

ARTICLE XVII
PROCEDURES FOR SUBDIVISION REVIEW

Revised 03/21/17: Adding mandatory sidewalk installation, bond, renegotiation and release provisions per Ordinance #2017-21 adopted 03/20/17

17-1 PRE-APPLICATION & PRE-CONSTRUCTION CONFERENCES

(a) Pre-Application Conference:

Whenever the subdivision of a tract of land within the extraterritorial planning jurisdiction of the Planning Commission is proposed, the subdivider should consult informally with the planning staff of the City of Daphne and Baldwin County, prior to submittal with the Planning Commission(s) to ensure compliance with the required regulations. No fee shall be charged for the review and no formal application shall be required.

(b) Pre-Construction Conference:

After preliminary plan approval and before the issuance of a site disturbance permit, a pre-construction conference shall be held between the developer, contractors, the representatives from the Departments of Community Development, Public Works, Building Inspections; Riviera Utilities, Daphne Utilities, any other applicable public or private utility company, local, state, and/or federal agency. At the pre-construction conference, participants will discuss issues related to permitting, construction safety, general expectations during construction, final inspection protocol, etc.

17-2 MASTER PLAN SUBMITTAL

Any subdivision or development which is to be developed in phases or units shall require a master plan of the proposed subdivision or development which shall be submitted to the Planning Commission for approval prior to submitting a preliminary plat application.

The subdivider shall submit to the Department of Community Development, a written request for review and approval by the Planning Commission and a copy of said master plan. The master plan shall be of sufficient detail to show the proposed street, sidewalk and lot layout, drainage, utilities, detention, common, recreational, and landscaped areas.

17-3 PRELIMINARY PLAT APPLICATION

Prior to making any improvements, the subdivider shall submit to the Planning Commission a preliminary plat of the proposed subdivision for review in accordance with the following procedure. These items shall be received in the

Department of Community Development not less than thirty (30) calendar days prior to a regularly scheduled meeting of the Planning Commission at which meeting the subdivision plat is to be formally submitted for review.

(a) Subdivider's Responsibility:

The subdivider shall submit to the Department of Community Development the following:

- (1) Completed application on prescribed forms; a copy of a recorded warranty deed of the subject property (as proof of ownership); the preliminary plat and subdivision construction plans in accordance with *Section 17-3, Plat Content*; Owner's Indemnification and Maintenance Agreement Form for Detention Facilities and Common Areas; a list of adjacent property owners and a Certification of Property Owners Notification Form in accordance with specifications provided in the Preliminary Plat Supplemental Documentation List in the Appendix; documentation of all applicable utility companies' service availability and willingness to provide services; and the, the filing fee as specifically enumerated in *Article 34, Schedule of Fees*.
- (2) The subdivider shall submit a preliminary plat and utility sheets to each utility company for review. Electronic copies shall be provided to the Department of Public Works, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities and the Building Department. The subdivider shall submit a plat and applicable documents as may be necessary to any and all applicable utility companies, local, state and/or federal agency for review. Sign details shall be submitted to the Code Enforcement Officer for review.

(b) Plat Content:

The preliminary plat shall contain all information as reflected on the current Preliminary Plat Supplemental Documentation List as provided in the Appendix. The checklist may be modified at the discretion of the Director of Community Development when applicable.

(c) Fees & Application Withdrawal Procedures:

An application for plat review shall be accompanied by the appropriate fee as enumerated in *Article 34, the Schedule of Fees*.

(1) Withdrawal of Application by the Applicant:

If, for any reason, an item scheduled for initial presentation before the Planning Commission is withdrawn without having been presented, then the applicant shall re-file a new application and applicable fees. The written request to withdraw shall be signed by the applicant and authorized agent and shall be submitted to the Department of Community Development prior to the scheduled hearing date.

If the project is withdrawn within seven (7) calendar days of submission, then the application fee shall be credited toward re-submittal of the application; however, beyond the seven (7) calendar day period, fees shall not be refunded nor credited toward subsequent submittals. The application fees shall be required for any future application. The request to withdraw or table the item shall be submitted in writing to the Department of Community Development prior to the scheduled hearing date.

(2) Request by the Applicant to Table Final Plat Prior to Hearing Date:

If, for any reason, an item scheduled for initial presentation before the Planning Commission is requested to be tabled without having been presented, then the applicant shall incur the costs required to re-notify adjacent property owners of the future meeting or hearing at which time the item will be considered in accordance with this subsection. If the project is withdrawn within seven (7) calendar days of submission, then the application fee and notification fee will be credited toward re-submittal of the application; however, beyond the seven (7) calendar day period, fees shall not be refunded nor credited toward subsequent submittals. The written request to table the item and reschedule said meeting shall be accompanied by additional mailing labels, certified property owner's list and certification form and the appropriate fee as enumerated in *Article 34, Schedule of Fees*.

