U.S. Highway 29, increased stormwater runoff caused accelerated gully and streambed erosion in the Wright's Pond watershed. As the project soil scientist, Mr. Pinyerd served in a leadership role of investigating site conditions which included measuring the geometry of soil displaced, sources of sediments, and apparent time of deposition in the impacted pond. To evaluate native rates of erosion prior to the highway widening, sediment transport in the watershed was estimated using Universal Soil Loss Equation (USLE) and sediment delivery ratios. Soil core samples from the pond were obtained along a grid system and evaluated to calculate the difference in volume of sediment deposited prior to and after highway construction. Core samples were performed to depths up to 15 feet. The calculated volumes of soil loss from gullies and enlarged



stream channels versus sediments deposited in the pond were similar. Mr. Pinyerd developed erosion, sediment and turbidity control BMPs for constructing the hydraulic remediation structures that would return flow rates to preconstruction conditions and capture future sediment transport.

Alabama Department of Transportation, Remediation Plan for Cobb Property Pond, Waverly, AL, 2007 - This project included both field investigations and remediation design planning for sediment removal from the impacted portions of the pond along with hydraulic engineering designs to control erosive runoff from the widening of U.S. Highway 280. Mr. Pinyerd served as the lead scientist for the assessment, recommendations for mitigation, and design of the remediation. Watershed reconnaissance, along with review of historical aerial photographs, was utilized to evaluate potential sources of sediment and the timeline of sedimentation impacts. To calculate the volume of sediment accumulation in the pond requiring removal, cores samples of pond sediments were collected along a grid system. Sampling was performed by wading and by using a small boat. To characterize sediments deposited in the pond core samples stratigraphy was evaluated for both on soil texture (grain size) and color.

Cypress Equities, Spanish Fort Town Center NPDES Compliance, Spanish Fort, AL, Ongoing - The 260-acre development included grading and filling activities of approximately 4.5 million cubic yards of soil. Erosion and sediment control issues at the site include long steep slopes and streams associated with the watersheds of 303d listed streams. In addition, downstream of the project site are sensitive water bodies including a subdivision lake and estuary bay. Thompson provided consultation to the Owner related to improvements of BMP implementation. Mr. Pinyerd served as the ADEM Qualified Credentialed Professional (QCP) for development of a Section 401 watershed turbidity-monitoring plan. Thompson prepared by-weekly turbidity monitoring reports and annual reports which were transmitted to both the USACE and ADEM. During construction activities, Thompson Engineering personnel attended meetings with multiple government agencies including ADEM, U.S. EPA, USACE, and the USFWS.

Phillips & Jordan, Inc., Choctaw Point Terminal, Wetland Mitigation Areas, Alabama State Port Authority Mobile, AL, 2007 – Mr. Pinyerd was the lead professional in development of a comprehensive BMP Plan, performance of

inspections and coordinating compliance assistance activities with the ADEM for a 55 acre construction site where 34 acres of tidal flat wetlands were constructed.

Alabama Department of Transportation, 9TH Division, Upland and Tidal Estuarine Off-Site Sedimentation Study, Fowl River, AL, 2006 – Following a catastrophic rainfall event, Mr. Pinyerd served as the lead professional in quantification of the off-site sedimentation, which had potentially originated from outfalls of a bridge construction project. Utilizing various sampling methods, Thompson Engineering collected sediment deposition data in upland areas, streams and tidal flats. The scope of work also included identification of off-site sources of sedimentation and recommendations related to corrective measures.

Phillips & Jordan, Inc., NPDES Compliance for Emergency Watershed Protection, Chickasaw, AL, 2006 – Following Hurricane Katrina, approximately 6.3 miles of debris clogged urban drainage ways and native streams within the City of Chickasaw. The City of Chickasaw required the contractor to obtain coverage under a NPDES Registration for remediation. Portions of the watershed contained a reach of a 303d listed stream requiring additional protective measures. Mr. Pinyerd was the lead professional in development of a comprehensive BMP Plan, performance of inspections and coordinating compliance assistance activities with the ADEM.

Alabama Department of Transportation, 7TH Division NPDES Compliance, Ongoing – Mr. Pinyerd as a Qualified Credentialed Professional with expertise in the mechanisms of erosion and sediment control served as lead professional (acting stormwater coordinator, 1998-2004) for NPDES compliance issues in a nine-county area comprising the Seventh Division of the Alabama Department of Transportation. From 2004 to the present, Mr. Pinyerd has been retained to provide professional consultation related to complex stormwater issues. Mr. Pinyerd has overseen BMP implementation and inspection reporting certification on more than 80 projects with as many as 20 simultaneous ongoing projects. Responsibilities included coordinating the activities of inspection teams with DOT project engineers, identification of potential deficiencies in BMP implementation, and recommendation of corrective actions. Additional tasks have included, serving as an expert witness in Alabama Claims Court and the prepared documents for the ALDOT including revised comprehensive BMP Plans and violation response reporting to regulatory agencies.



Austal USA, NPDES Permitting for Shipbuilding, Mobile, AL, 2006 – Mr. Pinyerd served as lead professional in obtaining the Shipbuilding General NPDES Stormwater Permit from the Alabama Department of Environmental Management (ADEM) for a facility specializing in building of high speed commercial and military oceangoing vessels. Responsibilities included completion of the NPDES Permit Notice of Intent application and development of the facility BMP Plan for stormwater pollution prevention. BMP planning entailed the organization of a pollution prevention team, identification of potential stormwater pollutants, development of procedural and structural BMPs along with methods for stormwater discharge monitoring, employee training, and BMP inspections.

Mississippi National Guard, Chaney Creek Watershed Assessment, Camp Shelby, MS, 2006 – Lead soil scientist on a team of biologists, engineers, foresters and geologists who performed a watershed assessment at a large multi-purpose military complex. Mr. Pinyerd's primary responsibilities included stream geomorphic assessments, measuring floodplain sedimentation, evaluation of BMPs used during construction of an approximate 1,500 acre tank training range and calculation of erosion and sedimentation rates.

Retirement Systems of Alabama, NPDES Compliance for Golf Course Renovations, Point Clear, AL, 2006 – The 105 acre Azalea Golf Course project at The Marriot Grand Hotel, Golf Club and Spa, included green and fairway renovations along with associated improvements in golf cart pathways, stream crossings, re-alignment of stream beds and construction of irrigation reservoirs. Mr. Pinyerd served as lead professional for erosion and sediment control consultation during this highly visible and environmentally sensitive project. Job assignments included NPDES Registration and preparation of a Construction Best Management Practices Plans (CBMPP). Both the NPDES Registration and CBMPP were modified as the project advanced to allow for doubling the size of the project during the course of construction activities. Task also included ADEM required inspections, reporting, and coordination of regulatory compliance assistance activities.

Alabama Department of Transportation, Stream Sedimentation Studies, Jefferson and Walker Counties, AL, 2004 – Mr. Pinyerd served as lead professional in evaluating off-site sedimentation in seven streams associated with the I-22 major highway construction project as required by the ADEM. Surveying instruments were used to make

measurements of stream geomorphic features including floodplains, banks, and bottoms along with sediment bed loads. Dependent on the stream environment, several methods were utilized to collect sediment depth measurement. A canoe was used to facilitate the sampling of submerged and/or distance areas. Sediment depths as related to physical habit parameters were evaluated. Project reporting included providing recommendations, followed by monitoring, and documentation of the recovery of physical habit parameters.

Alabama Department of Transportation, NPDES Stormwater Statewide Consent Agreement, 2004 – In response to an ADEM consent agreement, Mr. Pinyerd served as lead scientist on a team of professionals evaluating ten project sites listed on a consent agreement for NPDES violations. Tasks included BMP inspections, BMP certifications, corrective actions, reporting, and evaluation of off site sedimentation concerns and restoration procedures.

W. G. Yates and Sons Construction Company, Water Sampling and Evaluation of BMP Implementation for NPDES Compliance, Wal-Mart Super Center Construction Site, Macomb MS, 1998 - Following a catastrophic rainfall event Mr. Pinyerd of Thompson Engineering was authorized to evaluate BMP implementation and study water quality in a lake adjoining the project site. As requested by the contractor water sampling was performed at eight locations. Sampling and parameter evaluation was performed typically every second or third day over an approximately on month period. Parameters analyzed included turbidity, total suspended solids, dissolved oxygen and pH. Thompson Engineering's BMP implementation guidance was followed by the contractor and water characterization data indicated that the lake was not adversely impacted by the construction site runoff. Since visually apparent significant quantities of bed load sediments did not reach the lake, the contractor requested that total suspended solids (TSS) concentrations be used to calculate the volume of sediment that would accumulate in the lake if all suspend solids were to be deposited in the lake. Based on the TSS concentrations measured total thickness was calculated to be less 0.07 inches. The project also included area reconnaissance and review of recent areal photographs to determine other sources of turbidity in the lake. As requested by the contractor, Thompson Engineering met with MDEQ in Jackson MS and made a presentation summarizing the results of water sampling and the evaluation of BMP implementation.



CSX Transportation, Georgia Railroad Facility SWPPP Preparation, GA, 1994 & 1995– Project Manager for comprehensive compliance evaluation of stormwater pollution prevention plan at 14 railroad maintenance intermodal distribution facilities in the State of Georgia. Prepared plan documents, conducted follow-up site inspections / compliance reviews, and delivered training presentations on Best Management Practices (BMP) implementation.

South Alabama Regional Planning Commission, Stormwater Loading MS4 Characterization Data, Mobile, AL, 1993 – Project Scientist for a regional stormwater analytical characterization program related to municipal stormwater NPDES permitting in southern Alabama. The project included surface water sampling and chemical analyses, storm event quantification, and pollutant loading evaluations from representative industrial, commercial, and urban land uses in a two-county region.

Alabama Plating Corp., Contamination Assessment for Closure of a RCRA Facility, Prichard, AL, 1990 – Project Manager for closure plan implementation at a RCRA-regulated plating facility. Responsibilities included delineation of contamination soils (heavy metals) requiring remedial activities, groundwater assessment, and quality assurance. Following RCRA the property of the facility was acquired as right-of-way for Interstate Highway construction.

Chemical Manufacturing Facility, Hazardous Waste Characterization Study, AL – Project Manager on a hazardous waste characterization study at the location of a carbon tetrachloride bulk shipment area at a chemical manufacturing facility in Alabama. Included were synthesis of available data at the site, statistical design of a sampling program for contaminated media, specification of sampling and chemical analytical protocol, and data interpretation.

Manufacturing Facility, Water Sampling, AL, 1993 – Directed a sampling program for sediments and water from a contaminated swamp region at a Superfund (CERCLA) site in Alabama being investigated by USEPA. Working for the manufacturer, performed split sampling for analysis of trace organic and ultra-trace mercury contamination.

Alabama River Pulp, OPA Facility Spill Response Plan, Alabama River, 1993 – Project scientist for delineation of environmentally sensitive areas along a 60 mile reach of the Alabama River,

in conjunction with preparation of an OPA 90 Facility Spill Response Plan. The project involved review of literature and mapping, aerial photography, interpretation, and coordination with state and federal agencies.

Publications/Papers Presented/Workshop and Class Instruction

Lead trainer on NPDES regulations and best management practices for construction sites. Clients include the Mississippi Department of Transportation, Mississippi Road Builders, Mississippi Asphalt Paving Association, Alabama Department of Transportation, Florida Department of Environmental Protection and the Alabama Department of Environmental Management, Qualified Credentialed Inspector program. Mr. Pinyerd has developed the training modules and teaches classes throughout Alabama, Mississippi, and Florida.

Mayor's Round Table/Grassroots Inc., providing training in soil and water conservation measures to realtors and developers.

Organized workshops providing training in Best Management Practices for NPDES Permit compliance to project engineers and inspectors representing the Sixth, Seventh, Eighth and Ninth Divisions of the Alabama Department of Transportation.

Mr. Pinyerd routinely teaches a class on Clean Water Act Compliance issues to the Environmental Geology (GL201) class for the Department of Geography and Geology at the University of South Alabama, Mobile, Alabama (Adjunct Instructor).

Technical Report

Baya, E. B., L. S. Yokel, C. A. Pinyerd, E. C. Blancher, S. A. Skienar, W. C. Isphording, 1998. Characterization of Water Quality of the Mobile Bay National Estuary Program Study Area. Thompson Engineering and the Mobile Bay National Estuary Program
http://www.mobilebaynep.com/site/news_pubs/new_s/Documents/water_quality_characterization.pdf

Journal Article

Pinyerd, C.A., J.W. Odom, F.L. Long and J.H. Dane. 1984. "Boron Movement in a Norfolk Loamy Sand." Soil Sci. 1 37:428-433.



Papers Presented

Pinyerd, C. A., 2006. "Which BMPs Really Work?" Soils, Stormwater and Watershed Protection: Tools for Managing Erosion - Training Workshop, Mobile, Alabama, National Oceanic and Atmospheric Administration, National Estuary Program, USDA/Natural Resource Conservation Service.

Pinyerd, C.A., L.A. Mills, E. E. Baya 1999 "Erosion and Sediment Control Action Items of the Mobile Bay National Estuary Program." *Proceeding of the Alabama Water Resources Conference 13th Annual Meeting*, Gulf Shores, AL (09/99).

Pinyerd, C.A. 1997. "Uses and Misuses of Erosion and Sediment Control Devices." Weeks Bay Erosion and Sediment Control Workshop, Faulkner State Community College, Weeks Bay Watershed Project, Alabama Department of Environmental Management, Troy State University Nonpoint Source Education Program (4/17/97). "Hydrology and Overview of the Clean Water Act." Certified Hazardous Material Manager Examination Review Course, Faulkner State Community College, Fairhope, Alabama (Adjunct Instructor).

Pinyerd, C.A. 1995. "Best management practices for construction as related to Mobile Bay in the National Estuary Program". *Proceedings of the Alabama Water Resources Conference / 9th Annual Meeting, Gulf Shores, Alabama (9/08/95)*.

Pinyerd, C.A. 1995. "Best management practices for construction". Symposium on Mobile Bay, Sponsored by the Alabama Department of Economic and Community Affairs, Alabama Department of Environmental Management, Alabama Cooperative Extension Service and Gulf of Mexico Program (4/18/95).

Reddy V.J. and C. A. Pinyerd 1995. "Mobile-Baldwin Stormwater Consortium efforts regarding permitting, monitoring and management of Municipal Separate Stormwater Sewer Systems." Alabama Water Environment Association / 18th Annual Conference and Technical Program (4/10/95).

Pinyerd, C. A. and V. J. Reddy ,1994. "Characterization of urban storm water runoff discharging into Mobile Bay." Alabama Water Environment Association/17th Annual Conference and Technical Program (4/18/94).

Pinyerd, C.A., 1993, "Stormwater Runoff of N and P as related to storm event characteristics and other pollutants from selected urban watersheds situated

around Mobile Bay", *Agronomy Abstracts (1993)*. Paper presented as part of Environmental Quality Division/American Society of Agronomy Meetings, Nutrient Dynamics Symposium, Cincinnati, OH.

Pinyerd, C.A., E.E. Baya, and D.I. Wigger, 1992. "Stormwater runoff of nitrogen, phosphorus and total suspended solids from small industrial watersheds located within the Mobile Bay drainage basin." *Agronomy Abstracts (1992 American Society of Agronomy Meetings, Minneapolis, MN)*. Paper presented as part of a Symposium - Minimizing Nonpoint Source Impacts, sponsored by the Metropolitan Waste Control Commission (Minnesota).

Selected Professional Training Courses

- Responsive Site Design: Implementing Innovative Post Construction Stormwater Management Strategies / Center for Watershed Protection, Nov 1-19, 2008
- Effective Erosion and Sediment Control, Auburn University / International Erosion Control Association, 1992 1998, 2005
- Alabama Reference Reach Regional Curve Workshop Apr 15-16, 2008
- Advanced Stormwater BMP Design Dec 3-4, 2003
- Stream Restoration Workshop; Performing a Feasibility Study, Coastal Stream Channel Field Assessment Techniques Feb 5-6, 2003
- Introduction to Stream Restoration Using Natural Design Techniques, Feb 5-6
- NPDES Phase II Inspector Certification for Erosion, Sedimentation and Stormwater Control, Florida Department of Environmental Protection, 2000.
- "Environmental Regulations and Procedures (3-semester hours)", Spring Hill College, Mobile, Alabama, 1995.
- Bioremediation: Science, Regulations and Applications Workshop. Soil Science Society of America, 1993.
- Hazardous Materials/Waste Manager Training Course (Four Day Continuing Education Course), University of Alabama, 1991.
- "Asbestos Building Inspector" 1989, and "Asbestos Management Planner", 1991 with annual update training (EPA AHERA-accredited management planner course).
- "Hazardous Waste Worker Training", 1988 (OSHA 29CFR 1910.120 "40-Hr. Training") and annual update training.



- Visible Emission Observation Evaluator Certification for Air Pollution, (USEPA, Method 9) Alabama Department of Environmental Management, 1987
- Radiological Safety and Health Training Certificate: Auburn University, 1980

Certifications

- FDEP Stormwater Management Trainer/ Instructor #100
- EPA AHERA Accredited Asbestos Inspector and Management Planner
- OSHA 29 CFR 10.120
- OSHA HAZWOPER



**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:

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 6, 2011 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

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

Call of Roll:

Members Present:

Willie Robison, Chairman
Jeri Hargiss, Secretary
Glen Swaney
Tony Felts
Frank Lamb
Billy Mayhand, Vice Chairman

Members Absent:
Jim Moss

Staff Present:

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

Chairman: we have a quorum.

Ms. Houston: may I ask the Board to please speak into your microphones.

Chairman: yes, you may.

Ms. Houston: thank you.

Chairman: next item on the agenda is the approval of the August 4th, 2011 meeting minutes. The Chair will entertain a motion to approve the minutes as corrected.

Approval of Minutes:

The minutes of the April 7th, 2011 meeting were considered for approval.

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

The Motion carried unanimously.

New Business:

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 6, 2011 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

Appeal #2011-05 Sangyoung Kim

Chairman: next is new business on the agenda, Appeal #2011-05 Sangyoung Kim, a variance to allow an attached patio to be built to encroach twelve-feet into the rear setback line. The property is located at 9381 Marchand Avenue, and it is in an R-3, High Density Single Family Residential Zone.

Mr. Lamb: before we get started I want to recuse myself from this appeal due to the fact that I am a member of Sehoys POA Board.

Chairman: let the record reflect that Mr. Lamb recused himself. Ms. Jones, if you would please take us through this.

Ms. Jones: [displayed a Power Point Presentation of 9381 Marchand Avenue, Lot 55, Phase 3, Sehoys Subdivision.] The subject property is located at the southwest corner of Tecumseh Court and Marchand Avenue in the Sehoys Subdivision. As you mentioned it is 9381 Marchand Avenue and it is Lot 55, of Sehoys, in Phase 3, and that phase is zoned R-3, High Density, Single Family Residential. The setback for the subject property is thirty-feet on the front and rear, twenty-feet on the corner side and ten-feet on the west side. This is a photo of the Kim's property from the street, and as you have mentioned they are requesting to encroach into the rear setback twelve-feet. The picture at the bottom shows the flag on the right side and that is where the corner is staked for the purposed patio. According to the drawings that were submitted the patio will be fourteen-feet deep and twenty four-feet wide. What I have here are questions to consider with this request. What is the unnecessary hardship? There are not any hardships with this lot in particular. Are there any extraordinary conditions peculiar to this lot that is different from any other lot in the Sehoys Subdivision? I have not found any. Will this encroachment cause detriment to the public good? In general, probably not, but it would set a bad precedent for granting variances, a major variance or a major encroachment where there is no hardship. So the key points that I want to bring up, and again this is information that was submitted in the application, the applicant desires to cover the rear back door to prevent weatherization and water damage. The purposed patio is approximately three hundred and thirty-six square feet, which is 14' x 24', in lieu of the 11' x 14' uncovered patio that is shown in the appraisal documents that are also included in the report. I think one that I should mention is that the fact that this will be a covered patio attached with a roof, it is required to meet the minimum setbacks for the lot. The twelve-foot rear yard encroachment will leave eighteen-feet between the patio and the rear fence. I see no inherent hardship on the land due to shape, topo, size or etc. So my recommendation would be unfavorable and it would also be my recommendation that the applicant seek other options that will satisfy and prevent future weatherization of the door that fit within the setbacks. Mr. Malcolm Zellner, agent for Mr. Kim, is present tonight.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 6, 2011 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

Chairman: thank you, Ms. Jones. Mr. Zellner, do you have anything that you would like to say?

