

**CITY OF FOLEY
PLANNING COMMISSION
WORK SESSION &
MEETING**

June 18, 2025

**City Hall
Council Chambers
At 4:00 p.m.**

PLANNING COMMISSION
WORK SESSION AGENDA JUNE 18, 2025
(Council Chambers of City Hall)
4:00 P.M.

The City of Foley Planning Commission will hold a work session on June 18, 2025 at 4:00 p.m. in the Council Chambers of City Hall located at 407 Laurel Avenue.

WORK SESSION:

1. Magnolia Walk Subdivision- Preliminary

The City of Foley Planning Commission has received a request for preliminary approval of the Magnolia Walk Subdivision which consists of 2.168 +/- acres and 1 lot. Property is located N. of County Rd. 20 and E. of the Foley Beach Express. Applicant is Burton Property Group.

2. Second Minor Resubdivision of Magnolia Walk- Minor

The City of Foley Planning Commission has received a request for approval of the Second Minor Resubdivision of Magnolia Walk a minor subdivision which consists of 1.061 +/- acres and 1 lot. Property is located E. of the Foley Beach Express and N. of County Rd. 20. Applicant is Bowman Consulting Group.

3. Zoning Ordinance Amendments

2

PLANNING COMMISSION
MEETING AGENDA JUNE 18, 2025
(Council Chambers of City Hall)
Immediately following Work Session

The City of Foley Planning Commission will hold a meeting on June 18, 2025 immediately following the work session in Council Chambers of City Hall located at 407 Laurel Avenue.

MEETING:

MINUTES:

Approval of the May 14, 2025 and May 21, 2025 meeting minutes.

1. Magnolia Walk Subdivision- Preliminary

The City of Foley Planning Commission has received a request for preliminary approval of the Magnolia Walk Subdivision which consists of 2.168 +/- acres and 1 lot. Property is located N. of County Rd. 20 and E. of the Foley Beach Express. Applicant is Burton Property Group.

Public Hearing:

Planning Commission Action:

2. Second Minor Resubdivision of Magnolia Walk- Minor

The City of Foley Planning Commission has received a request for approval of the Second Minor Resubdivision of Magnolia Walk a minor subdivision which consists of 1.061 +/- acres and 1 lot. Property is located E. of the Foley Beach Express and N. of County Rd. 20. Applicant is Bowman Consulting Group.

Public Hearing:

Planning Commission Action:

3. Zoning Ordinance Amendments

Public Hearing:

Planning Commission Action:

ADJOURN:

**PLANNING COMMISSION
WORK SESSION MINUTES MAY 14, 2025
(Council Chambers of City Hall) 5:30 P.M.**

The City of Foley Planning Commission held a work session on May 14, 2025 at 5:30 p.m. in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Members present: Deborah Mixon, Wes Abrams, Phillip Hinesley and Tommy Gebhart. Absent members were: Larry Engel, Vera Quaites, Ralph Hellmich, Calvin Hare and Bill Swanson. Staff present were: Wayne Dyess, Director of Infrastructure and Development; Nelson Bauer, Infrastructure and Development Program Manager; Miriam Boone, City Planner; Chad Christian, City Engineer; Amanda Cole, Planning and Zoning Assistant and Melissa Ringler, Recording Secretary.

AGENDA ITEMS:

1. Foley Boat & RV Storage/Flowers- Rezoning

The City of Foley Planning Commission has received a request to recommend to the Mayor and Council the rezoning of 21.32 +/- acres. Property is currently zoned AO (Agricultural Open Space). Proposed zoning is B-1A (Extended Business District). Property is located S. of County Rd. 12 S. and E. of the Foley Beach Express. Applicant is S.E. Civil, LLC.

Mrs. Miriam Boone stated the request is for a rezoning from AO zone to B-1A zone. She explained they are planning to develop boat and RV storage on the property. She stated if the rezoning is approved they will come before the Board of Adjustment and Appeals for the storage use and the site plan will require approval from the Planning Commission.