(d) Department of Community Development Review:

The Department of Community Development shall proceed with the preliminary plat review as follows:

(1) Plat Study:

During the thirty (30) calendar days prior to the next regularly scheduled meeting, the Department of Public Works, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities, Building Inspections Department and any applicable utility company, local, state, and/or federal agency shall review plans and submit recommendations to the Director of Community Development prior to the initial hearing on the preliminary plat.

- (a) Whenever a person, firm, corporation, developer or other entity proposes to develop a commercial, public, semi-public or multi-family, or mixed use project that, in the opinion of the Director of Community Development constitutes a land disturbing activity which may pose a risk of drainage and/or siltation damage outside the boundaries of the project, such person, firm, corporation, developer or other entity conducting the land disturbing activity shall be required to submit a non-cancelable performance bond in the name of the permittee, a letter of credit or cashier's check, to the City prior to the issuance of a site disturbance permit.
- (b) At the time of the preliminary plat approval, the bond shall become effective and shall extend for a period of at least two (2) years following final plat approval by the City. The bond shall be in the amount of twenty percent (20%) of the total cost for the performance of all site work. Said bond shall cover drainage, erosion and siltation damage, if any.
- (c) The Director of Community Development or other administrative official as designated by the City Council shall determine the prescribed bond, as well as, the adequacy and the security thereon.

(2) Notice of Public Hearing:

The Planning Coordinator or designee of the Director of Community Development shall distribute public notice of the time and place of the hearing and shall send notice of public hearing on said preliminary plat by certified mail to the owner of record, the subdivider, and the owners of record of abutting land at least five (5) calendar days prior to the hearing.

(3) Commission Action:

The preliminary plat is considered to be formally and officially submitted at the regularly scheduled meeting of the Planning Commission. Per Section 6-6 “An affirmative vote of not less than six (6) members shall be required for approval of subdivisions, pursuant to Section 11-52-10, the Code of Alabama, 1975, (as amended).”

At this meeting, the Commission may either:

(a) Approve the preliminary plat.

(b) Conditionally approve the preliminary plat:

In this case, the conditions shall be stated in the hearing and presented to the subdivider in writing. If necessary, the Commission may require the subdivider to submit a revised preliminary plat prior to acquiring a site disturbance permit.

(c) Disapprove the preliminary plat:

If disapproved, the reasons for such action shall be stated in the public hearing and presented to the subdivider in writing, and if possible, recommendations made as to the basis on which the plat will be approved. The subdivider may resubmit the plat with due consideration to the recommendations stated by the Planning Commission at any subsequent regularly scheduled meeting of the Commission in accordance with these regulations.

(d) Delay action on the preliminary plat:

The Commission shall act to approve or disapprove a subdivision plat within thirty (30) calendar days after its formal submission at a regularly scheduled Planning Commission meeting. If the applicant waives this requirement and consents to an extension, then the Commission may delay action on the plat up to thirty (30) additional calendar days.

If no action is taken within the initial thirty day period, or if no action is taken upon the thirty (30) calendar day extension, said plat shall be deemed to have been approved and correspondence to that effect shall be issued by the Commission on request.

In any case, the Commission shall notify the subdivider either verbally or in writing of the action taken at the hearing. If any of the requirements of these regulations are modified or waived, they shall be specified and the reasons therefore given.

- (e) Effect of Preliminary Plat Approval:
 - (1) Approval shall be authorization for the subdivider to acquire a site disturbance permit as prescribed herein from the Department of Community Development. The owner or developer shall provide to the Department of Community Development, the appropriate signed application form, any applicable state/federal permits, a cost estimate for site work, the fee for a site disturbance permit as enumerated in *Article 34, Schedule of Fees*, and proof of the contractor's Daphne business license.
 - (a) Preliminary plat approval shall become void one (1) year from the date of Planning Commission approval if no site disturbance permit has been acquired for the project. The site disturbance permit and preliminary plat shall both become void one (1) year from the issuance of the site disturbance permit if no substantial building or construction activity has occurred.
 - (b) Prior to expiration of the initial site plan and/or site disturbance permit, a one (1) year extension of time may be granted for the approved preliminary plat and the site disturbance permit by the Director of Community Development, upon written request of the applicant, stating good reason.
 - (c) If no construction activity has occurred after the expiration of the extended time, an additional one (1) year extension of time may be considered by the Planning Commission. At no time shall any preliminary plat and related site disturbance permit be granted an extension beyond this time. The plat and site disturbance permit shall automatically be deemed null and void. The subdivider shall be required to resubmit the preliminary plat application and follow procedures as outlined in *Section 17-3(a), Subdivider's Responsibility*.
 - (2) Said approval shall be authorization to begin work, to proceed with the construction of all minimum improvements as enumerated in

Article 11, Minimum Standards and Required Improvements, including the grading of streets, and staking of lots, etc.