Mr. Swaney: before you do that, question. I may have missed this. How large can the patio be without encroaching on the setbacks?

Ms. Jones: let us ask Mr. Zellner that question.

Mr. Swaney: oh, okay.

Mr. Felts: I also wanted to ask staff a question. I noted in the staff report that they had visited and did note that there was some damage to rear door as was stated by the applicant. Can you give us an idea of what the level of damage was and did it look as if it was caused by water or some other damage, maybe termites or something like that.

Ms. Jones: I will have to pass that question on to Ms. Pat Houston she actually did my photos and onsite survey.

Ms. Houston: actually in my view it looked as if it was rain damage. It was not on the top part of the door, only the bottom.

Mr. Felts: like it was from the splashing.

Ms. Houston: yes, sir.

Mr. Felts: thank you, Ms. Pat.

Chairman: Mr. Zellner, if you would speak into the microphone this is being recorded.

Mr. Zellner: I am Malcolm Zellner, a licensed contractor here in the City of Daphne, and also parishioner and fellow church member of the Kim's. I would like to ask on behalf of Sean & Rachel Kim that you approve this variance request because it will in no way adversely affect any of the neighboring property owners of the Sehoj Subdivision, as is evident by the already acquired permission of the Sehoj Architectural Board, and I believe that permission is on file. Also, none of the contiguous property owners have voiced any objection to the proposed project and we have one of the neighbors, the nearest neighbor here with us this evening to attest to that. After completion of this project there will still be some eighteen-feet from the property line, and this property will be hardly visible from the street or from the neighbors. This project will protect the rear door of this house from the elements and enhance the ambiance of the Kim's backyard and allow them to more fully enjoy life here in Daphne. The damage to the rear door is the lack of overhang on the building and splash off of the little concrete patio that is there now. In discussion with the people at the Building Department here in Daphne, I understand that the problem comes in when I attach a roof to a roof.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 6, 2011 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

Mr. Zellner: as I understand it, we can build a pergola or free standing gazebo, pergola type or out building on the property without violating the setback rules.

Chairman: yes, sir. Once you attached it to the house it becomes part of the structure, and the structure must be within the setbacks.

Mr. Zellner: right, yeah and that is the problem, and for the stated reason there is no real harm to the neighborhood or to the neighbors. I think the request is reasonable and that they should be allowed to build this covered patio. I also understand from the Building Department that the size of the slab, which is the patio, is irrelevant to the setback dimensions. So it is the roof over part of the patio, which is approximately a 12' x 20' covered area coming off of that back door, and those all my statements.

Mr. Swaney: again, how large the patio be or how great can the width be and still remain within the setback lines?

Mr. Zellner: about two-feet. Right now the slab, and the drawing that you have in the files is a little bit confusing, because it says right here it is a dotted line that says fifteen-feet back set line and I do not know what that means, but the distance from the nearest corner of the slab to the property line is some thirty two-feet. So are you all looking at this? This is pretty much to scale what I sketched on here, the thing back there, and you can see how it fits in the back yard, and that is the covered area, not the slab area. By the way, Ms. Kim speaks limited English. They are Korean and have even smaller dealings with officials than I do, so that is why I am speaking for them.

Mr. Felts: the staff report seems to indicate that a five-foot roofed patio would satisfy the setback requirement. Is that accurate?

Ms. Jones: that is based on the drawing that was submitted. It is not anything that we had to scale. So that was an estimate or an approximation.

Mr. Felts: in your view Mr. Zellner, in your opinion, what would be the minimum covered area that the house would need to protect the door from weather damage?

Mr. Zellner: you would have to get a good six-feet away from the wall with some sort of roof to keep all the water off the door.

Mr. Felts: because I can tell you I have a patio in the back of my house that is not covered and we have not had any weather damage and our house is about thirty years old, but I understand each house is different, but you do not think that even a two-foot cover would satisfy the problem?

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 6, 2011 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

Mr. Zellner: no, I do not think that coming out two-feet would. The other thing we ran into with the Building Department was they said, if you cantilever two-feet out it means that you have got to cantilever four-feet in the other direction, and by the time, even if you came out four-feet, and by the time you put columns down you are encroaching. So, you know, see that is the problem we are dealing with.

Mr. Swaney: you indicated I believe earlier that the roof, the covered portion, is the same width as the slab?

Mr. Zellner: no, the slab width is sixteen-feet, and the roof goes out only twelve-feet, and the slab width in the other direction is like twenty-four, oh wait it is more than that. Anyway, the roof only covers less than half of the patio slab.

Chairman: anything else?

Mr. Zellner: no, I have told you all everything I needed to say. I sure appreciate your consideration.

Chairman: any other questions or comments? Ms. Jones, you were saying the 5' x 24' is based upon there drawing?

Ms. Jones: right and it was not to scale.

Chairman: it is not to scale.

Ms. Jones: no, it was me trying to give an estimate of what remaining between the existing property line and the patio.

Chairman: I have a problem with a twelve-foot encroachment. It is kind of going a long ways out and it is really changing the intent of the Ordinance. I know you have a fence around it, a privacy fence, I went by there and looked at it. You have the privacy fence, and others around you really will not see it, but at my house we an overhang that comes off the roof. It is down and it protects our door back on the patio and we really have not had any problems and our house is forty something years old, and we really have not had any problems with it. Now it is up a little higher than what this is and still we do not have that, but I do have a problem with a twelve-foot encroachment. Three or four feet or whatever, there are certain pieces of property that you do have to do those kinds of things.

Mr. Swaney: I do too. That is a rather massive encroachment on a thirty-foot setback.

Mr. Felts: I concur with that. I think that is too far to encroach. I think if there was some encroachment, perhaps maybe we should get a scale drawing to see what the minimum would be to protect the door.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 6, 2011 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

Mr. Felts: if there is an encroachment after we get that drawing then maybe we can take it on that kind of a case by case basis, but I agree with you all a twelve-foot encroachment is just too much.

Chairman: let me see if the Board agrees with me on this, on what I am about to say. If we vote tonight and I cannot say which way the Board will vote, but if your appeal is denied you cannot come back in front of the Board again for a year on this. Is that correct? With the same scale?

Mr. Hoffman: that is correct.

Chairman: or if you withdrew it tonight you could come back at a later date with a different scale and different drawing. Now I cannot tell you what to do as to how this Board will vote, but if you withdraw it tonight you can come back at a later date, if not, it is at least a year with the same idea or scale.

Mr. Zellner: can I ask a question.

Chairman: yes, sir.

Mr. Zellner: what sort of encroachment are we talking about? We could go back to the drawing board and redesign something that will suit it. Can you give me some hint about what sort of encroachment you will allow.

Chairman: no, sir. We cannot tell you what to do.

Ms. Swaney: unfortunately I do not know how our compadre' will vote.

Chairman: no, sir. I could say one thing and somebody else may have a different opinion as to what you might do.

Mr. Felts: instead of them withdrawing we can do a request for them to bring in a scaled drawing.

Mr. Zellner: what I am hearing is that the twelve-foot is not going to fly, but I am trying to get some notion. I think we would be better off with withdrawing this, and rethinking it. Do you understand what I am saying?

Chairman: Ms. Jones if they do withdraw it and come back to you and you sit down and look at their scaled drawing.

Ms. Jones: yes, I think what Mr. Felts said was in proper order. What the Board needs to know is what is the minimum encroachment or the minimum amount of land area that you need to protect that rear door, and that is something that you are going to have to determine by staking out the area.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 6, 2011 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

Ms. Jones: it may be that one-foot or two-feet, but they cannot tell you how many feet they would allow. They just need to know that it is the least amount in order to fix whatever the problem would be. Hopefully I said that properly.

Mr. Zellner: one other question. Am I right, in that the Building Department says that the slab out back can be installed and paved without a roof?

Ms. Jones: as long as it is not covered.

Mr. Zellner: as long as it is not covered.

Ms. Jones: yes, sir.

Chairman: yes, sir. Once you cover it, it brings your setback into play.

Mr. Zellner: right. Now is the setback the drip of the eaves or is it the supporting structure?

Ms. Jones: I think you get two-feet off of the eave. I will look that up.

Mr. Zellner: so if the setback is thirty-feet the eaves could go two-feet past the thirty-feet and still would be okay?

Ms. Jones: I am not sure, but we can talk about that in my office at a later time if you want to do that.

Mr. Zellner: okay. Can I go make a phone call to Mr. Kim and see what he wants to do?

Ms. Jones: would you like to take a five minute for him to go call Mr. Kim.

Chairman: sure. The Chair will entertain a motion to take a five minute recess.

A **Motion** was made by **Mr. Swaney** and **Seconded** by **Mr. Mayhand** to **recess at 6:25 p.m. and reconvene at 6:30 p.m.**

The Motion carried unanimously.

Chairman: let us come to order, and if you would state your name again for the record please.

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 6, 2011 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL

Mr. Zellner: Malcolm Zellner speaking for Sean Kim and his wife, Rachel. In brief conversation with Mr. Kim he has chosen to let you vote and will go from there with whatever you decide.

Chairman: okay.

Mr. Zellner: if we have to go back to the drawing board, we will go back to the drawing board and take it from there.

Chairman: okay. Thank you, sir. At this time the Chair will entertain a motion, and remember the motion must be made in the affirmative.

A **Motion** was made by **Mr. Swaney** and **Seconded** by **Mr. Mayhand** to **approve Appeal #2011-05, Sangyoung Kim, for a variance to allow an attached patio to encroach twelve-feet into the thirty-foot rear setback line at 9381 Marchand Avenue. The property is located in an R-3, High Density Single Family Residential Zone.**

Upon roll call vote, **the motion failed.**

Mr. Swaney	Nay
Mr. Mayhand	Nay
Ms. Hargiss	Nay
Mr. Felts	Nay
Mr. Robison	Nay

Chairman: the appeal is denied. Thank you. (Mr. Zellner & Ms. Kim departed abruptly, but Chair went outside after them to let them know that they have the right to appeal this decision with the Circuit Court of Baldwin County and if they planned to do so they needed to let the Community Development Department know in writing within fifteen days from this decision).

Election of Officers

Chairman: we have under new business tonight the Election of Officers. The Chair will entertain a motion.

Mr. Lamb: if Mr. Robison will continue to lead us with his brilliant leadership of this organization I move that he remain Chairman. He has done an outstanding job as Chairman.

Mr. Mayhand: I second.

Chairman: any other nominations. If not, nominations are closed.

A **Motion** was made by **Mr. Lamb** and **Seconded** by **Mr. Mayhand** for **Mr. Willie Robison as Chairman.**

The Motion carried unanimously.

Chairman: nominations for Vice Chairman.

Mr. Mayhand: I nominate Mr. Felts.

Chairman: we have Mr. Felts nominated. Any other nominations?

Mr. Felts: point of order. Can I be nominated if I am an Alternate Member?

Mr. Hoffman: it has to be a Board member.

Ms. Houston: he is an Alternate member he cannot be Vice Chairman.

Chairman: he cannot be nominated because it has to be a Board member.

Mr. Lamb: I nominate Mr. Swaney.

Mr. Mayhand: I second.

Chairman: any other nominations. If not, nominations are closed.

A **Motion** was made by **Mr. Lamb** and **Seconded** by **Mr. Mayhand** for **Mr. Glen Swaney Robison** for Vice Chairman.

The Motion carried unanimously.

Chairman: Secretary.

Mr. Felts: I nominate Ms. Hargiss.

Mr. Lamb: I second.

Chairman: any other nominations. If not, nominations are closed.

A **Motion** was made by **Mr. Felts** and **Seconded** by **Mr. Lamb** for **Ms. Jeri Hargiss** for Secretary.

The Motion carried unanimously.

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

Adjournment:

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

The Motion carried unanimously.

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 6, 2011 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL

There being no further business the meeting was adjourned at 6:40 p.m.

Respectfully submitted by:

Pat Houston, Recording Secretary

APPROVED: November 4, 2011

Willie Robison, Chairman

/ph

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 22, 2011
COUNCIL CHAMBERS, CITY HALL - 5:00 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 5:06 p.m.

CALL OF ROLL:

Members Present:

Joe Lemoine, Secretary
Dan Gibson
Don Terry
Ed Kirby, Chairman
Larry Chason, Vice Chairman
Cathy Barnette, Councilwoman

Members Absent:

Fred Small, Mayor
Victoria Phelps
Chief James "Bo" White

Staff Present:

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

Staff Absent:

Jay Ross, Attorney
Misty Gray, Attorney
Richard Johnson, Public Works Director
Ashley Campbell, Environmental Programs Manager
Lonnie Jones, Code Enforcement Officer

Others Absent:

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

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 22, 2011
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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

The first order of business is the call to order.

Chairman: Please let the record Mayor Small, Chief White and Ms. Phelps are not present.

The next order of business is the approval of the minutes.

APPROVAL OF MINUTES:

The minutes of the August 25, 2011 regular meeting were considered for approval.

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

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Terry *to approve the minutes of the August 25, 2011 regular meeting as submitted. The Motion carried unanimously.*

NEW BUSINESS:

The next order of business is the election of officers.

ELECTION OF OFFICERS:

Chairman: I would like to open the floor to nominations for Chairman.

Mr. Chason: I would like to nominate Mr. Kirby for Chairman.

Chairman: If there are no other motions, the nominations for Chairman are closed. Do any of the Commissioners have any questions or comments? If not, the Chair will entertain a motion.

A **Motion** was made by Mr. Chason and **Seconded** by Ms. Barnette *to nominate Mr. Kirby for Chairman. The Motion carried unanimously.*

Chairman: I would like to open the floor to nominations for Vice Chairman.

Mr. Chason: I would like to nominate Mr. Lemoine for Vice Chairman.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 22, 2011
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

Mr. Lemoine: Thank you for nominating me, Mr. Chason, but I decline. No thank you.

Ms. Barnette: I would like to nominate Mr. Chason for Vice Chairman.

Chairman: If there are no other motions, the nominations for Vice Chairman are closed. 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 Mr. Lemoine to nominate Mr. Chason for Vice Chairman. The Motion carried unanimously.

Chairman: I would like to open the floor to nominations for Secretary.

Mr. Lemoine: I would like to nominate Mr. Terry for Secretary.

Chairman: If there are no other motions, the nominations for Chairman are closed. Do any of the Commissioners have any questions or comments? If not, the Chair will entertain a motion.

A Motion was made by Mr. Lemoine and Seconded by Mr. Gibson to nominate Mr. Terry as the Secretary. The Motion carried unanimously.

The new 2011-2012 officers are Mr. Kirby, Chairman; Mr. Chason, Vice Chairman, and Mr. Terry, Secretary.

The next order of business is site plan review for the New Office Building @ 810 Manci Avenue.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 22, 2011
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

SITE PLAN REVIEW:

File S11-05:

Site: New Office Building @ 810 Mancini Avenue

Zoning(s): B-2, General Business

Location: 810 Mancini Avenue, Southeast of the intersection of Main Street and Mancini Avenue

Area: 0.51 Acres +

Applicant: Mid-Bay Ventures, L.L.C.

Owner: Butler County Bank - William S. Johnson, President

Engineer: Jade Consulting - Trey Jinright

An introductory presentation was given by Mr. Trey Jinright, representing Jade Consulting, requesting site plan review of the renovation of an existing building and addition of a new building located southeast of the intersection of Main Street and Mancini Avenue. We have revised the site plan to reflect provisions for tree protection. I will be happy to answer any questions you may have.

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

Mr. Chason: At the site preview meeting, we discussed whether or not the owner plans to reserve or put in a street to access through the property to the south.

Chairman: What does that have to do with the approval of this site plan?

Ms. Barnette: The way the site plan is proposed there is adequate space to have that connector. This would depend on what the use of the building to the south will be.

Chairman: If it ever came up in the future.

Mr. Chason: It is coming up now because if the owner is planning to connect this site to the property to the south, then I recommend that we do not approve the site plan until we know what they are going to do with the other piece of property.

Ms. Jones: The last site plan you approved did not show a connection to the other property. They nullified any prior plans for a drive way at this location.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 22, 2011
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

Mr. Chason: Are you aware whether or not the owner of the other property plans to connect by way of a street or an easement to this property?

Mr. Jinright: I am not aware of the circumstances surrounding the other property. If they plan to do that, we would have to come back before you for review and approval.

Ms. Barnette: From the prospective of the Downtown Redevelopment Authority, I think it is great to see this type of development revitalizing the downtown district.

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 Mr. Terry *to approve the site plan for the New Office Building @ 810 Mancini Avenue. The Motion carried unanimously.*

The next order of business is an administrative presentation for the proposed annexation of a portion of Well Road.

ADMINISTRATIVE PRESENTATION:

Presentation requesting annexation of approximately one thousand three hundred and twenty-four linear feet of the unimproved portion of the right-of-way of Well Road and the northeast portion of the Gipson tract into the corporate limits of the City of Daphne.

Ms. Jones: The City is trying to get all of those ducks in a row in order to annex property and to improve Well Road. Well Road right-of-way is being improved as a part of the prerequisite and a condition of the site plan approval of the Daphne Utilities Central Services facility. This is a part of the process. Before the City will spend any money to improve Well Road, they want it to become a city street.

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

A **Motion** was made by Mr. Chason and **Seconded** by Mr. Terry *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the annexation of a portion of the right-of-way of Well Road (approximately one thousand three hundred and twenty-four linear feet of the unimproved portion of the right-of-way of Well Road and the northeast portion of the Gipson tract) into the corporate limits of the City of Daphne. The Motion carried unanimously.*

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 22, 2011
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

The next order of business is an administrative presentation of revised Planning Commission Submittal Material.

ADMINISTRATIVE PRESENTATION:

DISCUSSION OF REVISED PLANNING COMMISSION SUBMITTAL MATERIAL:

Ms. Jones: I will email the documents to you for review and discussion at the next Planning Commission meeting.

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. Eric Bussey: No report.

The next order of business is commissioner comments.

COMMISSIONER'S COMMENTS:

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

Ms. Barnette: Just really brief, I think at the last Planning Commission meeting I asked this. I apologize for not calling Erick, but if you can get a confirmation on the dedication of the TimberCreek conservation easement.

Mr. Gibson: Last time I asked Mr. Ross, he said he had not heard anything else about it.

Mr. Chason: Where are we on the Alabama Highway 181 Corridor Future Land Use?

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 22, 2011
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

Ms. Jones: I can answer a question about the annexation of 181.

Mr. Chason: Annexation, as well, but we had talked about looking at what our vision of what the land adjoining the right-of-way would be if we were to annex it.

Ms. Jones: That is where we left it. After Baldwin County came to talk about it, no one has said anything else about it. If that is something you want to look into, then I get some words out and we can do that.

Chairman: This is something we need to address at a work session prior to the annexation and development of Alabama Highway 181 to the south. I do not know if that can be part of a meeting.

Mr. Chason: I think that our Future Land Use Map is long overdue. With all of the improvements on Alabama Highway 181, we are going to see more activity. While we are having twenty and thirty minute meetings, this would be a great time to look at that.

Chairman: Let's get a work session so we can start working on it. This is not a pressing issue. We can do it, and then amend it if we need to.

The next order of business is director's comments.

DIRECTOR'S COMMENTS:

ANNEXATION OF ALABAMA HIGHWAY 181 SOUTH TO OLDFIELD
SUBDIVISION UPDATE:

Ms. Jones: At the last City Council meeting, the annexation of Alabama Highway 181 south to the Oldfield Subdivision was tabled. The City Council plans to discuss it at the next work session of Monday, October 10, 2011.

Mr. Chason: What was wrong with the annexation request?

Ms. Barnette: The issue was the negative recommendation that came from the Public Safety Committee. Not necessarily negative, but the Public Safety Committee said it would be necessary to add four police officers and nine firemen to respond to the additional emergency calls in this area. The City Council would like to see an impact study outlining the departmental costs of annexing and maintaining this portion of Alabama Highway 181 before they make a decision.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 22, 2011
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

MBNEP GRANT:

Ms. Jones: The City of Daphne has been awarded the MBNEP grant. We have also selected the consultant for the grant. He is present in the room at this time, Mr. Trey Jinright, JADE Consulting. I have a few more steps. I have to take with the City Council in order to have the funds officially released, and then it will be presented to the City Council to request authorization for the Mayor to sign the contract. We will be starting on that, hopefully, in October.