Chairman Abrams asked if the proposed use matches with the future land use.

Mrs. Boone explained the future land use map shows the property as mixed use commercial/residential. She stated the applicant is aware the property is located within the Foley Beach Express Overlay District.

2. *Resurvey of Lot 43 Paxton Farms Subdivision Phase One- Minor

The City of Foley Planning Commission has received a request approval of the Resurvey of Lot 43 Paxton Farms Subdivision Phase One a minor subdivision which consists of 0.17 acres and 1 lot. Property is located W. of County Rd. 65 and S. of County Rd. 12 S. and is located in the City of Foley Planning Jurisdiction. Applicant is the Engineering Design Group, LLC.

Mrs. Boone explained the property is located in Baldwin County District 34 and is unzoned. She stated her understanding is a home was built on the lot and the request is to resolve a setback issue.

Mr. Michael Johnson stated his past experience with this type of issue is Baldwin County would not issue a variance. He stated the shift in the lot line is being done to remedy the current setback issues.

Mrs. Boone stated staff is recommending approval.

3. Zoning Ordinance Amendments

Mr. Wayne Dyess went over the proposed amendments.

PLANNING COMMISSION
WORK SESSION MINUTES MAY 14, 2025
(Council Chambers of City Hall) 5:30 P.M.

4

4. Subdivision Regulation Amendments

Mr. Nelson Bauer went over the proposed amendments.

5. Repeal Moratorium- Repeal the moratorium that was issued on February 16, 2022 involving subdivision exemptions.

Staff and Commissioners discussed the lifting of the moratorium for subdivision exemptions.

ADJOURN:

Chairman Abrams adjourned the meeting at 6:17 p.m.

**PLANNING COMMISSION
MEETING MINUTES MAY 21, 2025
(Council Chambers of City Hall) 5:30 P.M.**

The City of Foley Planning Commission held a meeting on May 21, 2025 at 5:30 p.m. in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Members present were: Deborah Mixon, Larry Engel, Vera Quaites, Ralph Hellmich, Wes Abrams, Phillip Hinesley, Bill Swanson and Tommy Gebhart. Absent member was Calvin Hare. Staff present were: Wayne Dyess, Director of Infrastructure and Development; Nelson Bauer, Infrastructure and Development Program Manager; Miriam Boone, City Planner; Chad Christian, City Engineer; Eden Lapham, Planner 1; Amanda Cole, Planning and Zoning Assistant and Melissa Ringler, Recording Secretary.

MINUTES:

Approval of the April 9, 2025 and April 16, 2025 meeting minutes.

Commissioner Hinesley made a motion to approve the April 9, 2025 and April 16, 2025 meeting minutes. Commissioner Gebhart seconded the motion. All Commissioners voted aye.

Motion to approve the April 9, 2025 and April 16, 2025 meeting minutes passes.

AGENDA ITEMS:

1. Foley Boat & RV Storage/Flowers- Rezoning

The City of Foley Planning Commission has received a request to recommend to the Mayor and Council the rezoning of 21.32 +/- acres. Property is currently zoned AO (Agricultural Open Space). Proposed zoning is B-1A (Extended Business District). Property is located S. of County Rd. 12 S. and E. of the Foley Beach Express. Applicant is S.E. Civil, LLC.

Public Hearing:

Chairman Abrams asked if there were any members of the public to speak on the item. There were none.

Planning Commission Action:

Mrs. Boone explained staff is recommending approval of the requested rezoning. She stated they will have to come before the Board of Adjustment and Appeals for the use. She explained the property is located within the Foley Beach Express and a site plan approval will be required from the Planning Commission.

Commissioner Hinesley asked if there were any wetlands on the property.

Mrs. Eden Lapham stated there are no wetlands on the property.

Commissioner Gebhart made a motion to recommend the requested rezoning to the Mayor and Council. Commissioner Swanson seconded the motion. All Commissioners voted aye.

Motion to recommend the requested rezoning to the Mayor and Council passes.