- (3) Preliminary plat approval does not constitute final plat approval nor does it authorize official recording of the plat nor does it constitute or effect an acceptance by the City of Daphne of any street or other open space shown on the preliminary plat.
- (4) When all required improvements are installed the developer or owner shall in accordance with *Article 11, Minimum Standards and Required Improvements*, request a final inspection by the design engineer, the registered landscape architect, all applicable City departments, public and/or private utility companies, and when applicable, Baldwin County officials. Said inspections shall be conducted prior to submitting an application for final plat approval. Final inspection reports shall be provided with the application for Final Plat approval.

17-4 FINAL PLAT APPLICATION

- (a) Financial Guarantee of Performance in Lieu of Full Installation of Minimum Improvements:
 - (1) The subdivider shall be responsible for the full installation of all required minimum improvements except sidewalks in the proposed subdivision prior to the submission of a final plat application to the Planning Commission or after no less than ninety percent (90%) of the minimum improvements have been installed, the subdivider may issue a financial guarantee with surety to the City of Daphne that the remaining minimum improvements shall be completed.
 - (2) As such, one (1) or more of the following may be accepted as financial guarantee with surety payable to the City of Daphne: a letter of credit or certified check from an Alabama lending institution in an amount not to exceed one hundred and fifty percent (150%) of the cost of the required improvements remaining.
 - (3) A cost estimate for any remaining civil improvements shall be certified and submitted by the design engineer with the application for final plat approval; a cost estimate of any remaining landscaping improvements must be certified and submitted by the professional landscape architect with the application for final plat approval and the financial guarantee.
 - (4) Sidewalks around all common areas shall be installed prior to final plat approval. A surety for remaining sidewalk improvements

shall be determined as provided in Section (b) Maintenance Bonds Subsection (2) provided herein.

(b) Maintenance Bonds:

- (1) The developer/owner shall submit to the Department of Community Development a Street Maintenance Bond payable to the City of Daphne which shall be valid for a period of two (2) years. The bond shall be in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision. Said bond shall be required as a condition to dedication and acceptance of any new streets within the corporate limits. The Director of Community Development or Director of Public Works other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The Street Maintenance Bond period shall begin upon the acceptance of the street and drainage improvements by resolution of the City Council. No less than thirty (30) calendar days prior to the expiration of said maintenance bond, an inspection shall be conducted by the Department of Public Works and the Environmental Programs Manager or Site Containment Officer to ensure that the improvements are in satisfactory condition prior to acceptance.

- (2) If applicable, the developer/owner shall submit to the Department of Community Development a Sidewalk Installation Agreement, a cost estimate for all undeveloped portions of the planned sidewalk network certified by the project civil engineer and a financial guarantee of performance to be used by the City of Daphne which shall be valid for a period of two (2) years. The bond shall be in an amount equal to two hundred percent (200%) of the cost of the required sidewalk improvements for the applicable phase of the subdivision.

The developer/owner may request renegotiation of the Sidewalk Installation Agreement with the city once fifty percent (50%) of the planned sidewalk network has been constructed.

The Planning Commission, upon the recommendations of the Department of Public Works or designee thereof and the Environmental Programs Manager or designee thereof, may release or extend a street maintenance obligation and may also release any sidewalk installation bond obligation or portion thereof.

An extension of the maintenance bond shall be for a period of time no greater than one year. The sidewalk obligation shall not be extended beyond the originally specified period. The city shall cause the sidewalk network to be completed using the funds from the bond.

(c) Subdivider's Responsibility:

Within one (1) year of the date of preliminary plat approval or prior to the expiration of an extension granted by the Director of Community Development or the Planning Commission as prescribed in *Section 17-3, Effect of Preliminary Plat Approval*, the subdivider shall submit the following to the Department of Community Development:

- (1) File the required application on the prescribed forms;
- (2) Submit a copy of the final plat and as-built drawings of the site in accordance with *Section 17-3, Plat Content*;
- (3) Submit a petition for street acceptance on prescribed forms accompanied by a street maintenance bond in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision; certification of improvements form signed and sealed by the design engineer and a street test report from an independent testing laboratory noting satisfactory condition of the street;
- (4) Submit filing fee as enumerated in *Article 34, the Schedule of Fees*;
- (5) If applicable, submit a financial guarantee of performance of the remaining ten percent (10%) of the minimum improvements, except sidewalks, and a certified cost estimate of any/all remaining work to be completed;
- (6) Private restrictive covenants and deed restrictions;
- (7) All inspection reports and permits; and,
- (8) Applicable test reports.