ORFNER SUBDIVISION PLAT EXEMPTION REQUEST:

Ms. Jones: I over committed to someone and so the next thing I have is in the extraterritorial planning jurisdiction. I have been asked to present a request for an exemption to the subdivision regulations in a previously approved subdivision. The owner is proposing to divide one parcel into two parcels of which each parcel is greater than one hundred acres. It would fall under an exemption for Baldwin County and the City of Daphne. All that it would require is your approval. I told them I would ask because I thought at one time the City of Daphne had signed off on one similar to this one in the extraterritorial jurisdiction, but I have documentation that says it did come before you for review. The Orfner Subdivision is located on U. S. Highway 90. This is something you saw last year. Baldwin County Sewer Authority is looking to purchase one hundred acres from the owner. Again, one of the parcels would be one hundred acres and the other one would be one hundred and fifteen acres.

Mr. Chason: This is barely in our extraterritorial planning jurisdiction.

Ms. Jones: I would like for you to take a look at it and consider approving it.

Ms. Barnette: Mr. Chairman, I will disclose that Mr. Diehl, Preble-Rish, called me about this last week. I am familiar with the request, and I am comfortable with it. It is a subdivision. Because of the line and it is so large, I am not opposed to doing it.

Mr. Gibson: Is it just raw land?

Chairman: Yes. The sewer plant may be back there.

Ms. Jones: It is on the other side.

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 SEPTEMBER 22, 2011
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

A Motion was made by Mr. Chason and Seconded by Ms. Barnette *to defer the matter to the Community Development Director to deal with it in accordance to the Land Use and Development Ordinance. The Motion carried unanimously.*

ADJOURNMENT:

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

There being no further business, the meeting was adjourned at 5:23 p.m.

Respectfully submitted by:



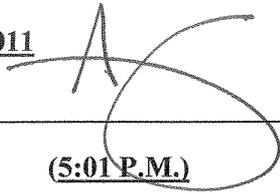
Jan Dickson, Planning Coordinator

APPROVED: October 27, 2011



Larry Chason, Vice-Chairman

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 27, 2011
DATE OF REPORT-10/31/11



-
1. CALL TO ORDER: DATE OF REPORT: 10/31/11 (5:01 P.M.)
 2. CALL OF ROLL: CHIEF WHITE, CWM. BARNETTE, MAYOR YELDING, L. CHASON, V. PHELPS, D. TERRY, D. GIBSON, J. LEMOINE
 3. APPROVAL OF MINUTES:
Review of minutes for the regular meeting of September 22, 2011. (APPROVED)
 4. NEW BUSINESS:
 - A. SITE PLAN REVIEW: (APPROVED SITE PLAN NO SIDEWALK REQUIRED. (SIGN PACKAGE NOT APPROVED) AUTHORIZED STAFF TO REVIEW CHANGES WHICH INCORPORATE PERVIOUS MATERIAL WITHOUT FURTHER PC REVIEW.)
 1. File S11-06:
Site: McDonalds USA, L.L.C.
Zoning (s): B-1, Local Business
Location: 29138 U. S. Highway 98, southeast of the intersection of U. S. Highway 98 and U.S. Highway 90
Area: 1.25 Acres ±
Owner: Mike Crowley
Engineer: Adams Engineering - S. A. Miller
 2. File S11-07: (APPROVED)
Site: Strickler Imports
Zoning (s): B-2, General Business
Location: Northwest of the intersection of U. S. Highway 90 and Renaissance Boulevard, Lot 9, Renaissance Center Subdivision, Phase Three
Area: 1.14 Acres ±
Owner: Ed Strickler
Engineer: Dees Engineering - Barry Dees
 - B. RENAISSANCE CENTER SUBDIVISION, PHASE THREE:
 1. MASTER PLAN: (APPROVED)
Presentation to be given by Mr. Trey Jinright, representing JADE Consulting, requesting a master plan revision for the Renaissance Center Subdivision, Phase Three

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 27, 2011
DATE OF REPORT-10/31/11

2. PRELIMINARY PLAT REVIEW:

File SDF11-04: (APPROVED)
Subdivision: Resubdivision of Lots 8, 11, 12, 13, 14, 15, 16 & 17,
Renaissance Center Subdivision, Phase 3

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

Location: Northwest of the intersection of U. S. Highway 90 and
Renaissance Boulevard
Area: 29.30 Acres ±, (14) lots
Owner: Renaissance Improvement District - Terry Ogletree
Engineer: JADE Consulting - Trey Jinright

C. ADMINISTRATIVE PRESENTATION:

1. Presentation to be given by Mr. Richard Johnson, Public Works Director, of the proposed improvements of Well Road from Pollard to Public Works Road
(APPROVED)
2. Planning Commission discussion of revised submittal material
(NO ACTION TAKEN)

5. PUBLIC PARTICIPATION: MR. PEACHY

6. ATTORNEY'S REPORT:
Follow up regarding the Conservation Easement for TimberCreek Golf Course
(POSTPONE UNTIL NOVEMBER MEETING)

7. COMMISSIONER'S COMMENTS:
TO DISCUSS PRIORITIES FOR THE UPCOMING YEAR AT NOVEMBER MEETING

8. DIRECTOR'S COMMENTS:
Review meeting/deadline calendar (NO ACTION TAKEN)

9. ADJOURNMENT (6:24 PM)

SET A PUBLIC HEARING DATE

DECEMBER 19, 2011

TO CONSIDER:

- 2.) Annexation: Well Road
Location: Approximately one thousand three hundred and twenty-four linear feet of an unimproved portion of the right-of-way of Well Road and the northeast Portion of the Gipson Tract
Recommendation: Unanimous Favorable

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: A portion of Well Road
Annexation Review
Date: September 28, 2011

MEMORANDUM

LOCATION: Approximately one thousand three hundred and twenty-four linear feet of an unimproved portion of the right-of-way of Well Road and the northeast portion of the Gipson Tract.

RECOMMENDATION: At the September 22, 2011, regular meeting of the City of Daphne Planning Commission, six members were present. The motion carried unanimously for a **favorable recommendation** of the above-mentioned annexation.

Attached please find documentation from Richard Johnson and the Planning Commission Report for placement on the Monday, October 3, 2011 City Council agenda for action by the City Council. If any additional information is needed, please contact Richard.

A copy of an ordinance will be provided by the office of the City Attorney.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Planning Report
2. Internal Memorandum-Richard Johnson, Public Works Director
3. Warranty Deed - Gipson Tract
4. Legal Description
5. Map of Right-of-Way

Planning Commission



Annexation Review Well Road

September 2011 Planning Report

COMMUNITY DEVELOPMENT

Public Works Committee Action Item-Well Road Annexation

The City of Daphne desires to accept property from Ms. Patricia Gipson along Well Road. However, the property must first be annexed into the corporate limits prior to official acceptance can occur. The Planning Commission is requested to forward the Council a favorable recommendation to annex the subject property. Once the annexation procedures are complete, then Resolution No. 2011-58 may be approved by Council.

From Pollard Road eastward to a certain point, Well Road is a public right-of-way. It will be open to increased use once the new Daphne Utilities Central Operating Facility is complete. Public Works currently uses the road for ingress and egress and as a condition of site plan approval; the City and Daphne Utilities have developed a partnership for making improvements to Well Road (*see letter from Richard Johnson on the following page for additional information*).

Recommend: Motion for favorable recommendation to City Council to annex Well Road as shown on the exhibit.

COMMUNITY DEVELOPMENT

Public Works Committee Action Item-Well Road Annexation

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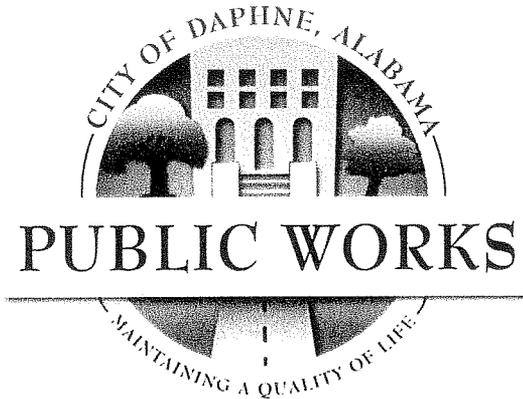
Recommend: Motion for favorable recommendation to City Council to annex Well Road as shown on the exhibit.

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

To: Honorable Mayor Fred Small

Cc: Adrienne Jones – Director of Community Development
City Clerk
File

From: Richard D. Johnson, P.E.
Public Works Director

Date: August 15, 2011

RE: Annexation of the unincorporated portion of Well Road

As you know Daphne Utilities is undertaking the improvement of Well Road from Pollard Road to Public Works Road as a requirement of their development of their Central Service Facility on the aforementioned road. Approximately 1324 linear feet of existing Rights-Of-Way (ROW) and the newly acquired portion of the Gipson tract lie outside our corporate limits. For this road to be improved and brought into the City road inventory for maintenance it must be annexed.

I am asking that you make a formal request of the Planning Commission to deliberate on and make recommendation to the City Council on this ROW annexation. Attached please find a legal description and map.

If I can be of further assistance, do not hesitate to contact me.

Yours,

RDJ

BALDWIN COUNTY, ALABAMA
TIM RUSSELL PROBATE JUDGE
Filed/cert. 7/29/2011 1:23 PM
TOTAL \$ 15.00
3 Pages

1296797

STATE OF ALABAMA
COUNTY OF BALDWIN



RIGHT OF WAY DEED FOR PUBLIC ROAD
FEE SIMPLE WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, for and in consideration of the benefit to the public and other good and valuable consideration given to the undersigned by the **CITY OF DAPHNE, ALABAMA**, An Alabama Municipal Corporation, the receipt and sufficiency of which is hereby acknowledged, and for the further consideration of the benefits accruing to the Grantor and to the public from the construction of a public road through or across its lands, **PATRICIA T. GIPSON**, the undersigned Grantor has this day bargained and donated, and by these presents does hereby **GRANT, BARGAIN, SELL AND CONVEY** unto the **CITY OF DAPHNE, ALABAMA**, the following described property lying and being in Baldwin County, Alabama, and being more particularly described as follows:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE RUN N-00°21'08"-E, 2589.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N-00° 21'08"-E, 27.26 FEET TO A POINT; THENCE RUN S-89°41' 15"-E, 453.45 FEET TO A POINT; THENCE RUN S-84°29'04"-W, 88.31 FEET TO A POINT; THENCE RUN SOUTHWESTERLY ALONG A CURVE HAVING A RADIUS OF 3562.47 FEET, A DELTA ANGLE OF 05°39'14", THE CHORD OF WHICH BEARS S- 87°20'1 1"-W, 351.40 FEET, AN ARC DISTANCE OF 351.54 FEET TO A POINT; THENCE RUN N-89°48'42"-W, 14.69 FEET TO THE POINT OF BEGINNING, CONTAINING 0.19 ACRES, MORE OF LESS.

Legal Description Prepared by:
Hutchinson, Moore & Rauch, LLC
2039 Main Street
Daphne, Alabama 36526

THIS CONVEYANCE PREPARED WITHOUT THE BENEFIT OF A TITLE EXAMINATION.

3

TO HAVE AND TO HOLD unto the **CITY OF DAPHNE, ALABAMA**, its successors and/or assigns in fee simple forever.

And for the consideration, aforesaid, does for itself, for its heirs, executors, administrators, successors, and/or assigns covenant to and with the City of Daphne, Alabama, that it is lawfully seized and possessed in fee simple of said tract or parcel of land hereinabove described; that it has a good and lawful right to sell and convey the same as aforesaid; that the same is free of all encumbrances, liens, and claims, except the lien for ad valorem taxes which attached on October 1, last past, and which is to be paid by the Grantor(s); and that it will forever warrant and defend the title thereto against the lawful claims of all person whomsoever.

The Grantor herein further covenants and agrees that the purchase price or consideration above-stated is in full compensation to it for this conveyance, and hereby releases the City of Daphne, Alabama and all of its employees and officers from any and all damages to its remaining property contiguous to the property hereby conveyed arising out of the location, construction, improvement, landscaping, maintenance, or repair of any public road or highway that may be so located on the property herein conveyed.

IN WITNESS WHEREOF, **Patricia T. Gipson** as Owner has hereunto set their hands and seals, this 18th day of July, 2011.

GRANTOR NAME:
Patricia T. Gipson
8545 County Road 64
Daphne, AL 36526

BY: Patricia T. Gipson
Name of Signee
AS: Owner

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public, in and for said State and County, hereby certify that **Patricia T. Gipson**, as the Grantor herein, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of said conveyance, he executed the same voluntarily, with full authority and as an act of said Company on the day same bears date.

Given under my hand and seal this 18th day of July 2011.

Deirdre King
NOTARY PUBLIC
Commission Expires: _____



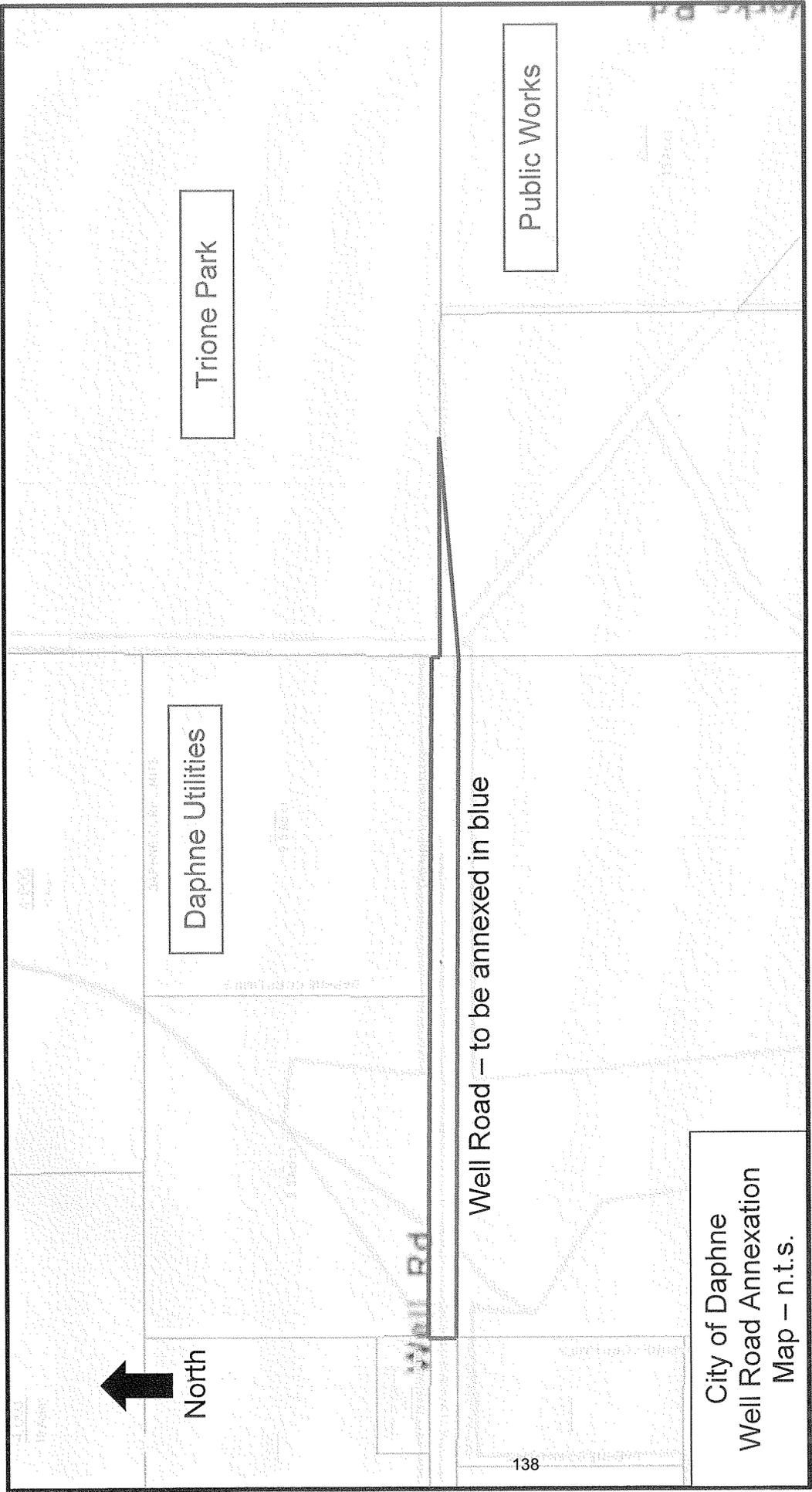
After Recording Return to:
City of Daphne
P.O. Box 400
Daphne, AL 36526

WELL ROAD ANNEXATION

“Exhibit A”

LEGAL DESCRIPTION:

Commencing at the southwest corner of the southeast quarter of section 16, township 5 south, range 2 east; thence run n-00°21'08"-e, 2589.01 feet to the point of beginning; thence run s-89°48'42"-e 14.69 feet to a point; thence northeasterly along a curve having a radius of 3562.47 feet, a delta angle of 05°39'14", the chord of which bears n-87°20'11"-e, 351.40 feet, an arc distance of 351.54 feet to a point; thence run n-89°41'15"-w 453.45 feet to a point; thence run n-00°21'08"-e ±32.74 feet to a point on the north rights-of-way of well road (a 60 foot rights-of-way); thence run west ±1324.00 feet to a point; thence run south ±60.00 feet to a point on the south rights-of-way line of well road; thence run east ±1324.00 feet to the point of beginning, containing 2.01 acres, more or less.



Trione Park

Public Works

Daphne Utilities

Well Road – to be annexed in blue

North
↑

City of Daphne
Well Road Annexation
Map – n.t.s.

ORDINANCE NO. 2011-

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

Well Road

**(Located Approximately One Thousand Three Hundred and Twenty-Four Linear Feet of
an Unimproved portion of the Right-of-Way of Well Road and the Northeast Portion of the
Gipson Tract)**

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

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

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

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

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne on September 22, 2011 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on December 19, 2011 concerning the petition for annexation; and,

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

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

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

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

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

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

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

LEGAL DESCRIPTION:

Commencing at the southwest corner of the southeast quarter of section 16, township 5 south, range 2 east; thence run n-00°21'08"-e, 2589.01 feet to the point of beginning; thence run s-89°48'42"-e 14.69 feet to a point; thence northeasterly along a curve having a radius of 3562.47 feet, a delta angle of 05°39'14", the chord of which bears n-87°20'11"-e, 351.40 feet, an arc distance of 351.54 feet to a point; thence run n-89°41'15"-w 453.45 feet to a point; thence run n-00°21'08"-e ±32.74 feet to a point on the north rights-of-way of well road (a 60 foot rights-of-way); thence run west ±1324.00 feet to a point; thence run south ±60.00 feet to a point on the south rights-of-way line of well road; thence run east ±1324.00 feet to the point of beginning, containing 2.01 acres, more or less.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this _____ day of _____, 2011.

Cathy S. Barnette,
Council President

Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

**ADDITIONAL RIGHT-OF-WAY DEEDS
FOR WELL ROAD
FROM THE CITY VAULT**



COUNTY COMMISSION

BALDWIN COUNTY

P. O. BOX 1488
BAY MINETTE, ALA.

36507
(334) 937-9561

MEMBERS
DIST. 1. SAMUEL JENKINS
2. FRANK BURT, JR.
3. MICHAEL ALLEGRI
4. DON KOONTZ
5. C. DEAN HANSEN
6. WENDY ALLEN
7. MICHAEL G. HARPER

ADMINISTRATOR
JAMES W. ZUMWALT

August 13, 1996

COPY

Mayor Harry Brown
City of Daphne
Post Office Box 400
Daphne, AL 36526

RE: Deeding of Well Road to City of Daphne

Dear Mayor Brown: *Harry*

The Baldwin County Commission during their regularly held meeting of August 7, 1996 approved your request to deed Well Road right-of-way to the City of Daphne for the City's ownership and maintenance.

Attached you will find an executed "Quitclaim Deed".