2. *Resurvey of Lot 43 Paxton Farms Subdivision Phase One- Minor

The City of Foley Planning Commission has received a request for approval of the Resurvey of Lot 43 Paxton Farms Subdivision Phase One a minor subdivision which consists of 0.17 acres and 1 lot. Property is located W. of County Rd. 65 and S. of County Rd. 12 S.

Page 1 of 3

Note: *Denotes property located in the Planning Jurisdiction

and is located in the City of Foley Planning Jurisdiction. Applicant is the Engineering Design Group, LLC.

Planning Commission Action:

Chairman Abrams asked if there were any members of the public to speak on the item. There were none.

Mrs. Boone explained staff is recommending approval. She explained the request is due to a house being built on the lot which encroached 3" to 4" over the required setbacks.

Mr. Michael Johnson with Engineering Design Group stated the property is located in unzoned Baldwin County. He stated the only option to correct the problem is to have the lot replatted.

Commissioner Hellmich made a motion to approve the requested minor subdivision. Commissioner Engel seconded the motion. All Commissioners voted aye.

Motion to approve the requested minor subdivision passes.

3. Zoning Ordinance Amendments

Public Hearing:

Chairman Abrams asked if there were any members of the public to speak on the item. There were none.

Mr. Wayne Dyess went over the proposed Zoning Ordinance Amendments.

Planning Commission Action:

Commissioner Hellmich made a motion to recommend the proposed Zoning Ordinance Amendments to the Mayor and Council. Commissioner Engel seconded the motion. All Commissioners voted aye.

Motion to recommend the proposed Zoning Ordinance Amendments to the Mayor and Council passes.

4. Subdivision Regulation Amendments

Public Hearing:

Chairman Abrams asked if there were any members of the public to speak on the item. There were none.

Mr. Nelson Bauer went over the proposed Subdivision Regulation Amendments.

Planning Commission Action:

Commissioner Hinesley made a motion to approve the Subdivision Regulation Amendments. Commissioner Engel seconded the motion. All members voted aye.

Motion to approve the Subdivision Regulation Amendments passes.

5. Repeal Moratorium- Repeal the moratorium that was issued on February 16, 2022 involving subdivision exemptions.

Planning Commission Action:

Commissioner Hellmich made a motion to repeal the moratorium involving subdivision exemptions. Commissioner Engel seconded the motion. All Commissioners voted aye.

Motion to repeal the moratorium involving subdivision exemptions passes.

6. Public Project- Downtown Streetscape Plan

Mr. Dyess went over the downtown streetscape plan with the Commissioners. He explained there may be some revisions to the plans which will be brought before the Commission.

Planning Commission Action:

Commissioner Hinesley made a motion to recommend the public project to the Mayor and Council. Commissioner Gebhart seconded the motion. All Commissioners voted aye.

Motion to recommend the Downtown Streetscape Plan Public Project to the Mayor and Council passes.

Staff and Commissioners discussed changing the work session and meeting schedule.

Chairman Abrams made a motion to approve the combining of the work session and meetings starting at 4:00 p.m. in June and taking place on the previously approved meeting dates. Commissioner Hinesley seconded the motion. All Commissioners voted aye.

Motion to approve the combining of the work session and meetings starting at 4:00 p.m. and taking place on the previously approved meeting dates.

ADJOURN:

Chairman Abrams adjourned the meeting at 6:22 p.m.

Meeting adjourned at 6:22 p.m. passes.



**PLANNING
COMMISSION
JOINT STAFF
REPORT:
June 2025**

8

**STAFF
RECOMMENDATION:** Approval

PROJECT NAME: Magnolia Walk Subdivision - Remainder lot into Remainder parcel, Lot 2 and dedication of ROW

REQUEST: Subdivision
SUB TYPE: Preliminary

OWNER / APPLICANT: Burton Property Group, Missty Gray

ACREAGE: 2.168
NUMBER OF LOTS: 1

PIN#(s): 17683

LOCATION: 21774 CREEKVIEW BLVD

PROJECT DESCRIPTION: Magnolia Walk Subdivision - Remainder lot into Remainder parcel, Lot 2 and dedication of ROW