These items shall be received in the Department of Community Development not less than thirty (30) calendar days prior to a regularly scheduled meeting of the Planning Commission at which meeting the subdivision plat is to be formally submitted for review.

(d) Final Plat Content:

The final plat shall conform to the conditions of the approved preliminary plat. It shall show sufficient detailed data to readily determine and to accurately reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line, and building line.

The plat shall be clearly drawn on a 24 x 36 inches sheet, at a scale of not less than one hundred (100) feet to the inch, and shall contain all information shown on the current departmental check list for a final plat (see Appendix), which may be modified at the discretion of the Director of Community Development when applicable.

(e) Fees and Application Withdrawal Procedures:

Said fees and procedures are as prescribed in *Article 17-3, Fees & Application Withdrawal Procedures*, herein.

(f) Department of Community Development Review:

The Department of Community Development shall proceed with the final plat review as follows:

(1) Plat Study:

During the thirty (30) calendar days prior to the next regularly scheduled meeting, the Department of Community Development shall review the final plat for compliance with the subdivision regulations and submit any recommendations to the Planning Commission at its meeting.

(2) Commission Action:

The final plat is considered to be formally and officially submitted at the regularly scheduled meeting of the Planning Commission. At this meeting, the Commission may either:

(a) Approve the final plat.

(b) Disapprove the final plat:

Such action may result if the final plat is found to be in conflict with the approved preliminary plat or with the subdivision regulations.

A statement of the reasons for disapproval shall be forwarded by letter to the subdivider and one copy being filed in the records of the Department of Community Development. No certificate of

approval shall be given. The subdivider may resubmit the final plat application for another hearing after the corrections as noted by the Planning Commission have been made to the plat.

(c) Delay action on the final plat:

The Commission shall act to approve or disapprove a subdivision plat within thirty (30) calendar days after its formal submission at a regularly scheduled Planning Commission meeting. If the applicant waives this requirement and consents to an extension, then the Commission may delay action on the plat up to thirty (30) additional calendar days.

If no action is taken within the initial thirty (30) calendar day period, or if no action is taken upon the (30) thirty calendar day extension, said plat shall be deemed to have been approved and correspondence to that effect shall be issued by the Commission on request.

(3) Records:

In any case, the Planning Commission shall retain one (1) copy of the final plat as presented to the Planning Commission in its files with indication in writing of the action taken at the hearing.

If any of the requirements of these regulations are modified or waived, they shall be specified and the reasons therefore given.

(g) Effect of Final Plat Approval:

Approval of the final plat by the Planning Commission shall authorize the owner, subdivider, or his agent, to have said plat recorded in the Office of the Judge of Probate of Baldwin County.

The plat shall be filed prior to the sale of any lot in the subdivision. Copies of all private covenants, deed restrictions, and certifications shall be filed with the final plat. Once approval has been given and endorsed in writing on the plat by the Planning Commission and/or the Director of Community Development, no changes, erasures, modifications or revisions shall be made on said plat.

In the event that any subdivision plat, when recorded, contains changes which have not approved by the Planning Commission, said plat shall be considered null and void, and the Planning Commission shall then file the

corrected plat as approved, noting the reason for such filing. Any erasures made on a plat prior to its signing shall be initialed and dated by the Planning Commission Chairman or other authorized agent and/or the Director of Community Development, at the time of the signing.

The approval of the final plat shall be recorded within a period of one (1) year following the date of such approval. Upon recording, the owner or developer shall furnish to the Department of Community Development a copy of the recorded plat and recorded restrictive covenants. Additionally, the Articles of Incorporation for the establishment of a property owner's association shall be furnished to Community Development upon recording. In any event, the developer or assign thereof shall guarantee that the sidewalk installation surety is sufficient in cost and that said surety shall be valid for a period of two years after the first building permit is issued by Building Inspections.

Approval and recordation of the final plat does not result in the acceptance of any street or other public space shown on the plat. Council resolution accepting dedication of streets is required as noted in *Section 17-4, Streets*, herein.

(h) Streets - Legal Status:

The City of Daphne shall not accept, open, improve, maintain, grade or light any street right(s)-of-way and/or drainage and utility easement; authorize water mains, sanitary sewer, or connections to be made to any street, unless:

- (1) The street right(s)-of-way is a part of a subdivision plat approved by the Planning Commission; and,
- (2) Such street has been accepted or otherwise granted the legal status of a public street; and,
- (3) The right(s)-of-way corresponds with a street shown on the Comprehensive Plan; and,
- (4) Petition for acceptance and dedication of the street right(s)-of-way and drainage and utility easement(s) has been accepted and adopted by City Council Resolution.