Sincerely,

MICHAEL G. HARPER, Chairman
Baldwin County Commission

MGH/klk

cc: Tom Granger, PWD

STATE OF ALABAMA
BALDWIN COUNTY

QUITCLAIM DEED
Well Road
Deed No. 22-07-96

KNOW ALL MEN BY THESE PRESENTS, That we the undersigned,
Baldwin County Commission
P. O. Box 1488 Bay Minette, Alabama 36535 of the County and State aforesaid, in
and for the consideration of _____ \$ _____) in hand paid by The City of
Daphne the receipt whereof is hereby acknowledged, have and by these presents
do hereby REMISE, RELEASE AND QUITCLAIMS unto the City of Daphne, its
successors or assigns, all their right, title and interest in and to the
following described right of way situated in Baldwin County, Alabama, said
right-of-way herein conveyed being more particularly described as follows, to-
wit:

Commence at the Northwest corner of the Southwest Quarter of Section 16, T-5-S,
R-2-E; then run South 30 feet; then run East 1320 feet, more or less; to a
point on the North-South Quarter Section Line; then run North 60 feet; then run
West 1320 feet, more or less, to a point on the West Section Line of Section
16; then run South 30 feet to the Point of Beginning.

To Have and To Hold by the City of Daphne, or its Assigns, and for and in
consideration of the benefit to our property by reason of the construction or
improvement of said road, we hereby release the City of Daphne aforesaid, and
all of its employees and officers from all consequential damages, present or
prospective, to our property, arising out of the construction improvement,
maintenance or repair of said road, and that said road is a benefit to our
property is hereby admitted and acknowledged. All agreements covering the
moving, relocation and/or changing of the buildings and/or structures located
wholly or partially on the above described right-of-way shall be in writing and
approved by the City of Daphne before same shall be valid and binding on the
said City of Daphne. The Grantor hereby grants permission with right of
ingress and egress to Grantor's adjoining property at any time during
construction period of project for purpose of moving Grantor's buildings and/or
structures from the above described right-of-way.

In witness whereof, we have hereunto set our hands and seal this 7th
day of August, 1996.

Witness Signatures:

Owners Signature(s):

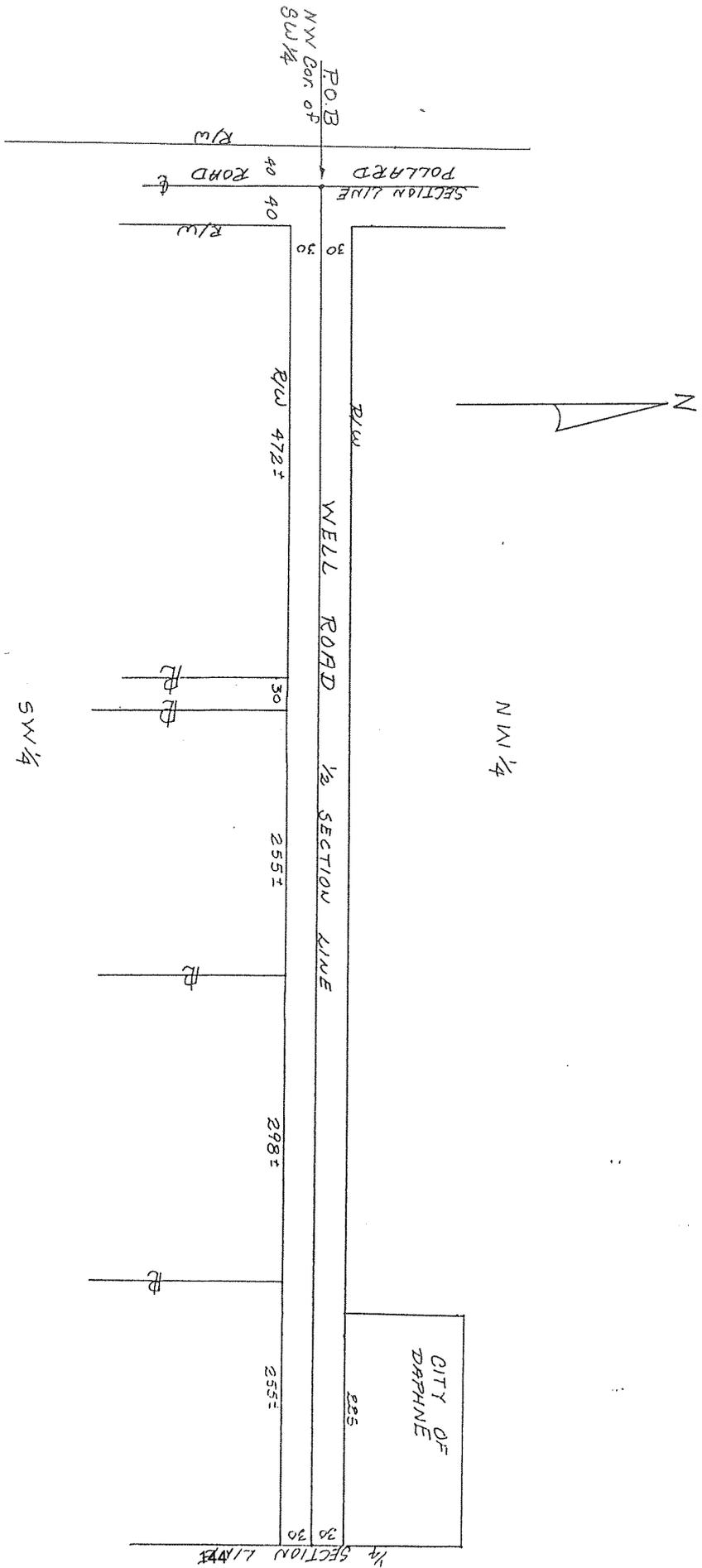
[Signature]
Chairman, Baldwin County Commission

[Signature]
Administrator, Baldwin County

This instrument prepared by:
John E. Taylor
Engineering Division
Baldwin County Public Works Department
203 Dickman Road
Bay Minette, Alabama 36507

ROW Location:
Sec-T-R Sec. 16, T-5-S, R-2-E

Seal



Sec 16 T-5-S, R-2-E
 Baldwin County, Alabama



COUNTY COMMISSION
BALDWIN COUNTY
P. O. BOX 1488
BAY MINETTE, ALA.
36507
(334) 937-9561

MEMBERS
DIST. 1. SAMUEL JENKINS
2. FRANK BURT, JR.
3. MICHAEL ALLEGRI
4. DON KOONTZ
5. C. DEAN HANSEN
6. WENDY ALLEN
7. MICHAEL G. HARPER
ADMINISTRATOR
JAMES W. ZUMWALT

December 19, 1996

Mayor Harry Brown
City of Daphne
Post Office Box 400
Daphne, AL 36526

Dear Mayor Brown:

The Baldwin County Commission during their regular scheduled meeting of December 16, 1996 approved the transfer of the right-of-way of Well Road to the City of Daphne, via a Quitclaim Deed.

Attached you will find the executed copy of this deed. Please have recorded and once it has been recorded, provide this office with a copy.

Sincerely,

SAMUEL JENKINS, SR. Chairman
Baldwin County Commission

SJ/klk

cc: Tom Granger, PWD

STATE OF ALABAMA
BALDWIN COUNTY

COPY

QUITCLAIM DEED
Well Road
Deed No. GC-1

KNOW ALL MEN BY THESE PRESENTS, That we the undersigned,
Baldwin County Commission
P. O. Box 1488 Bay Minette, Alabama 36535 of the County and State aforesaid, in
and for the consideration of _____ (\$) in hand paid by The City of
Daphne the receipt whereof is hereby acknowledged, have and by these presents do
hereby REMISE, RELEASE AND QUITCLAIMS unto the City of Daphne, its successors or
assigns, all their right, title and interest in and to the following described
right of way situated in Baldwin County, Alabama, said right-of-way herein
conveyed being more particularly described as follows, to-wit:

Commence at the Northwest Corner of the Southwest Quarter of Section 16, T-5-S,
R-2-E; then run East 40 feet; then run South 30 feet; to the Point of Beginning;
then run East 1280 feet, more or less, to the North-South Quarter Section Line;
then run North 60 feet; then run West 1280 feet, more or less, to the East Right-
of-Way line of Pollard Road; then run South 60 feet to the Point of Beginning.

To Have and To Hold by Baldwin County, or its Assigns, and for and in
consideration of the benefit to our property by reason of the construction or
improvement of said road, we hereby release the Baldwin County aforesaid, and all
of its employees and officers from all consequential damages, present or
prospective, to our property, arising out of the construction improvement,
maintenance or repair of said road, and that said road is a benefit to our
property is hereby admitted and acknowledged. All agreements covering the
moving, relocation and/or changing of the buildings and/or structures located
wholly or partially on the above described right-of-way shall be in writing and
approved by the Baldwin County Highway Department before same shall be valid and
binding on the said Baldwin County Highway Department. The Grantor hereby grants
permission with right of ingress and egress to Grantor's adjoining property at
any time during construction period of project for purpose of moving Grantor's
buildings and/or structures from the above described right-of-way.

In witness whereof, we have hereunto set our hands and seal this 16th day
of December, 1996.

Witness Signatures:

Owners Signature(s):

X Samuel Jenkins Sr.
Chairman, Baldwin County Commission

Samuel W. Jenkins
Administrator, Baldwin County

This instrument prepared by:
John E. Taylor
Engineering Division
Baldwin County Public Works Department
203 Dickman Road
Bay Minette, Alabama 36507

ROW Location:
Sec-T-R Sec. 16, T-5-S, R-2-E
Tax Map: 43-05-16

COPY



COUNTY COMMISSION

BALDWIN COUNTY

P. O. BOX 1488

BAY MINETTE, ALABAMA

36507

(334) 937-9561

(334) 580-2500, FAX

MEMBERS

- DIST. 1. SAMUEL JENKINS, SR.
2. FRANK BURT
3. HILLIARD M. (HILO) MIDDLETON
4. MAX M. FOREMAN, D.V.M.
5. C. DEAN HANSEN
6. T. JOE FAUST
7. ALLEN D. PERDUE

June 5, 1997

Mayor Harry Brown
City of Daphne
P.O. Box 400
Daphne, AL 36526

RE: Quit Claim Deed - Well Road

Dear Mayor Brown:

The Baldwin County Commission during their regular scheduled meeting of June 3, 1997 approved your request to Quit Claim deed Well Road to the City of Daphne as you are in the process of annexing this area.

Attached you will find an two (2) original executed Quit Claim Deeds for Well Road which you will need to have recorded in the Judge of Probate office. Once you have recorded, please forward a copy back to the Commission office.

Sincerely,

SAMUEL JENKINS, SR., Chairman
Baldwin County Commission

SJ/klk

cc: Tom Granger, PWD
Matt Bell
John Taylor

STATE OF ALABAMA
BALDWIN COUNTY

QUITCLAIM DEED
Well Road
Deed No. 1-97

KNOW ALL MEN BY THESE PRESENTS, That we the undersigned,
Baldwin County Commission
P. O. Box 1488 Bay Minette, Alabama 36535 of the County and State aforesaid, in
and for the consideration of _____ (\$0.00) in hand paid by The City of
Daphne the receipt whereof is hereby acknowledged, have and by these presents
do hereby REMISE, RELEASE AND QUITCLAIMS unto the City of Daphne, its
successors or assigns, all their right, title and interest in and to the
following described right of way situated in Baldwin County, Alabama, said
right-of-way herein conveyed being more particularly described as follows, to-
wit:

Commence at the Southwest corner of the Southeast Quarter of then Northwest
Quarter of Section 16, T-5-S, R-2-E; then run South 15 feet; then run East 1320
feet, more or less; to a point on the North-South half section line; then run
North 15 feet to the half section corner; then Continue North 15 feet to a
point; then run West 1320 feet, more or less, to a point on the North-South
Quarter line; then run South 15 feet to the Point of Beginning.
Said right of way containing 0.909 acres, more or less.

To Have and To Hold by the City of Daphne, or its Assigns, and for and in
consideration of the benefit to our property by reason of the construction or
improvement of said road, we hereby release the City of Daphne aforesaid, and
all of its employees and officers from all consequential damages, present or
prospective, arising out of the construction improvement, maintenance or repair
of said road. The Grantor hereby grants permission with right of ingress and
egress to Grantor's adjoining property at any time during construction period
of project for purpose of moving Grantor's buildings and/or structures from the
above described right-of-way.

In witness whereof, we have hereunto set our hands and seal this 3rd
day of June, 1997.

Witness Signatures:

[Signature]

Owners Signature(s):

[Signature]
Chairman, Baldwin County Commission

Administrator, Baldwin County

This instrument prepared by:
John E. Taylor
Engineering Division
Baldwin County Public Works Department
203 Dickman Road
Bay Minette, Alabama 36507

ROW Location:
Sec-T-R Sec. 16, T-5-S, R-2-E

RECORD FEE 2.50
STATE OF ALABAMA
BALDWIN COUNTY
I CERTIFY THIS INSTRUMENT WAS
FILED AND TAXES COLLECTED ON

JUN 30 11 40 AM '97

Seal

150
JUDGE OF PROBATE
RECORDED BY RP 762 342

REAL 762 PAGE 0342



Daphne Utilities

Approved MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ August 31, 2011 ♦ 5:00 p.m.

I. Call to Order

The regular August, 2011, Board meeting for the Utilities Board of the City of Daphne was held on August 31, 2011 and called to order by Chairman Robert Segalla, at 5:05 p.m.

II. Roll Call

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

Others Absent:

Others Present: Jerry Speegle – Board Attorney
Rob McElroy – General Manager
Danny Lyndall – Operations Manager
Teresa Logiotatos – Finance Manager
Deloris Brown – Human Resources Manager
Drew Klumpp – Administrative Services Manager
Lori Scharles – Executive Assistant
Tim Patton – Volkert & Associates
Doug Bailey – HMR
Ray Moore - HMR

Others Absent: Melinda Immel – Volkert & Associates

III. Pledge of Allegiance

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

IV. Approval of Minutes

a. **Utilities Board Minutes from July 27, 2011:**

The Chairman inquired if there were any corrections noted for the submitted Minutes from the July 27, 2011, Utilities Board meeting.

MOTION BY Lon Johnston to approve the submitted Minutes for July, 27 2011; Seconded by Fenton Jenkins.

AYE: JOHNSTON, JENKINS, SEGALLA

ABSENT:

ABSTAIN: SCOTT, SMALL

MOTION CARRIED

V. Old Business

a. Central Services Building – Update

Mr. McElroy informed that this topic will become Central Services project update, month-to-month, either in Operations report or General Manager’s report.

b. Bay Front Park Bathrooms

Rob McElroy stated that the bathrooms have been have been delivered with the ramp and deck being constructed at this time with an announcement to be made to the City Council at the time of completion.

c. Items in Abeyance

- 1. **Gas Franchise Agreement** – No current information was reported.
- 2. **Spanish Fort Sewer Franchise issues** – No updated information was reported.

VI. New Business

a. Well Road Re-Paving and Extension bid award

Mr. Johnston protested the vote for the bid award stating it had not been brought before the board for full consideration and discussion before releasing for bid and requested the item be tabled for an opportunity for a full meeting with all board members along with the finance manager to discuss the financial impacts of this scope of work. **Mr. Scott responded that he was surprise by Mr. Johnston’s protest due to the fact that it was part of the whole package and a discussion took place regarding the project.** The Chairman recommended that a special meeting be held in two weeks to discuss.

b. Public Presentation on Proposed Rate Increases / Public Meeting / Board Discussion & Guidance

Chairman Segalla resolved to hearing the presentation at the end of the meeting for the benefit of the public participation. Mr. Scott commented on the time publicized for the public participation. It was decided the presentation will be given at 6:30 pm.

c. Emergency Generator Grant Application

Mr. McElroy gave an explanation as the purpose of the grant application and stated that Daphne Utilities is not accepting it at this time but just processing for consideration. Ms. Stacie McKeen with Premier Grants Consulting gave a presentation of benefits of this grant.

MOTION BY Mayor Small to approve moving forward with filing the grant application; Seconded by Ron Scott.

AYE: JOHNSTON, JENKINS, SEGALLA, SCOTT, SMALL

ABSENT:

ABSTAIN:

MOTION CARRIED

VII. BOARD ATTORNEY’S REPORT

Mr. Speegle had nothing further to add to his report. After comments were made, Mr. Speegle stated that he would shorten the history of his report, leaving the beginning date for reference.

VIII. FINANCIAL REPORT

Teresa Logiotatos reviewed the financials for the Board members. **She noted the Board’s attention to the Cash Flow Report and reviewed this information with the Board.** She also reviewed the highlight sheet for the Board and the Public.

IX. GENERAL MANAGER’S REPORT

a. GM Report

Rob McElroy highlighted the Gulf Guardian Award and the recent AWPCA Conference held at the Daphne Civic Center and recognized John Williams and the Daphne Civic Center staff with a Certificate of Recognition. Mr.

Johnston commended the staff of the improved electronic services available for customers.

b. Operations Report

Danny Lyndall had nothing further to add to his report other than to introduce Darrell Bryant the new natural gas supervisor.

Deloris Brown reminded the Board of the upcoming health fair. Chairman Segalla congratulated Courtney Tolbert and Jonathan Scott on their new promotions. Mr. Ron Scott inquired about the Blue Cross/Blue Shield rates. Mrs. Brown informed him that she would be meeting with the representative later in the week.

Tim Patton of Volkert & Associates had nothing further to add to his report.

Doug Bailey from HMR had nothing further to add to his report.

Mr. David Duette, resident of Daphne commented on the odor at D'Olive Blvd. and the discouraging image of Daphne.

Mrs. Margaret Carlisle commented on the inconvenience of the meetings being held on Wednesdays congruent to most Wednesday evening church services.

At Mayor Small's request, Tim Patton with Volkert and Associates reviewed **the Engineer's Report in more detail of the current Daphne Utilities' projects for the public's information.**

Doug Bailey with HMR also reviewed his Engineer's Report in more detail of the current Daphne Utilities' projects for the public's information.

The Chairman then called for a recess – 5:55 p.m.
The Chairman reconvened the meeting at 6:30 p.m.

X. PUBLIC PARTICIPATION –

Rob McElroy thanked those residents that were in attendance and proceeded to give a presentation of the current state of the Utilities as well as information relative to the rate increase.

Mr. George Cox, Chief of the Ground Source Section of the Drinking Water Branch at ADEM, gave positive **comments about Daphne Utilities' progress;**

Mr. Pfil Hunt, President of Gardnyr Michael Capital, explained the justification of the rate increase and the consequences of not approving of increases;

Justice Manning of 133 Rolling Hill Drive in Daphne spoke of the appearance of the justification of the rate increase and gave a comparison to his experience in Cincinnati, OH;

Evelyn Lemcool, 128 Wild Oak Drive, gave comments relative to the rate increase;

Willie Williams, 1513 Pollard Road, opposing comments regarding the rate increase;

John Lake, Councilman for the City of Daphne, gave comments opposing the rate increase and requested a review of expenses to determine and cut wasteful spending;

Jessica Gray, 572 Stuart Street, gave remarks and asked questions relative to the rate increase;

Margarete Carlisle, gave comments;

Willie Robison, 560 Stuart Street, commented on public attendance at the Utility Board meeting, councilmen attendance, and the rate increase;

Elaine Maxime, 105 Avon Circle East, requested a reduced rate increase if possible;

Board Secretary/Treasurer Lon Johnston highlighted the Board action from 2005 to present; Chairman Bob Segalla also reminded the audience that the Board is not compensated for their service;

Ray Pierson, 30102 Loblolly Circle, gave remarks relative to the history of the Utility Board and the rate increase;

Boyd Nelson, 1214 Randall Avenue, commented on the rate increase;

Kit Smith, 608 Van Avenue, commented on the impact of this rate increase and the expenses that could be cut back;

Kate Irvine, 304 Bay Hill Drive, gave remarks against the rate increase;

Jim Worley, 571 Stuart Street, commented opposition of the rate increase.

Public Participating closed – 7:54 p.m.

XI. BOARD ACTION – None

- A. Motion to recommend award of bid for Well Road Re-Paving and Extension - TABLED
- B. Resolution 2011-04 – Increase of Water and Sewer Rate Structure

Mayor Fred Small recommended to the Board that the vote be delayed 30-days in order to answer questions; Ron Scott gave his support to the Mayor relative to delaying the vote on Resolution 2011-04 to answer questions

MOTION BY Lon Johnston to approve Resolution 2011-04 - Increase of Water and Sewer Rate Structure as presented; Seconded by Ron Scott.