CURRENT CITY ZONING: PDD - Planned Development District

OVERLAY DISTRICT: FBEOD, Foley Beach Express Overlay District

REQUESTED ZONING: N/A

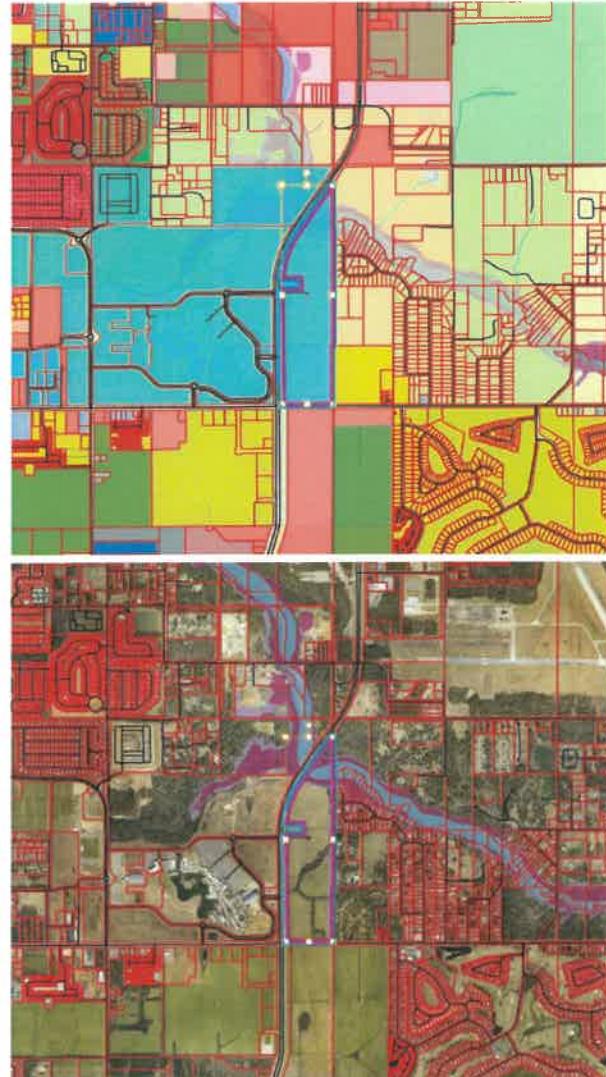
ADJACENT ZONING: Unzoned BC Dist 34, PUD, PDD, & B-1A

COUNTY ZONING: N/A

COUNTY LOT SIZE: N/A

FUTURE LAND USE: RCC - Retail Comm Concentration & MxU - Mixed Use Comm/Res

EXISTING LAND USE: Vacant



9

UTILITY LETTERS Yes
RECEIVED: Yes
DEED RECEIVED: Yes
AGENT AUTHORIZATION: Yes

Reviewer: Miriam Boone, 251-952-4011, mboone@cityoffoley.org, Building Department
Review Status: Approved

Reviewer: Engineering Team, 2519524021, tdavis@cityoffoley.org, Engineering
Review Status: Approved with Comments

1. Engineering recommends approval.

Reviewer: Angie Eckman, 251-923-4267 xt. 885, aeckman@cityoffoley.org, Environmental
Review Status: Approved

Reviewer: Brad Hall, 251-200-3800, bhall@cityoffoley.org, Fire Department
Review Status: Approved

Reviewer: Gene Williamson, 251-952-4011, gwilliamson@cityoffoley.org, Building Department
Review Status: Approved