AYE: JENKINS, JOHNSTON, SEGALLA NAY: SCOTT, SMALL ABSENT: ABSTAIN:

MOTION CARRIED

- C. Resolution 2011- 05 – Emergency Generator Grant Application – previously approved in new business.

XII. BOARD COMMENTS – None

XIII. ADJOURNMENT –

MOTION BY Lon Johnston to adjourn the meeting. Seconded by Mayor Fred Small.

AYE: JENKINS, JOHNSTON, SEGALLA, SCOTT, SMALL, ABSENT: ABSTAIN:

MOTION CARRIED

The meeting adjourned at 8:02 pm.



Daphne Utilities

Approved MINUTES

Utilities Board Special Meeting

Community Room, Bryant Bank ♦ September 21, 2011 ♦ 11:00 a.m.

I. Call to Order

A special meeting of the Utilities Board of the City of Daphne was held on September 21, 2011 and called to order by Chairman Robert Segalla, at 11:00 a.m.

II. Roll Call

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

Others Absent: Fred Small, Mayor

Others Present: Rob McElroy – General Manager
Danny Lyndall – Operations Manager
Teresa Logiotatos – Finance Manager
Lori Scharles – Executive Assistant
Doug Bailey – HMR
Ray Moore - HMR

Others Absent:

A. Well Road Re-Paving and Extension bid award

Rob McElroy reviewed the history surrounding the issue of Daphne Utilities' responsibility for paving, extending and paying for the Well Road at the Central Services Site.

Lon Johnston commented on these issues, that while it is a desirable project and due to impending financial restraints, a temporary road may have been the solution.

Ron Scott remarked of the past Planning Commission meeting discussions. Fenton Jenkins inquired if questions were presented to the Planning Commission. Mr. McElroy explained the issues and the convoluted procedures with the Planning commission surrounding the project. Mr. Jenkins also asked why a special meeting was not called to inform the Board of these issues. Mr. McElroy responded that the scope had no cost at that point. Mr. Johnston indicated that it appeared that Board members were excluded, in particular the Secretary/Treasurer, and at that time announced to the Board that effective immediately he was resigning his office as Secretary/Treasurer and requested to be removed from any signatory authority.

Chairman Segalla commented on the Planning and Development Commission procedures and remarked that as long as the General Manager was comfortable with the decisions and as long as it was within the budget, the General Manager was capable and had been delegated with the authority

to make this type of engineering decision. The Chairman apologized if Board members were excluded in any way, it was not intentional. Ron Scott apologized if the Planning Commission and Council were privy to information that was not relayed on to the other Board members.

Ray Moore expanded on his experience with the Planning and Development Commission and their procedures.

Fenton Jenkins requested that special meetings be called in situations such as this.

Chairman Segalla then entertained a motion to approve the bid award.

MOTION BY Ron Scott to approve the recommended Well Road Re-Paving and Extention bid award to James Brothers Excavating in the amount of \$295,813.80; Seconded by Fenton Jenkins.

AYE: JENKINS, SCOTT, SEGALLA Nay: ABSENT: SMALL ABSTAIN: JOHNSTON

MOTION CARRIED

III. BOARD COMMENTS – None

IV. ADJOURNMENT –

MOTION BY Lon Johnston to adjourn the meeting. Seconded by Ron Scott.

AYE: JENKINS, JOHNSTON, SEGALLA, SCOTT ABSENT: SMALL ABSTAIN:

MOTION CARRIED

The meeting adjourned at 11:32 a.m.



Daphne Utilities

APPROVED MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ September 28, 2011 ♦ 5:00 p.m.

I. Call to Order

The regular September 2011, Board meeting for the Utilities Board of the City of Daphne was held on September 28, 2011 and called to order by Chairman Robert Segalla, at 5:05 p.m.

II. Roll Call

Members Present: Robert Segalla, Chairman
Fenton E. Jenkins, Vice Chairman
Lon Johnston
Ron Scott

Others Absent: Fred Small, Mayor

Others Present: Jerry Speegle – Board Attorney – arrived at 5:09 pm
Rob McElroy – General Manager
Teresa Logiotatos – Finance Manager
Rebecca Williamson – Accounting Assistant
Lori Scharles – Executive Assistant
Tim Patton – Volkert & Associates
Melinda Immel – Volkert & Associates
Ray Moore - HMR

Others Absent: Danny Lyndall – Operations Manager
Deloris Brown – Human Resources Manager
Drew Klumpp – Administrative Services Manager

III. Pledge of Allegiance

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

IV. Approval of Minutes

a. Utilities Board Minutes from August 31, 2011:

The Chairman inquired if there were any corrections noted for the submitted Minutes from the August 31, 2011, Utilities Board meeting.

MOTION BY Lon Johnston to approve the submitted Minutes for August 31, 2011; Seconded by Fenton Jenkins.

AYE: JOHNSTON, JENKINS, SCOTT, SEGALLA

ABSENT: SMALL

ABSTAIN:

MOTION CARRIED

V. Old Business

A. Items in Abeyance

1. **Gas Franchise Agreement** – No current information was reported.

2. **Spanish Fort Sewer Franchise issues** – No updated information was reported.

VI. New Business
A. Election of Utility Board Officers

Chairman Segalla called for nominations for officers for the Utilities Board of the City of Daphne.

MOTION BY Ron Scott to nominate Robert Segalla for the position of Chairman of the Board for the Utilities Board of the City of Daphne.

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

MOTION BY Ron Scott to nominate Fenton Jenkins for the position of Vice Chairman of the Board for the Utilities Board of the City of Daphne.

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

MOTION BY Chairman Segalla to nominate Ron Scott for the position of Secretary/Treasurer of the Board for the Utilities Board of the City of Daphne.

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

VII. BOARD ATTORNEY'S REPORT

Delayed for Mr. Speegle's arrival.

VIII. FINANCIAL REPORT

Rebecca Williamson had nothing further to add to the financial report and answered questions from the Board. Chairman Segalla commented on the favorable ratio of salaries to gross revenue and Ron Scott gave positive remarks relating to the Utilities' **current liabilities and assets beneficial position**. Lon Johnston inquired about the budget book and gave comments relative to source and use of funds and cashflow shortfall probability. He concluded stressing to the Board that it is essential to spend more time with this upcoming budget proposal than with previous years' budgets.

VII. BOARD ATTORNEY'S REPORT

Mr. Speegle had nothing further to add to his report.

IX. GENERAL MANAGER'S REPORT

a. GM Report

Rob McElroy updated the Board on the Bay Front restrooms that are ready to be put into service but that liability insurance needs to be established prior to use. Mr. Speegle advised that after speaking with City Attorney Jay Ross, Mr. Speegle will draft a short lease agreement.

Operations Report

Jim Caudle filled in for Danny Lyndall but had nothing further to add to the Operations report.

Chairman Segalla requested notification of any suggestions being deposited into the suggestion box rather than simply notifying that the suggestion box had been checked.

Melinda Immel of Volkert & Associates had nothing further to add to his report.

Ray Moore from HMR updated the Board on the final issues associated with the Highway 64 South Sewer project and also informed the Board of the Bidding and Construction of the Well Road project.

X. PUBLIC PARTICIPATION – None.

XI. BOARD ACTION – Previously addressed under New Business.

XII. BOARD COMMENTS – None.

XIII. ADJOURNMENT –

MOTION BY Lon Johnston to adjourn the meeting. Seconded by Ron Scott.

AYE: JENKINS, JOHNSTON, SEGALLA, SCOTT

ABSENT: SMALL

ABSTAIN:

MOTION CARRIED

The meeting adjourned at 5:26 pm.

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

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

Permit No. _____

DIVISION Ninth (9th) DISTRICT Two (2)

THIS AGREEMENT, entered into this the 1st day of November, 2011, between the Alabama Department of Transportation acting by and through its Transportation Director hereinafter referred to as the STATE and City of Daphne - thru Public Works Department herein referred to as the APPLICANT in an effort to secure a more pleasing appearance on the roadside between From US Hwy 31 (Mile Marker # 17.88) to the Southern City Limit Boundary at Dunmore and Oldfield Subdivisions Mile Marker # 10.54 - a total of 7.34 Miles. (See Attached Map)

on Route SR181, the APPLICANT agrees to maintain the vegetative cover in the ROW - Shoulders and Medians by means of mowing with a flail or rotary mower and hand trimming such that a clean and attractive appearance is obtained. Mowing operations shall be conducted when the height of the vegetative cover reaches Six (6) inches and rescheduled in accordance with the planned frequency. In the event that shrubs and/or minor trees are planted within the area, trimming around the plant materials shall be done in conjunction with mowing to obtain a clean and attractive appearance. Clippings or other incidental debris (such as branches, trash, etc.) shall be removed if mounting of the clippings or other incidental debris occurs.

In accepting the above, the Department of Transportation and the APPLICANT agree to do the following:

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

2. The Department of Transportation is not responsible for the safety of the individual involved or taking part in this work during maintenance operations. Signs used must be in accordance with the latest version of the MUTCD currently in use by ALDOT.
3. If Department of Transportation construction (repair of drainage and traffic structures, crossovers and other minor construction) is done in the subject area, it will be the responsibility of the Department of Transportation to establish a stand of vegetative cover if deemed necessary by the Department of Transportation and then the APPLICANT's responsibility to maintain the vegetative cover as stipulated herein. In the event of major construction in the subject area, this Agreement shall be voided at a time designated by the Department of Transportation.
4. The APPLICANT will provide litter pick up as needed to insure a pleasing appearance along the roadside.
5. All work shall be subject to the inspection and approval of the Alabama Department of Transportation. Description of the proposed work must accompany this and any associated proposal. If the maintenance is not conducted as specified herein, the Department of Transportation shall assume maintenance and this Agreement will be invalid. A copy of this Agreement must be kept by all parties that sign the Agreement. The State of Alabama does not grant applicant any right, title, or claim on any highway right-of-way.
6. The APPLICANT agrees to store no equipment, branches, mounds of clippings or plant debris of any kind or any other material on the shoulders of pavement and in the case of multi-lane highways, in the median strips. The pavement will be kept free from waste (clippings, mud and other debris) and equipment.
7. The APPLICANT shall be solely responsible for and hold harmless the Alabama Department of Transportation for any claim for damage done to existing private property, public utility, or the traveling public.
8. This Agreement is executed with the understanding that it is not valid until the APPLICANT has complied with all existing ordinances, laws and zoning boards that have jurisdiction in the county, city or municipality.
9. Failure of the APPLICANT to conform to the provisions of this Agreement will be cause to terminate this Agreement. Notification prior to termination will be made by the Department of Transportation.
10. To the fullest extent permitted by law, the APPLICANT shall defend, indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, and its agents, servants, employees and/or facilities from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts

or omissions of the APPLICANT, anyone directly or indirectly employed by the APPLICANT or anyone for whose acts APPLICANT may be liable.

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

The above conditions are agreed upon:

Name of APPLICANT: City of Daphne, Alabama

BY Honorable Fred Small - Mayor _____
Name and Title Date

BY _____ _____
Name and Title Date

BY _____ _____
Name and Title Date

(251) 621-9000

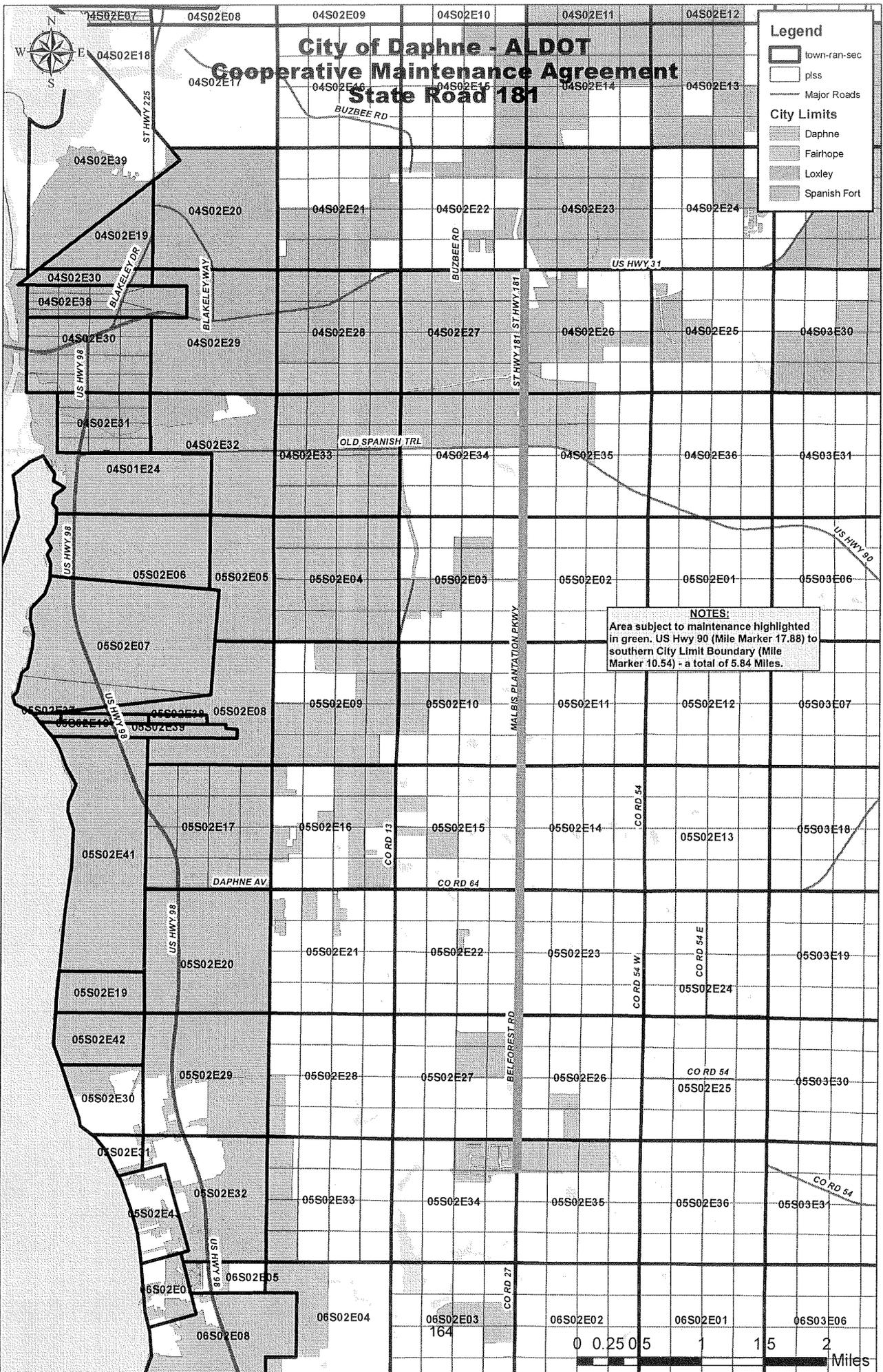
Telephone Number

For the Alabama Department of Transportation:

District Manager Date

Division Engineer Date

Maintenance Engineer Date



City of Daphne - ALDOT Cooperative Maintenance Agreement State Road 181

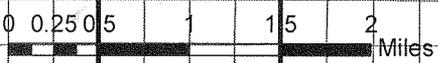
Legend

- town-ran-sec
- plss
- Major Roads

City Limits

- Daphne
- Fairhope
- Loxley
- Spanish Fort

NOTES:
Area subject to maintenance highlighted in green. US Hwy 90 (Mile Marker 17.88) to southern City Limit Boundary (Mile Marker 10.54) - a total of 5.84 Miles.

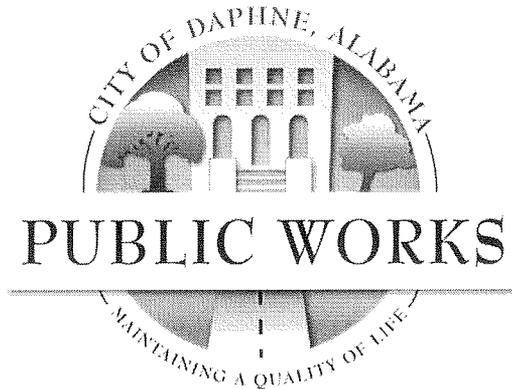


Fred Small
Mayor

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

To: Councilman Yelding, Chairman
Public Works Committee

Thru: Honorable Mayor Fred Small

From: Richard D. Johnson, P.E.
Public Works Director

Date: September 12, 2011

RE: Cooperative Maintenance Agreement – State Road 181 (Daphne & ALDOT)

I am requesting the Public Works Committee recommend to the full City Council to enter in to a Cooperative Maintenance Agreement with the Alabama Department of Transportation (ALDOT) for the full extents of State Road 181 as describe in the attached agreement and map. My request and subsequent committee recommendation is contingent upon the affirmative action of the Council on September 19, 2011 to annex aforementioned Rights-Of-Way (ROW) from Lawson Road to the southern City Limits.

It is anticipated that the additional ROW landscape maintenance will tax Grounds and Mowing personnel and resources in FY2012. However, at this time the only additional funding requested is for increase inmate services. We will service this new area through efficiency in operations and the lengthening of mowing cycle times. Since no hard landscaping was placed in conjunction with this roadway improvement project, demand for Grounds Department services will be minimal. Although it is anticipated that there will be a desire to add maintained hard landscape features along this roadway in the future.

Yours,

RDJ

City of Daphne – Public Works Committee

Meeting Date: September 19, 2011

Notice of Action Taken

Agenda Item #	Description	Action Taken	Forwarded To	Person to Implement	Notes
III.A.	Cooperative Maintenance Agreement – State Road 181	Motion Passed conditioned on affirmative action by the Council on annexation of SR181 R.O.W.	City Clerk	City Clerk	CMA should be placed on Council Agenda the first meeting following final action on the Annexation of SR 181 R.O.W.
IV.A.	Feasibility Study for Transfer Station – Request for Professional Services – Hatch, Mott, MacDonald Engineers	Motion Passed	Finance Department	Finance Staff	Finance Committee Agenda: an Appropriation of \$11,500.00 (<i>Solid Waste Enterprise Fund</i>) for Professional Services – Hatch, Mott, MacDonald Engineers - Feasibility Study for Transfer Station at Public Works
V.A.	FY2012 Proposed Public Works Budget – Operations (Handout Under Separate Cover)	No action requested or taken – presentation and discussion for information purposes only	N/A	N/A	N/A
V.B.	FY2012 Proposed Public Works Budget – Capital Equipment (Handout Under Separate Cover)	No action requested or taken – presentation and discussion for information purposes only	N/A	N/A	N/A



Richard D. Johnson, PE; Director

September 22, 2011

**LEASE AGREEMENT BETWEEN THE CITY OF DAPHNE
AND THE UTILITIES BOARD OF THE CITY OF DAPHNE
FOR PORTABLE BATHROOM TRAILER AT BAY FRONT PARK**

AGREEMENT

THIS AGREEMENT dated this ____ day of _____, 201__ by and between The Utilities Board of the City of Daphne (“*Daphne Utilities*” or “*Lessor*”) and the City of Daphne, Alabama, (“*Lessee*”).

W I T N E S S E T H:

**ARTICLE ONE
Leased Property**

1.1 *Daphne Utilities* hereby agrees to lease to *Lessee* and *Lessee* hereby rents from *Daphne Utilities* its Portable Bathroom Trailer (hereinafter the “*Equipment*”) in exchange for ONE HUNDRED DOLLARS and NO CENTS (\$100.00) per year and all consideration as stated in this Agreement. The *Equipment* shall be located on the South side of the parking lot of Bay Front Park.

1.2 The Portable Bathroom Trailer subject to this lease is more particularly described as approximately 120 square foot trailer manufactured by Diamond Builders, Inc. in 2011. The manufacturer’s identification number is DBI 4769.

**ARTICLE TWO
Leasing Term**

2.1 The term of this Agreement shall begin on the ____ day of _____, 201__ and run for ten (10) years. Should the *Equipment* be returned sooner than the term of the lease, the rent owed by *Lessee* will be prorated.

ARTICLE THREE
Compliance with Requirements

3.1 *Lessee* will promptly procure, maintain and comply with all permits, licenses, certifications and other authorizations required for the use and maintenance of the *Equipment* for the lawful operation thereof. *Daphne Utilities* will join in the application for any permit or authorization with respect to any legal requirements if such joinder is necessary and requested by *Lessee* in writing.

ARTICLE FOUR
Condition, Alterations and Additions

4.1 **Condition.** *Daphne Utilities* leases the *Equipment* in “as is” condition. *Lessee* is responsible for the cost to repair, replace, clean or otherwise restore the *Equipment* to its pre-existing condition, ordinary wear and tear excepted. If, upon inspection during the lease term of *Daphne Utilities* the *Equipment* is not being well maintained (as determined in *Daphne Utilities*’ sole discretion), *Daphne Utilities* may terminate this agreement, take possession of the *Equipment* and will return a pro rata portion of paid rent for the unused term.

4.2 **Alterations and Addition.** *Lessee* may not make additions, improvements or alterations of the *Equipment* without written consent from *Daphne Utilities*.

4.3 **Removal During Times of Peril.** In the event of impending or existing peril (including, but not limited to, hurricane, tornados, flooding, other natural disasters, riots or other dangerous circumstances), if, in *Daphne Utilities*’ estimation, the *Equipment* is threatened by the impending or existing peril, *Daphne Utilities* and the *Lessee* agree that, without notice, *Daphne Utilities* may remove the *Equipment* and take full possession of the *Equipment*. *Daphne Utilities* agrees to be responsible for the cost of removal and transportation of the *Equipment*. When, in *Daphne Utilities*’ estimation, the peril has abated, *Daphne Utilities* will return the *Equipment* and *Daphne Utilities* will be responsible for the cost of reinstallation of the *Equipment*.

ARTICLE FIVE
Insurance

5.1 **Insurance.** *Lessee* agrees to purchase casualty and liability insurance that covers the *Equipment*. *Lessee* further agrees that *Daphne Utilities* has sole discretion to determine the sufficiency of the insurance *Lessee* purchases to satisfy this requirement of this Agreement. At a minimum, *Lessee* agrees to provide casualty insurance coverage in the minimum amount of \$25,000 and liability insurance coverage in the minimum amount of \$1,000,000.

5.2 **Additional Insured.** *Lessee* agrees that *Daphne Utilities* will be named as an additional insured on any and all insurance policies covering the *Equipment*.

5.3 **Assignment.** *Lessee* hereby assigns to *Daphne Utilities* any award or payment on account of any damage, theft, destruction, or other which is payable to *Lessee* in connection with the *Equipment*. *Lessee* agrees that this Agreement shall control the rights of *Daphne Utilities* and *Lessee* in any such award, and any contrary provision of any present or future laws is hereby waived.

ARTICLE SIX
Notice

6.1 If there is any damage to or destruction of the *Equipment*, *Lessee* will promptly give notice thereof to *Daphne Utilities*, describing the nature and extent thereof.

ARTICLE SEVEN
Use of the Equipment

7.1 **Lessee's Use.** *Lessee* may use the *Equipment* for any legally permissible use. *Lessee* agrees to be responsible for the cost of any and all utilities required for use of the *Equipment*.

7.2 **Daphne Utilities' Use.** *Daphne Utilities* specifically reserves the right to use the *Equipment* for the purposes of advertising. Such advertising includes, but is not limited to, the

placement of signage in or on the *Equipment*.

ARTICLE EIGHT
No Warranties

8.1 *Daphne Utilities* makes no warranties, express or implied, regarding the condition, fitness, safety or other state or use of the *Equipment*.

Lessee, for itself, its agents, its officers, its Employees, its affiliates and all others waives each and every warranty, whether express or implied, regarding the fitness, condition, safety or other state or use of the *Equipment*.

ARTICLE NINE
Indemnity and Release

9.1 **Release.** *Lessee* agrees to release and hold harmless *Daphne Utilities*, its officers, directors, managers, employees, successors, assigns, agents and other representatives and affiliates, for any damage or injury arising out of the transportation, any usage, maintenance, storage or other use of the *Equipment* during the Leasing Term or otherwise arising from the *Lessee's* use or possession of the *Equipment*. *Lessee* specifically acknowledges that this provision survives termination of this Agreement.

9.2 **Indemnity.** *Lessee* agrees to indemnify *Daphne Utilities* for any claims, suits, complaints, grievances or other causes brought against *Daphne Utilities* for any damage or injury sustained arising out of the transportation, usage, maintenance, storage or other use of the *Equipment* during the Leasing Term or otherwise arising from the *Lessee's* use or possession of the *Equipment*. *Lessee* acknowledges that such indemnity includes any awards, settlements, fees, costs, expenses, attorney's fees or other expenses incurred by *Daphne Utilities* in the settling, defending, handling, addressing or otherwise managing of any such claim. *Lessee* also specifically acknowledges that this provision survives the termination of this Agreement.

ARTICLE TEN
Assignment

10.1 *Lessee* may not assign this Agreement without the express written consent of *Daphne Utilities*.

ARTICLE ELEVEN
Amendment

11.1 This Agreement may not be amended, modified, or terminated, nor may any obligation hereunder be waived orally, and no such amendment, modification, termination or waiver shall be effective for any purpose unless it is in writing, signed by the party against whom enforcement thereof is sought.

ARTICLE TWELVE
Miscellaneous

12.1 **Severability.** If any provision of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and any other application of such provision shall not be affected thereby.

12.2 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of and be enforceable by the successors and assigns of the parties hereto and shall survive termination of this Agreement.

12.3 **Captions.** The Article and the Section headings are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

12.4 **Governing Law.** The parties agree that this Agreement is executed in Alabama. This Agreement shall be governed by and construed in accordance with the laws of the state of Alabama.

12.5 **Venue.** The parties agree that for the enforcement, collection or other legal action, associated with this Agreement, the proper venue will be the State and Federal courts whose

jurisdiction includes Baldwin County, Alabama.

12.6 **Relationship of Parties.** *Daphne Utilities* and *Lessee* shall not be considered or deemed to be joint venturers or partners and neither shall have the power to bind or obligate the other except as set forth herein.

12.7 **Authority.** The *Lessee* affirmatively represents that it has full and proper authority to execute this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

THE UTILITIES BOARD OF THE CITY OF DAPHNE

BY: _____

AS ITS: _____

THE CITY OF DAPHNE, ALABAMA
An Alabama Municipal Corporation

BY: _____

AS ITS: MAYOR

ATTEST:

DAVID COHEN, MMC
CITY CLERK

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

ORDINANCE NO. 2011 - 70

Ordinance to Rezone Property Located East Side of Alabama Highway 181, South of Austin Road , North of Dick Higbee Road(34.48 Acres) Hearthstone Multi-Asset Entity, Lot 1, Dunmore Subdivision, Phase Two, Part C (A)

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-1, Low Density Single Family Residential District and R-2 Medium Density Single Family Residential District, to a R-3, High Density Multi-Family Residential District, to said property is located East Side of Alabama Highway 181, South of Austin Road, North of Dick Higbee Road being more particularly described as follows:

Legal Description:

BEING ALL OF LOT 10 AND A PORTION OF LOTS 6, 7, 8, 9, 11, 12, 13, 14, 22, 23, AND 24 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 31, DUNMORE, PHASE ONE, AS PER PLAT RECORDED ON SLIDE NOS. 2414-A AND 2414-B OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH BOUNDARY OF SAID DUNMORE, PHASE ONE, RUN AS FOLLOWS: N 00° 39' 23" E 188.58 FEET, S 89° 20' 37" E 14.00 FEET, N 00° 39' 23" E 625.34 FEET, S 89° 20' 37" E 167.00 FEET, N 00° 39' 23" E 2.80 FEET, S 89° 20' 37" E 217.00 FEET, N 00° 39' 23" E 0.95 FEET, S 89° 20' 37" E 347.0 FEET, S 00° 39' 23" W 6.40 FEET, S 89° 20' 37" E 167.00 FEET, S 00° 39' 23" W 135.00 FEET TO A POINT; THENCE RUN S 00° 02' 10" E 490.18 FEET TO A POINT; THENCE RUN N 89° 57' 50" E 382.13 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 19° 56' 52" AND A RADIUS OF 250.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY A DISTANCE OF 87.04 FEET TO THE P.R.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 19° 56' 52" AND A RADIUS OF 250.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY A DISTANCE OF 87.04 FEET TO THE P.T. OF SAID CURVE; THENCE RUN N 89° 57' 50" E 605.48 FEET TO POINT; THENCE RUN N 00° 02' 10" W 158.05 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 30° 46' 34" AND A RADIUS OF 125.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN NORTHWARDLY A DISTANCE OF 67.14 FEET TO THE P.R.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 31° 28' 07" AND A RADIUS OF 125.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN NORTHWARDLY A DISTANCE OF 68.65 FEET TO A POINT ON THE AFOREMENTIONED SOUTH BOUNDARY OF DUNMORE, PHASE ONE; THENCE ALONG SAID SOUTH BOUNDARY OF DUNMORE, PHASE ONE, RUN AS FOLLOWS: S 89° 20' 37" E 797.82 FEET, N 00° 39' 23" E 10.00 FEET, S 89° 20' 37" E 200.00 FEET, N 00° 39' 23" E 200.00 FEET, S 89° 20' 37" E 140.00 FEET, S 85° 31' 51" E 109.46 FEET TO A POINT; THENCE RUN S 11° 12' 24" E 119.11 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 12° 01' 52" AND A RADIUS OF 275.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN SOUTHWARDLY 57.75 FEET TO THE P.T. OF SAID CURVE; THENCE RUN S 00° 40' 28" W 143.11 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 76° 41' 31" AND A RADIUS OF 175.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN SOUTHWESTWARDLY 234.24 FEET TO THE P.C.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 17° 02' 37" AND A RADIUS OF 150.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY 44.62 FEET TO THE P.C.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 07° 26' 11" AND A RADIUS OF 350.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY 45.43 FEET TO THE P.R.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 11° 52' 57" AND A RADIUS OF 350.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY 72.59 FEET TO THE P.T. OF SAID CURVE; THENCE RUN S 89° 57' 50" W 27.96 FEET TO A POINT; THENCE RUN S 00° 02' 10" E 175.00 FEET TO A POINT ON THE NORTH BOUNDARY OF LOT 19 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY; THENCE ALONG SAID NORTH BOUNDARY OF LOT 19 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND

FARMS AND THE NORTH BOUNDARY OF LOTS 20 AND 21 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON SAID PLAT OF HIGHLAND FARMS, RUN S 89° 57' 50" W 1520.48 FEET TO THE NORTHEAST CORNER OF LOT 22 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON SAID PLAT OF HIGHLAND FARMS; THENCE ALONG THE EAST BOUNDARY OF SAID LOT 22 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON SAID PLAT OF HIGHLAND FARMS, RUN S 00° 39' 55" W 30.00 FEET TO A POINT; THENCE RUN S 89° 57' 50" W 1472.45 FEET TO THE POINT OF BEGINNING. CONTAINING 34.4817 ACRES.

WHEREAS, the Planning Commission of the City of Daphne on August 25, 2011 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, October 17, 2011 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-1, Low Density Single Family Residential District and R-2 Medium Density Single Family Residential District, to a R-3, High Density Multi-Family Residential District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2011.

Cathy S. Barnette, Council President

Bailey Yelding, Jr., Mayor

ATTEST:

David L. Cohen
City Clerk, MMC

HEARTHSTONE MULTI-ASSET ENTITY
ZONING AMENDMENT
THE EAST SIDE OF ALABAMA HIGHWAY 181, SOUTH OF AUSTIN ROAD,
NORTH DICK HIGBEE ROAD

EXHIBIT "A"

DESCRIPTION OF PROPOSED LOT 1, DUNMORE, PHASE TWO, PART "C":

BEING ALL OF LOT 10 AND A PORTION OF LOTS 6, 7, 8, 9, 11, 12, 13, 14, 22, 23, AND 24 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 31, DUNMORE, PHASE ONE, AS PER PLAT RECORDED ON SLIDE NOS. 2414-A AND 2414-B OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH BOUNDARY OF SAID DUNMORE, PHASE ONE, RUN AS FOLLOWS: N 00° 39' 23" E 188.58 FEET, S 89° 20' 37" E 14.00 FEET, N 00° 39' 23" E 625.34 FEET, S 89° 20' 37" E 167.00 FEET, N 00° 39' 23" E 2.80 FEET, S 89° 20' 37" E 217.00 FEET, N 00° 39' 23" E 0.95 FEET, S 89° 20' 37" E 347.0 FEET, S 00° 39' 23" W 6.40 FEET, S 89° 20' 37" E 167.00 FEET, S 00° 39' 23" W 135.00 FEET TO A POINT; THENCE RUN S 00° 02' 10" E 490.18 FEET TO A POINT; THENCE RUN N 89° 57' 50" E 382.13 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 19° 56' 52" AND A RADIUS OF 250.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY A DISTANCE OF 87.04 FEET TO THE P.R.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 19° 56' 52" AND A RADIUS OF 250.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY A DISTANCE OF 87.04 FEET TO THE P.T. OF SAID CURVE; THENCE RUN N 89° 57' 50" E 605.48 FEET TO POINT; THENCE RUN N 00° 02' 10" W 158.05 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 30° 46' 34" AND A RADIUS OF 125.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN NORTHWARDLY A DISTANCE OF 67.14 FEET TO THE P.R.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 31° 28' 07" AND A RADIUS OF 125.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN NORTHWARDLY A DISTANCE OF 68.65 FEET TO A POINT ON THE AFOREMENTIONED SOUTH BOUNDARY OF DUNMORE, PHASE ONE; THENCE ALONG SAID SOUTH BOUNDARY OF DUNMORE, PHASE ONE, RUN AS FOLLOWS: S 89° 20' 37" E 797.82 FEET, N 00° 39' 23" E 10.00 FEET, S 89° 20' 37" E 200.00 FEET, N 00° 39' 23" E 200.00 FEET, S 89° 20' 37" E 140.00 FEET, S 85° 31' 51" E 109.46 FEET TO A POINT; THENCE RUN S 11° 12' 24" E 119.11 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 12° 01' 52" AND A RADIUS OF 275.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN SOUTHWARDLY 57.75 FEET TO THE P.T. OF SAID CURVE; THENCE RUN S 00° 40' 28" W 143.11 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 76° 41' 31" AND A RADIUS OF 175.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN SOUTHWESTWARDLY 234.24 FEET TO THE P.C.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 17° 02' 37" AND A RADIUS OF 150.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY 44.62 FEET TO THE P.C.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 07° 26' 11" AND A RADIUS OF 350.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY 45.43 FEET TO THE P.R.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 11° 52' 57" AND A RADIUS OF 350.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY 72.59 FEET TO THE P.T. OF SAID CURVE; THENCE RUN S 89° 57' 50" W 27.96 FEET TO A POINT; THENCE RUN S 00° 02' 10" E 175.00 FEET TO A POINT ON THE NORTH BOUNDARY OF LOT 19 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY; THENCE ALONG SAID NORTH BOUNDARY OF LOT 19 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS AND THE NORTH BOUNDARY OF LOTS 20 AND 21 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON SAID PLAT OF HIGHLAND FARMS, RUN S 89° 57' 50" W 1520.48 FEET TO THE NORTHEAST CORNER OF LOT 22 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON SAID PLAT OF HIGHLAND FARMS; THENCE ALONG THE EAST BOUNDARY OF SAID LOT 22 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON SAID PLAT OF HIGHLAND FARMS, RUN S 00° 39' 55" W 30.00 FEET TO A POINT; THENCE RUN S 89° 57' 50" W 1472.45 FEET TO THE POINT OF BEGINNING. CONTAINING 34.4817 ACRES.

REFERENCE: DUNMORE SUBDIVISION, PHASE TWO, PART C

ORDINANCE NO. 2011 - 71

**Ordinance to Rezone Property Located East Side of Alabama Highway 181, South of Austin Road, North of Dick Higbee Road (11.84 Acres)
Hearthstone Multi-Asset Entity, Lot 2, Dunmore Subdivision, Phase Two Part C (B)**

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-1, Low Density Single Family Residential District to R-2 Medium Density Single Family Residential District said property is located East Side of Alabama Highway 181, South of Austin Road, North of Dick Higbee Road, being more particularly described as follows:

Legal Description:

BEING A PORTION OF LOTS 5, 11, AND 12, SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 31, DUNMORE, PHASE ONE, AS PER PLAT RECORDED ON SLIDE NOS. 2414-A AND 2414-B OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH BOUNDARY OF SAID DUNMORE, PHASE ONE, RUN AS FOLLOWS: N 00° 39' 23" E 188.58 FEET, S 89° 20' 37" E 14.00 FEET, N 00° 39' 23" E 625.34 FEET, S 89° 20' 37" E 167.00 FEET, N 00° 39' 23" E 2.80 FEET, S 89° 20' 37" E 217.00 FEET, N 00° 39' 23" E 0.95 FEET, S 89° 20' 37" E 347.0 FEET, S 00° 39' 23" W 6.40 FEET, S 89° 20' 37" E 167.00 FEET, S 00° 39' 23" W 135.00 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING ALONG SAID SOUTH BOUNDARY OF DUNMORE, PHASE ONE, RUN AS FOLLOWS: S 89° 20' 37" E 200.00 FEET, N 00° 39' 23" E 12.98 FEET, S 89° 20' 37" E 500.00 FEET, N 00° 39' 23" E 42.90 FEET, S 89° 20' 37" E 250.00 FEET, S 00° 39' 23" W 200.00 FEET, S 89° 20' 37" E 200.00 FEET, S 00° 39' 23" W 15.00 FEET, S 89° 20' 37" E 25.00 FEET TO A POINT ON THE ARC OF A 125.00 FOOT CURVE HAVING A CENTRAL ANGLE OF 31° 28' 07" AND BEING CONCAVE EASTWARDLY; THENCE ALONG THE ARC OF SAID CURVE, RUN SOUTHWARDLY 68.65 FEET TO THE P.R.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 30° 46' 34" AND A RADIUS OF 125.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN SOUTHWARDLY 67.14 FEET TO THE P.T. OF SAID CURVE; THENCE RUN S 00° 02' 10" E 158.05 FEET TO A POINT; THENCE RUN S 89° 57' 50" W 605.48 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 19° 56' 52" AND A RADIUS OF 250.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY A DISTANCE OF 72.59 FEET TO THE P.R.C. OF A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY A DISTANCE OF 87.04 FEET TO THE P.T. OF SAID CURVE; THENCE RUN S 89° 57' 50" W 382.13 FEET TO A POINT; THENCE RUN N 00° 02' 10" W 490.18 FEET TO THE POINT OF BEGINNING. CONTAINING 11.8461 ACRES.

WHEREAS, the Planning Commission of the City of Daphne on August 25, 2011 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, October 17, 2011 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-1, Low Density Single Family Residential District, to a R-2 Medium Density Single Family Residential District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2011.

Cathy S. Barnette, Council President

Bailey Yelding, Jr., Mayor

ATTEST:

David L. Cohen
City Clerk, MMC

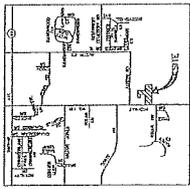
HEARTHSTONE MULTI-ASSET ENTITY
ZONING AMENDMENT
THE EAST SIDE OF ALABAMA HIGHWAY 181, SOUTH OF AUSTIN ROAD,
NORTH DICK HIGBEE ROAD

EXHIBIT "A"

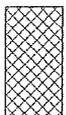
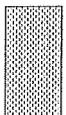
DESCRIPTION OF PROPOSED LOT 2, DUNMORE, PHASE TWO, PART "C":

BEING A PORTION OF LOTS 5, 11, AND 12, SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 31, DUNMORE, PHASE ONE, AS PER PLAT RECORDED ON SLIDE NOS. 2414-A AND 2414-B OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH BOUNDARY OF SAID DUNMORE, PHASE ONE, RUN AS FOLLOWS: N 00° 39' 23" E 188.58 FEET, S 89° 20' 37" E 14.00 FEET, N 00° 39' 23" E 625.34 FEET, S 89° 20' 37" E 167.00 FEET, N 00° 39' 23" E 2.80 FEET, S 89° 20' 37" E 217.00 FEET, N 00° 39' 23" E 0.95 FEET, S 89° 20' 37" E 347.0 FEET, S 00° 39' 23" W 6.40 FEET, S 89° 20' 37" E 167.00 FEET, S 00° 39' 23" W 135.00 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING ALONG SAID SOUTH BOUNDARY OF DUNMORE, PHASE ONE, RUN AS FOLLOWS: S 89° 20' 37" E 200.00 FEET, N 00° 39' 23" E 12.98 FEET, S 89° 20' 37" E 500.00 FEET, N 00° 39' 23" E 42.90 FEET, S 89° 20' 37" E 250.00 FEET, S 00° 39' 23" W 200.00 FEET, S 89° 20' 37" E 200.00 FEET, S 00° 39' 23" W 15.00 FEET, S 89° 20' 37" E 25.00 FEET TO A POINT ON THE ARC OF A 125.00 FOOT CURVE HAVING A CENTRAL ANGLE OF 31° 28' 07" AND BEING CONCAVE EASTWARDLY; THENCE ALONG THE ARC OF SAID CURVE, RUN SOUTHWARDLY 68.65 FEET TO THE P.R.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 30° 46' 34" AND A RADIUS OF 125.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN SOUTHWARDLY 67.14 FEET TO THE P.T. OF SAID CURVE; THENCE RUN S 00° 02' 10" E 158.05 FEET TO A POINT; THENCE RUN S 89° 57' 50" W 605.48 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 19° 56' 52" AND A RADIUS OF 250.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY A DISTANCE OF 72.59 FEET TO THE P.R.C. OF A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, RUN WESTWARDLY A DISTANCE OF 87.04 FEET TO THE P.T. OF SAID CURVE; THENCE RUN S 89° 57' 50" W 382.13 FEET TO A POINT; THENCE RUN N 00° 02' 10" W 490.18 FEET TO THE POINT OF BEGINNING. CONTAINING 11.8461 ACRES.

REFERENCE: DUNMORE, PHASE TWO, PART A



ZONING LEGEND

-  FROM ZONE R-1 TO R-2
-  FROM ZONE R-1 AND R-2 to R-3
-  FROM ZONE R-1 TO R-4

only →

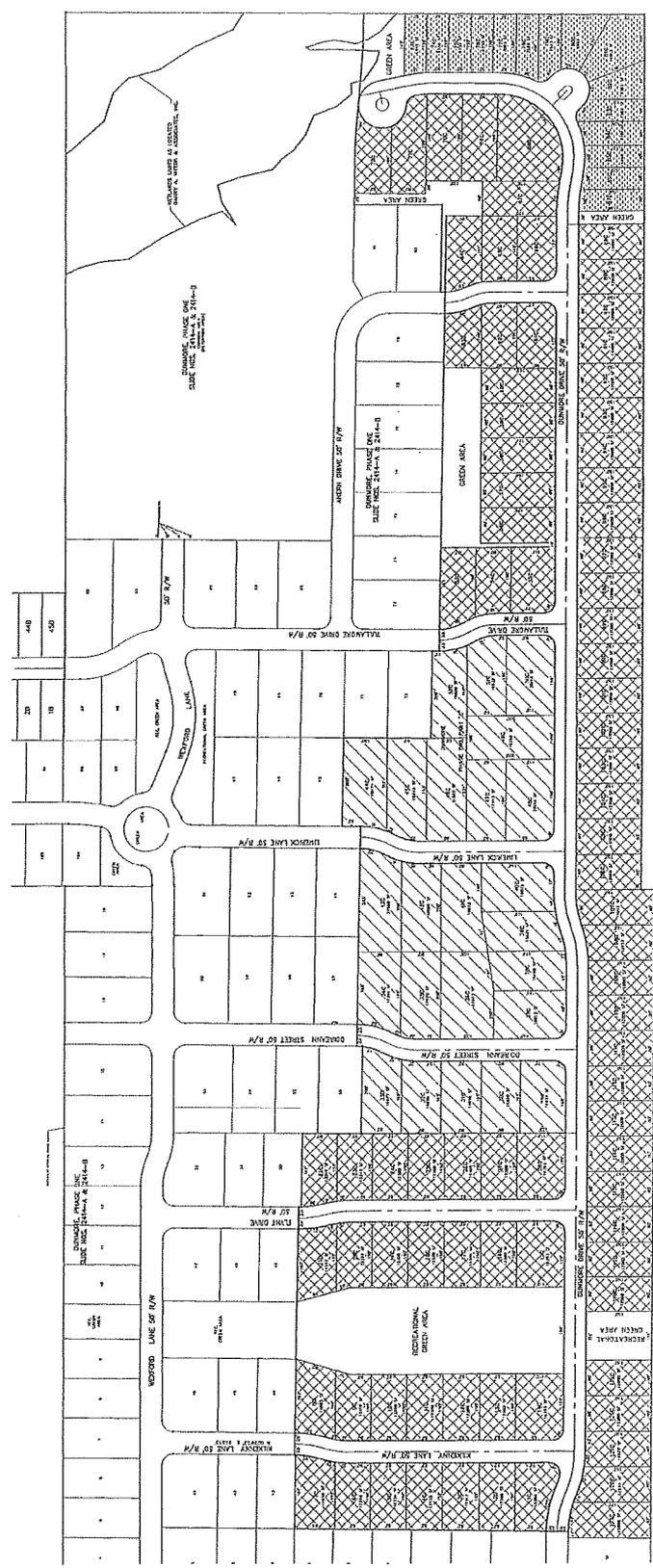


EXHIBIT B
HEARTSTONE MULTI-ASSET ENTITY LOT 2

RESTER AND COLEMAN
REGISTERED PROFESSIONAL ENGINEERS
1405 WESTON PARK WEST, MOBILE, ALABAMA 36688-1418
PHONE: (904) 727-1772
FAX: (904) 727-1773

DATE	BY	DATE	BY	DATE	BY	DATE	BY
10-10-09	D.M.	10-10-09	DEC	10-10-09	DEC	10-10-09	DEC
10-10-09	D.M.	10-10-09	DEC	10-10-09	DEC	10-10-09	DEC
10-10-09	D.M.	10-10-09	DEC	10-10-09	DEC	10-10-09	DEC

SCALE: 1" = 100'

FILE NO. 5-000



ORDINANCE NO. 2011 - 72

**Ordinance to Rezone Property Located East Side of Alabama Highway 181, South of Austin Road, North of Dick Higbee Road (3.77 Acres)
Hearthstone Multi-Asset Entity, Lot 3, Dunmore Subdivision, Phase Two, Part C (C)**

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-1, Low Density Single Family Residential District to R-4 High Density Single Family Residential District to said property is located East Side of Alabama Highway 181, South of Austin Road, North of Dick Higbee Road being more particularly described as follows:

Legal Description:

BEING A PORTION OF LOTS 13 AND 14 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 31, DUNMORE, PHASE ONE, AS PER PLAT RECORDED ON SLIDE NOS. 2414-A AND 2414-B OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH BOUNDARY OF SAID DUNMORE, PHASE ONE, RUN AS FOLLOWS: N 00° 39' 23" E 188.58 FEET, S 89° 20' 37" E 14.00 FEET, N 00° 39' 23" E 625.34 FEET, S 89° 20' 37" E 167.00 FEET, N 00° 39' 23" E 2.80 FEET, S 89° 20' 37" E 217.00 FEET, N 00° 39' 23" E 0.95 FEET, S 89° 20' 37" E 347.00 FEET, S 00° 39' 23" W 6.40 FEET, S 89° 20' 37" E 167.00 FEET, S 00° 39' 23" W 135.00 FEET, S 89° 20' 37" E 200.00 FEET, N 00° 39' 23" E 12.98 FEET, S 89° 20' 37" E 500.00 FEET, N 00° 39' 23" E 42.90 FEET, S 89° 20' 37" E 250.00 FEET, S 00° 39' 23" W 200.00 FEET, S 89° 20' 37" E 200.00 FEET, S 00° 39' 23" W 15.00 FEET, S 89° 20' 37" E 822.82 FEET, N 00° 39' 23" E 10.00 FEET, S 89° 20' 37" E 200.00 FEET, N 00° 39' 23" E 200.00 FEET, S 89° 20' 37" E 140.00 FEET, S 85° 31' 51" E 109.46 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING S 85° 31' 51" E ALONG SAID SOUTH BOUNDARY OF DUNMORE, PHASE ONE, RUN A DISTANCE OF 116.12 FEET TO A POINT; THENCE CONTINUING ALONG SAID SOUTH BOUNDARY OF DUNMORE, PHASE ONE, RUN S 89° 20' 37" E 75.00 FEET TO A POINT ON THE WEST BOUNDARY OF LOT 15 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY; THENCE ALONG SAID WEST BOUNDARY OF LOT 15 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, RUN S 00° 40' 28" W 683.58 FEET TO THE NORTHEAST CORNER OF LOT 19 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON SAID PLAT OF HIGHLAND FARMS; THENCE ALONG THE NORTH BOUNDARY OF LOT 19 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, RUN S 89° 57' 50" W 482.01 FEET TO A POINT; THENCE RUN N 00° 02' 10" W 175.00 FEET TO A POINT; THENCE RUN N 89° 57' 50" E 27.96 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 11° 52' 57" AND A RADIUS OF 350.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY 72.59 FEET TO THE P.R.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 07° 26' 11" AND A RADIUS OF 350.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY 45.43 FEET TO THE P.C.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 17° 02' 37" AND A RADIUS OF 150.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY 44.62 FEET TO THE P.C.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 76° 41' 31" AND A RADIUS OF 175.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN NORTHEASTWARDLY 234.24 FEET TO THE P.T. OF SAID CURVE; THENCE RUN N 00° 40' 28" E 143.11 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 12° 01' 52" AND A RADIUS OF 275.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN NORTHWARDLY 57.75 FEET TO THE P.T. OF SAID CURVE; THENCE RUN N 11° 12' 24" W 119.11 FEET TO THE POINT OF BEGINNING. CONTAINING 3.7791 ACRES.

WHEREAS, the Planning Commission of the City of Daphne on August 25, 2011 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, October 17, 2011 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-1, Low Density Single Family Residential District, to R-4 High Density Single Family Residential District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2011.

Cathy S. Barnette, Council President

Bailey Yelding, Jr., Mayor

ATTEST:

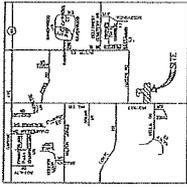
David L. Cohen
City Clerk, MMC

HEARTHSTONE MULTI-ASSET ENTITY
ZONING AMENDMENT
THE EAST SIDE OF ALABAMA HIGHWAY 181, SOUTH OF AUSTIN ROAD,
NORTH DICK HIGBEE ROAD

EXHIBIT "A"

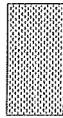
DESCRIPTION OF LOT 3, DUNMORE, PHASE TWO, PART "C":

BEING A PORTION OF LOTS 13 AND 14 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 31, DUNMORE, PHASE ONE, AS PER PLAT RECORDED ON SLIDE NOS. 2414-A AND 2414-B OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH BOUNDARY OF SAID DUNMORE, PHASE ONE, RUN AS FOLLOWS: N 00° 39' 23" E 188.58 FEET, S 89° 20' 37" E 14.00 FEET, N 00° 39' 23" E 625.34 FEET, S 89° 20' 37" E 167.00 FEET, N 00° 39' 23" E 2.80 FEET, S 89° 20' 37" E 217.00 FEET, N 00° 39' 23" E 0.95 FEET, S 89° 20' 37" E 347.00 FEET, S 00° 39' 23" W 6.40 FEET, S 89° 20' 37" E 167.00 FEET, S 00° 39' 23" W 135.00 FEET, S 89° 20' 37" E 200.00 FEET, N 00° 39' 23" E 12.98 FEET, S 89° 20' 37" E 500.00 FEET, N 00° 39' 23" E 42.90 FEET, S 89° 20' 37" E 250.00 FEET, S 00° 39' 23" W 200.00 FEET, S 89° 20' 37" E 200.00 FEET, S 00° 39' 23" W 15.00 FEET, S 89° 20' 37" E 822.82 FEET, N 00° 39' 23" E 10.00 FEET, S 89° 20' 37" E 200.00 FEET, N 00° 39' 23" E 200.00 FEET, S 89° 20' 37" E 140.00 FEET, S 85° 31' 51" E 109.46 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING S 85° 31' 51" E ALONG SAID SOUTH BOUNDARY OF DUNMORE, PHASE ONE, RUN A DISTANCE OF 116.12 FEET TO A POINT; THENCE CONTINUING ALONG SAID SOUTH BOUNDARY OF DUNMORE, PHASE ONE, RUN S 89° 20' 37" E 75.00 FEET TO A POINT ON THE WEST BOUNDARY OF LOT 15 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGES 290 AND 291 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY; THENCE ALONG SAID WEST BOUNDARY OF LOT 15 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, RUN S 00° 40' 28" W 683.58 FEET TO THE NORTHEAST CORNER OF LOT 19 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON SAID PLAT OF HIGHLAND FARMS; THENCE ALONG THE NORTH BOUNDARY OF LOT 19 SITUATED IN SECTION 35, T5S-R2E, AS SHOWN ON PLAT OF HIGHLAND FARMS, RUN S 89° 57' 50" W 482.01 FEET TO A POINT; THENCE RUN N 00° 02' 10" W 175.00 FEET TO A POINT; THENCE RUN N 89° 57' 50" E 27.96 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 11° 52' 57" AND A RADIUS OF 350.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY 72.59 FEET TO THE P.R.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 07° 26' 11" AND A RADIUS OF 350.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY 45.43 FEET TO THE P.C.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 17° 02' 37" AND A RADIUS OF 150.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN EASTWARDLY 44.62 FEET TO THE P.C.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 76° 41' 31" AND A RADIUS OF 175.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN NORTHEASTWARDLY 234.24 FEET TO THE P.T. OF SAID CURVE; THENCE RUN N 00° 40' 28" E 143.11 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 12° 01' 52" AND A RADIUS OF 275.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, RUN NORTHWARDLY 57.75 FEET TO THE P.T. OF SAID CURVE; THENCE RUN N 11° 12' 24" W 119.11 FEET TO THE POINT OF BEGINNING. CONTAINING 3.7791 ACRES.



ZONING LEGEND

- FROM ZONE R-1 TO R-2
- FROM ZONE R-1 AND R-2 TO R-3
- FROM ZONE R-1 TO R-4



Handwritten signature

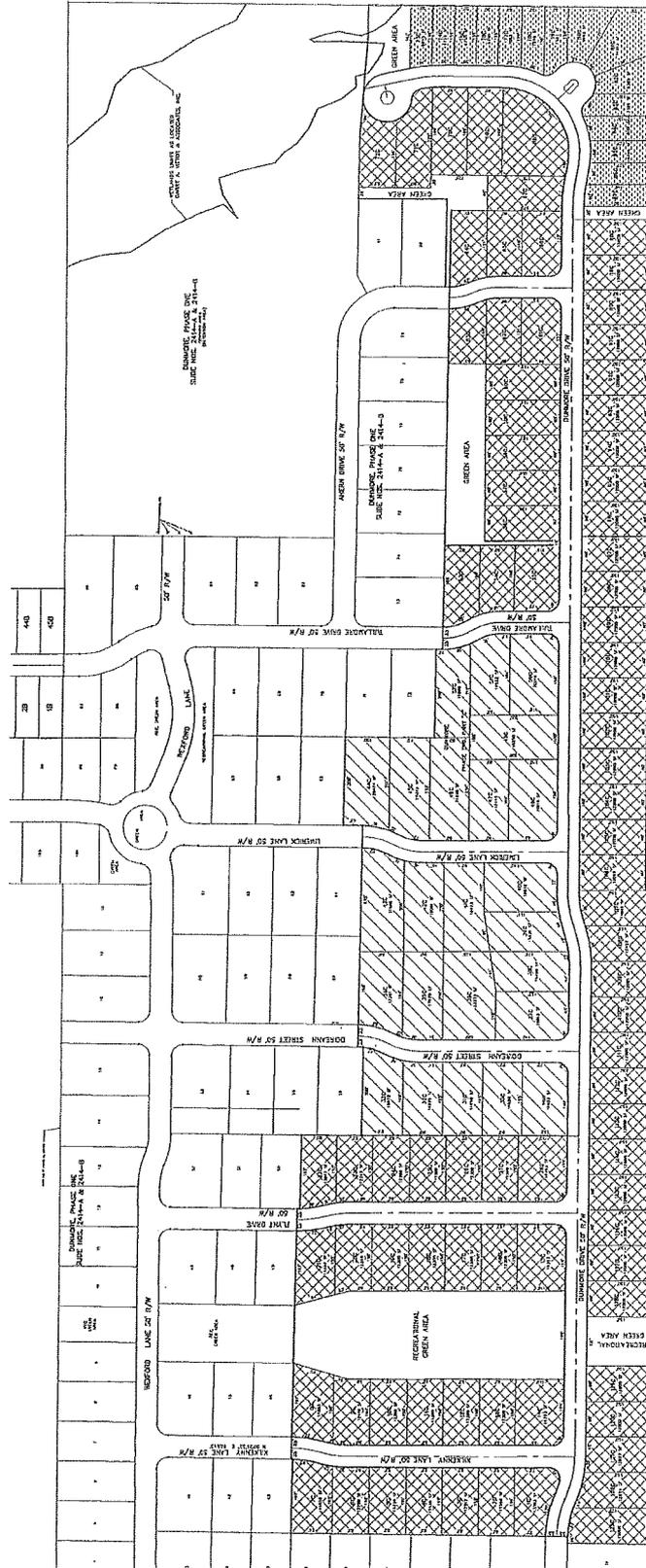


EXHIBIT B
HEARTHSTONE MULTI-ASSET ENTRY LOT 3

REGISTERED PROFESSIONAL ENGINEER, INC.
24000-1116
10000 W. 10th Avenue, Suite 100
Denver, CO 80202
Tel: (303) 755-4500
Fax: (303) 755-4502

DATE:							
NO.:							
BY:							
FOR:							

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2011-73**

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

WHEREAS, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on August 25, 2011 , favorably recommended to the City Council of the City of Daphne certain amendments to the Zoning District Map approved and adopted by the Daphne Land Use and Development Ordinance No. 2002-22, referenced in Appendix H "Exhibit A" thereof and amended by Ordinance No. 2003-06, Ordinance No. 2005-11, Ordinance No. 2005-42, Ordinance No. 2006-24, Ordinance No. 2006-73, Ordinance No. 2007-15, Ordinance, 2007-48, Ordinance 2008-56, Ordinance 2009-19, Ordinance 2009-60, Ordinance 2010-66, 2011-20; and

WHEREAS, said amendments are necessary due to various rezoning and annexation requests which have been approved since the adoption of Ordinance 2002-22, Ordinance 2003-06, Ordinance 2005-11, Ordinance 2005-42, Ordinance 2006-24, Ordinance 2006-73, Ordinance 2007-15, Ordinance 2007-48, Ordinance 2008-56, Ordinance 2009-19 and Ordinance 2009-60, 2010-66, 2011-20; and

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

WHEREAS, a public hearing regarding the proposed Zoning District Map amendments was held by the City Council on October 17, 2011; and

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

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

SECTION I: ZONING DISTRICT MAP

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

SECTION II: REPEALER

Ordinances Nos. 2002-22, Appendix H "Exhibit A", 2003-06, 2005-11, 2005-42, 2006-24, 2006-73, 2007-15, 2007-48, 2008-56, 2009-19, 2009-60 and 2010-66 are specifically repealed and any Ordinance(s), parts of Ordinance(s) or Resolution(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

SECTION III: EFFECTIVE DATE

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA ON THE ____ DAY OF _____, 2011.**

**CATHY S. BARNETTE,
COUNCIL PRESIDENT**

**BAILEY YELDING, JR.,
MAYOR**

ATTEST:

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

ORDINANCE 2011-75

Feasibility Study: Transfer Station - Garbage

WHEREAS, the Fiscal Year 2012 Budget is being considered by the City Council; and

WHEREAS, prior to the adoption of the Fiscal Year 2012 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2012 budget; and

WHEREAS, the feasibility study for a Transfer Station at Public Works will provide the needed information to evaluate if constructing a transfer station would be cost effective.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that funds in the amount of \$11,500 are hereby appropriated and made a part of the Fiscal Year 2012 budget for the Feasibility Study for the Transfer Station.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2011.

Cathy S. Barnette, Council President

Bailey Yelding, Jr., Mayor

ATTEST:

David L. Cohen, City Clerk, MMC

ORDINANCE 2011-76

Justice Center Roof Repairs Appropriation

WHEREAS, the Fiscal Year 2012 Budget is being considered by the City Council; and

WHEREAS, prior to the adoption of the Fiscal Year 2012 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2012 budget; and

WHEREAS, the Justice Center has had several issues with the roof leaking during rain storms, and

WHEREAS, certain improvements and repairs are needed at the Justice Center to maintain and protect the building.

WHEREAS, this project has been bid: Bid document # 2011-BB-PD/Justice Center Re-Roof Project, and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that funds in the amount of \$590,000 from the General Fund are hereby appropriated and made a part of the Fiscal Year 2012 budget for the repair and maintenance of the Justice Center Roof .

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____ , 2011.

Cathy S. Barnette, Council President

Bailey Yelding, Jr., Mayor

ATTEST:

David L. Cohen, City Clerk MMC

ORDINANCE 2011-77

PW Crew Cab Trucks

WHEREAS, the Fiscal Year 2012 Budget is being considered by the City Council; and

WHEREAS, prior to the adoption of the Fiscal Year 2012 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2012 budget; and

WHEREAS, certain truck replacements are needed for Public Works daily operations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that funds in the amount of \$44,424 from the General Fund are hereby appropriated and made a part of the Fiscal Year 2012 budget for two (2) PW Super Crew Cab Trucks.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2011.

Cathy S. Barnette, Council President

Bailey Yelding, Jr., Mayor

ATTEST:

David L. Cohen, City Clerk MMC

ORDINANCE 2011-78

Fuel Management System Appropriation

WHEREAS, the Fiscal Year 2012 Budget is being considered by the City Council;
and

WHEREAS, prior to the adoption of the Fiscal Year 2012 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2012 budget; and

WHEREAS, this equipment has been bid: Bid document # 2011-AA-Fuel Management System, and

WHEREAS, the current Fuel Management System needs to be updated to stay current with technology, and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that funds in the amount of \$31,994.40 (*System -\$29,984.40 + Maintenance-\$2,010*) from the General Fund are hereby appropriated and made a part of the Fiscal Year 2012 budget for the repair and maintenance of the Fuel Management System Roof Roof.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2011.

Cathy S. Barnette, Council President

Bailey Yelding, Jr., Mayor

ATTEST:

David L. Cohen, City Clerk, MMC

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2011-79**

**AN ORDINANCE TO ANNEX AUDUBON PARK APARTMENTS, PHASE ONE, INTO
THE CORPORATE LIMITS OF THE CITY OF DAPHNE**

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

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

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

WHEREAS, the Planning Commission of the City of Daphne, Alabama, at its regularly scheduled meeting of June 23, 2011, forwarded a unanimous favorable recommendation to the City Council of the City of Daphne, Alabama for annexation of the areas shown in Exhibit "A" with said property being zoned as a R-4, High Density Multi-Family Residential, District; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on August 1, 2011, concerning the petition for annexation; and,

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

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

SECTION I: ANNEXATION

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

Name: Audubon Park Apartments, Phase One

Legal Description: LOT 2, FINAL PLAT (REVISED), AUDUBON
PARK SUBDIVISION, RESUBDIVISION OF LOT 2,
AS PER PLAT RECORDED ON SLIDE NO. 2364-F
OF THE PROBATE COURT RECORDS OF
BALDWIN COUNTY, ALABAMA.

SECTION II: PUBLICATION

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

SECTION III: SEVERABILITY

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV: EFFECTIVE DATE

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE ____ DAY OF _____, 2011.

**CATHY S. BARNETTE,
COUNCIL PRESIDENT**

**BAILEY YELDING, JR.,
MAYOR**

ATTEST:

**DAVID COHEN
CITY CLERK, MMC**

AUDUBON PARK APARTMENTS,
PHASE ONE

SOUTHEAST OF THE INTERSECTION OF POLLARD ROAD AND COUNTY
ROAD 64

ANNEXATION REVIEW

EXHIBIT "A"

LEGAL DESCRIPTION:

LOT 2, FINAL PLAT (REVISED), AUDUBON PARK SUBDIVISION,
RESUBDIVISION OF LOT 2, AS PER PLAT RECORDED ON SLIDE NO.
2364-F OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY,
ALABAMA.

ORDINANCE 2011-80

AN ORDINANCE RESCINDING HIRING FREEZE ENACTED DECEMBER 20, 2010

WHEREAS, Ordinance 2010-71 imposed a hiring freeze whereby approval by the City Council is required in order to advertise and fill positions vacated; and

WHEREAS, the City Council has reviewed and considered such approval process; and

WHEREAS, the City Council has determined that the Mayor should be given the authority to evaluate the personnel requirements within the several city departments to include, but not be limited to, the advertising and filling of budgeted vacated positions in order to maintain basic operating requirements.

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

- 1) The hiring freeze imposed by Ordinance 2010-71 is hereby rescinded; AND
- 2) The Mayor is hereby authorized to advertise and fill budgeted vacated positions in order to maintain basic operating requirements of the City; AND
- 3) Such authority is not intended to include new positions, but only to maintain staffing levels as authorized by the budget. AND
- 4) Any and all new positions not included in the budget shall be filled only upon the express approval of the City Council.

Approved and adopted on this the _____ day of _____, 2011.

Cathy Barnette, Council President

Bailey Yelding, Jr., Mayor

ATTEST:

David L. Cohen, City Clerk, MMC

ORDINANCE 2011-81

AN ORDINANCE ADOPTING THE FISCAL YEAR 2012 BUDGET

WHEREAS, the Mayor of the City of Daphne has submitted to the City Council a budget for Fiscal Year 2012 which begins October 1, 2011 and ends September 30, 2012; and

WHEREAS, the City Council has reviewed and considered such proposed budget; and

WHEREAS, the City Council believes that the 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 2012 budget as attached hereto and made a part hereof for Fiscal Year 2012 beginning October 1, 2011 and ending September 30, 2012 is hereby approved.

Approved and adopted on this the _____ day of _____, 2011.

Cathy Barnette, Council President

Bailey Yelding, Jr., Mayor

ATTEST:

David L. Cohen, City Clerk, MMC

2012 Proposed Budget

	TOTAL	Enterprise Funds													
		General Fund					Debt Service Fund		Special Revenues Fund		Capital Projects Fund				
		Garbage/ Recycling	Civic Center	Bay Front Park	-	-	-	-	-	-	-				
Sales & Use Taxes	13,313,699	10,944,435	-	-	-	-	-	-	-	-	-	-	-	-	-
Ad Valorem Taxes	4,581,000	4,581,000	-	-	-	-	-	-	-	-	-	-	-	-	-
Business Licenses	1,490,000	1,490,000	-	-	-	-	-	-	-	-	-	-	-	-	-
PLOT Taxes	2,250,000	2,250,000	-	-	-	-	-	-	-	-	-	-	-	-	-
Luxury Taxes	685,730	659,000	-	-	-	-	-	-	-	-	26,730	-	-	-	-
Permits	341,975	341,975	-	-	-	-	-	-	-	-	-	-	-	-	-
Court Collections & Fines	558,950	450,000	-	-	-	-	-	-	-	-	-	-	108,950	-	-
Intergovernmental	326,670	192,617	-	-	-	-	-	-	-	-	-	-	34,053	-	-
Fees & Charges	1,888,000	1,268,500	1,268,500	277,250	75,000	-	-	-	-	-	-	-	69,500	-	100,000
Recreation	127,600	127,600	-	-	-	-	-	-	-	-	-	-	-	-	-
Grants	160,000	160,000	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest	249,150	240,000	-	-	-	-	-	-	-	-	3,750	-	1,150	-	4,250
Miscellaneous	96,000	29,500	-	-	-	-	-	-	-	-	-	-	16,500	-	50,000
Total Estimated Revenues	26,068,774	21,663,877	1,268,500	277,250	75,000	-	-	-	-	-	1,488,480	-	1,141,417	-	154,250
Base Wages	9,971,185	9,342,475	362,977	115,968	89,064	-	-	60,701	-	-	-	-	7,699	-	-
Overtime	310,529	279,350	14,780	6,700	2,000	-	-	-	-	-	-	-	-	-	-
Payroll Related	1,433,616	1,349,391	53,581	17,487	13,157	-	-	-	-	-	-	-	-	-	-
Other Personnel	2,362,508	2,178,677	135,560	29,575	18,696	-	-	-	-	-	-	-	-	-	-
Personnel	14,077,838	13,149,893	566,898	169,730	122,917	-	-	68,400	-	-	-	-	68,400	-	-
Employee Support	216,215	206,440	1,750	2,200	75	-	-	5,750	-	-	-	-	410	-	-
Professional Services	821,114	713,104	12,300	85,300	10,000	-	-	410	-	-	-	-	-	-	-
Insurance	513,661	398,902	25,300	70,317	13,817	-	-	5,325	-	-	-	-	-	-	-
Advertising	77,950	46,700	9,750	18,500	3,000	-	-	-	-	-	-	-	-	-	-
Community Services & Programs	353,233	325,233	-	28,000	-	-	-	-	-	-	-	-	-	-	-
Supplies & Equipment	1,636,060	1,401,375	82,470	38,200	7,800	-	-	106,215	-	-	-	-	-	-	-
Waste Disposal & Landfill	384,020	96,570	282,200	3,250	2,000	-	-	-	-	-	-	-	-	-	-
Maintenance	959,418	794,736	81,950	51,000	6,300	-	-	25,432	-	-	-	-	-	-	-
Utilities	1,115,901	929,116	7,000	148,375	20,500	-	-	10,910	-	-	-	-	-	-	-
Inmates	92,400	72,400	-	20,000	-	-	-	-	-	-	-	-	-	-	-
Contributions to Boards, Authorities, & Districts	142,100	-	-	-	-	-	-	142,100	-	-	-	-	-	-	-
Miscellaneous	7,375	6,675	700	-	-	-	-	-	-	-	-	-	-	-	-
Operating	6,319,447	4,991,251	503,420	465,142	63,492	-	-	296,142	-	-	-	-	296,142	-	-
Capital	500,000	-	-	-	-	-	-	-	-	-	-	-	-	-	500,000
Debt Service	4,255,851	-	103,779	-	-	-	-	-	-	-	4,152,072	-	-	-	-
Transfers To/From Other Funds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfers To Other Funds	(4,043,927)	(3,876,863)	-	357,622	111,409	-	-	(167,064)	-	-	-	-	32,349	-	500,000
Transfers From Other Funds	4,043,927	(3,876,863)	-	357,622	111,409	-	-	(134,715)	-	-	-	-	32,349	-	500,000
TOTAL Estimated Revenues (Under) Appropriations	915,638	(354,130)	94,403	-	-	-	-	378,955	642,160	-	154,250	-	-	-	-

GENERAL FUND

FISCAL 2012 BUDGET SUMMARY

	BUDGET FY11-		BUDGET FY10		BUDGET FY09		BUDGET FY08		BUDGET FY07		BUDGET FY06		BUDGET FY05	
	BUDGET FY 12	Amended As Of 3-31-11	ACTUAL YTD 3/11	ACTUAL FY 10	ACTUAL FY 09	ACTUAL FY 08	ACTUAL FY 07	ACTUAL FY 06	ACTUAL FY 05					
ESTIMATED REVENUES														
Sales & Use Taxes	10,944,435	9,815,000	4,399,728	9,934,167	10,040,568	11,279,350	11,871,233	11,702,796	10,708,261					
Ad Valorem Taxes	4,581,000	4,864,000	3,906,416	5,603,130	5,539,305	4,322,745	3,703,278	3,496,126	3,015,895					
Business Licenses	1,490,000	1,301,000	1,339,742	1,400,404	1,484,968	1,592,999	1,464,404	1,398,473	1,228,901					
PILOT Taxes	2,250,000	2,000,000	199,298	1,952,460	2,046,309	1,861,149	1,716,258	1,475,563	1,239,320					
Luxury Taxes	659,000	648,000	270,058	679,324	656,166	626,526	594,364	585,556	569,219					
Permits	341,975	306,975	210,851	338,664	428,533	755,758	970,444	616,656	578,423					
Court Collections	450,000	400,000	247,434	401,835	438,638	371,702	382,238	365,182	383,414					
Intergovernmental	192,617	222,917	83,787	220,397	270,176	195,574	296,586	369,426	206,400					
Fees & Charges	197,750	205,100	116,109	286,604	204,940	219,903	236,099	301,212	216,154					
Recreation	127,600	124,350	47,730	137,068	137,039	130,955	123,731	115,602	123,639					
Grants	160,000	260,000	156,502	419,052	327,265	314,111	24,396	89,689	84,529					
Interest	240,000	285,000	(30,733)	57,386	78,083	305,893	413,042	238,840	67,359					
Miscellaneous	29,500	49,397	37,094	259,457	151,945	80,958	257,371	401,672	148,257					
Total Estimated Revenues	21,663,877	20,481,739	10,984,016	21,689,946	21,803,936	22,057,622	22,053,444	21,156,792	18,569,771					
APPROPRIATIONS														
General Government	3,474,049	3,143,857	1,333,933	2,948,180	3,370,010	3,163,815	3,117,352	2,992,922	2,427,676					
Public Safety	8,726,953	8,734,396	4,067,438	8,585,266	8,653,939	8,595,095	7,580,219	6,436,940	5,581,949					
Public Works	4,027,150	3,894,469	1,585,910	4,301,892	3,727,812	3,845,735	4,218,216	4,779,337	3,750,781					
Recreation & Library	1,912,992	2,170,045	985,210	2,265,813	2,128,976	2,177,620	1,956,166	1,827,725	1,807,653					
Total Appropriations	18,141,144	17,942,767	7,972,491	18,101,151	17,880,737	17,782,265	16,871,953	16,036,924	13,568,059					
Estimated Revenues Over Appropriations Before Other Financing Sources & Uses	3,522,733	2,538,972	3,011,524	3,588,795	3,923,199	4,275,356	5,181,491	5,119,868	5,001,712					
OTHER FINANCING SOURCES & USES														
Gen Long Term Debt Proceeds	-	-	-	506,969	146,678	-	-	-	-					
Trans from Other Funds	-	-	-	-	6,799	83,204	10,019	820,908	200					
Other Financing Sources	-	-	-	506,969	153,477	83,204	10,019	820,908	200					
Allow for Comp Absences/Pay Plan	-	-	-	-	-	-	-	-	-					
Transfers to Debt Service Fund	(2,875,483)	(2,808,244)	(1,929,926)	(2,892,612)	(2,610,186)	(2,640,775)	(2,668,795)	(2,463,006)	(1,962,965)					
Transfers to Capital Reserve	(500,000)	(2,113,890)	(2,113,890)	(22,000)	(119,268)	-	(500,000)	(500,000)	(403,740)					
Transfers to 99 Construction Fund	-	-	-	-	-	-	-	-	-					
Transfers to Enterprise Funds	(469,031)	(351,810)	(157,906)	(468,767)	(599,934)	(677,065)	(404,072)	(409,619)	(525,623)					
Transfers to Special Revenue Funds	(32,349)	(37,603)	(13,872)	(324,817)	(201,182)	(78,964)	(481,943)	(77,085)	(115,455)					
Other Financing Uses	(3,876,863)	(5,311,547)	(4,215,593)	(3,708,196)	(3,530,570)	(3,396,804)	(4,054,811)	(3,469,710)	(3,007,783)					
Total Other FinSources (Uses)	(3,876,863)	(5,311,547)	(4,215,593)	(3,201,227)	(3,377,094)	(3,313,600)	(4,044,792)	(2,648,802)	(3,007,583)					
Excess (Deficit) Est Rev Over (Under) Approp & Other Financing Uses	(354,130)	(2,772,575)	(1,204,069)	387,568	546,105	961,756	1,136,699	2,471,066	1,994,129					

Garbage/Recycling Fund
FY 2012
Budget Summary- Budgetary Basis

	FY 2012		2011									
	Garbage (Pages 1-5)	Recycling (Pages 6-9)	Total	Budget Amended	YTD 3/11	2010	2009	2008	2007	2006	2005	
Revenues												
Charges for Services	1,130,200	-	1,130,200	1,100,000	579,930	1,225,076	1,105,774	1,091,195	1,040,368	1,040,007	987,146	
Recycling	-	90,000	90,000	70,000	37,597	60,987	69,992	139,002	155,650	113,054	109,636	
Carts/Bins	48,300	-	48,300	56,000	24,078	59,748	56,552	55,485	50,507	47,905	47,923	
Grants	-	-	-	-	-	-	-	-	-	-	10,000	
Transfers from Gen Fund	-	-	-	-	-	102,929	117,779	136,572	-	-	15,684	
	1,178,500	90,000	1,268,500	1,226,000	641,605	1,448,740	1,350,097	1,422,255	1,246,525	1,200,966	1,169,689	
Expenses												
Personnel	302,182	264,716	566,898	542,401	291,447	692,202	756,408	716,244	638,304	589,051	571,811	
Operating	504,629	102,570	607,199	594,349	183,471	636,220	593,689	706,011	482,918	521,447	570,391	
Grants	-	-	-	-	-	-	-	-	-	-	10,000	
Capital	-	-	-	-	-	-	-	-	-	-	-	
Debt Service	-	-	-	-	-	-	-	-	-	6,018	17,487	
	806,811	367,286	1,174,097	1,136,750	474,918	1,328,421	1,350,097	1,422,255	1,121,222	1,116,516	1,169,689	
Revenues Over/(Under) Exp	371,689	(277,286)	94,403	89,250	166,687	120,318	-	-	125,304	84,451	-	

**Civic Center
FY 2012
Budget Summary**

	Budget		YTD 3/11	Actual						
	FY 2012	FY 2011		2010	2009	2008	2007	2006	2005	
Revenues										
Rental Fees	217,650	332,698	90,969	260,970	265,053	235,806	255,520	174,321	145,845	
Grants	-	-	-	-	-	-	3,000	-	-	
Transfers from General Fund	357,622	225,713	113,215	257,234	377,822	425,754	309,402	315,557	440,847	
Total Revenues	575,272	558,411	204,184	518,204	642,874	661,560	567,921	489,878	586,691	
Expenses										
Personnel	165,962	172,704	62,087	158,146	196,753	222,590	191,805	167,710	171,671	
Operating	380,592	358,444	136,792	332,033	392,634	367,598	321,891	308,497	379,980	
Capital	-	-	-	-	-	-	-	-	-	
Debt Service	-	-	-	-	-	-	-	22	2,444	
Departmental Expenses	546,554	531,148	198,879	490,179	589,387	590,188	513,696	476,229	554,094	
Taste of Eastern Shore	538	36,512	-	8,000	8,000	8,050	8,726	8,000	-	
Home & Garden Show	-	-	-	-	-	-	-	640	(5,791)	
Dances	(100)	7,357	(4,579)	(603)	177	11,509	656	(6,306)	-	
Baldwin Pops	1,850	3,175	1,227	2,901	3,236	3,095	3,683	2,757	2,735	
Zydeco Music Festival	26,430	43,336	2,000	5,665	42,074	48,718	41,160	8,558	32,939	
Wedding Extravaganza	-	-	-	-	-	-	-	-	2,714	
Event Expenses*	28,718	90,380	(1,352)	15,962	53,487	71,372	54,226	13,649	32,597	
Total Expenses	575,272	621,528	197,527	506,141	642,874	661,560	567,921	489,878	586,691	
Revenues Over/(Under) Exp	-	(63,117)	6,656.96	12,062.64	-	-	-	-	-	

* Note: Events are stated at net cost (Revenues less Expenses)

**Bay Front Park
FY 2012
Budget Summary**

	2011		Actual							
	2012	Budget-Amended	YTD 3/11	2010	2009	2008	2007	2006	2005	
Revenues										
Rental Fees	75,000	75,000	41,668	57,119	55,928	72,118	85,038	52,350	67,442	
Transfers from Gen Fund	111,409	126,097	44,691	108,604	104,334	114,739	94,671	94,062	69,093	
	186,409	201,097	86,359	165,724	160,262	186,856	179,709	146,412	136,535	
Expenses										
Personnel	122,917	144,503	57,849	116,454	112,365	120,386	115,507	102,929	92,475	
Operating	63,492	56,594	27,052	46,355	47,897	66,470	64,202	43,483	44,059	
Capital	-	-	-	-	-	-	-	-	-	
	186,409	201,097	84,901	162,809	160,262	186,856	179,709	146,412	136,535	
Revenues Over/(Under) Expenses	-	-	1,458	2,915	-	-	-	-	-	