10

MAGNOLIA WALK SUBDIVISION PLAT

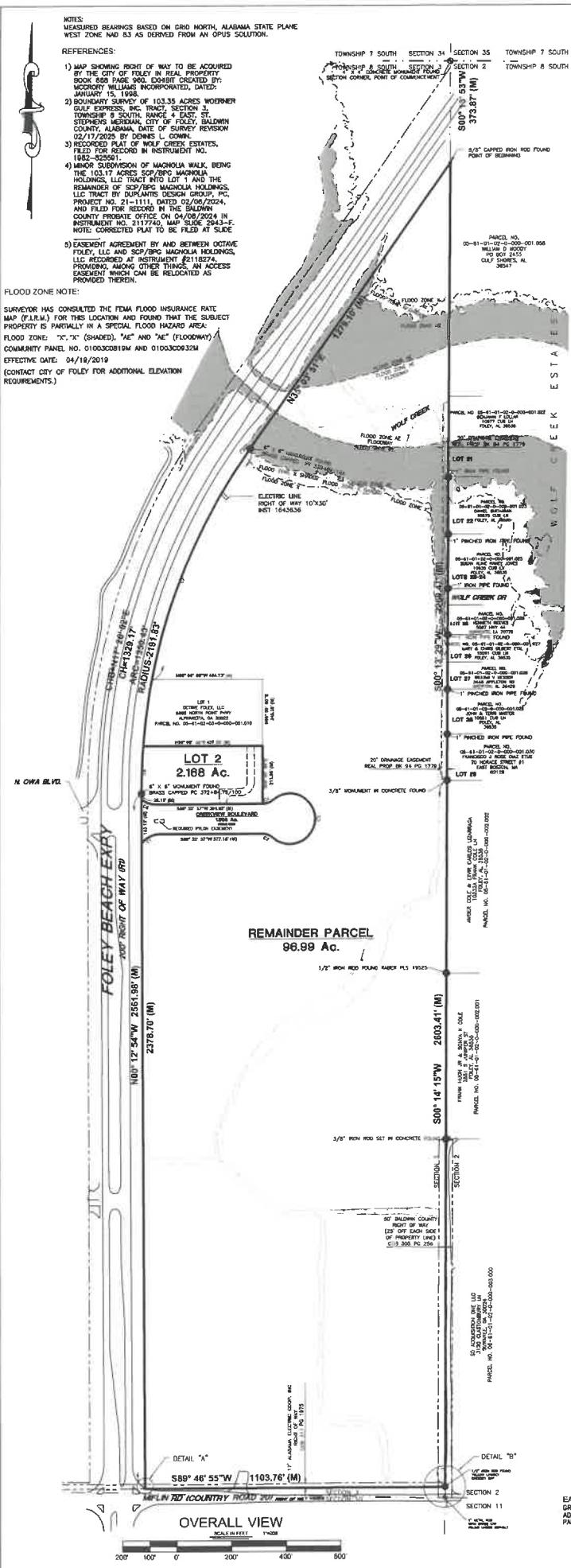
FOLEY, ALABAMA
BALDWIN COUNTY
SCP/BPG MAGNOLIA HOLDINGS, LLC

DDG
16564 E. BROOKLET ROAD |
SUITE 101, COVINGTON, LA
983-496-6180
SURVEY

PROJECT NO. 21-1111
21-1111_FINAL PLAT_20250516.DWG
04/03/2025

CHECKED
DRAWN BY
D.L.G.
MER

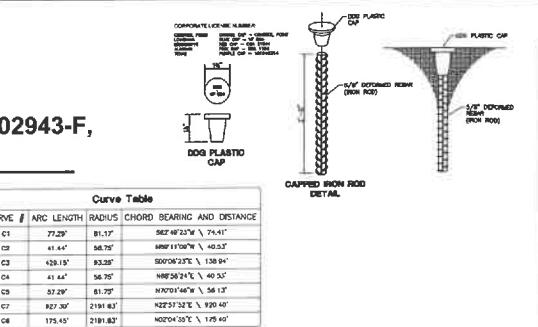
1-1



MAGNOLIA WALK SUBDIVISION PLAT BEING A SUBDIVISION OF THE 100.96 ACRE REMAINDER PARCEL CREATED BY THE MINOR SUBDIVISION OF MAGNOLIA WALK SLIDE 0002943-F, AS CORRECTED BY PLAT RECORDED AT SLIDE

SECTION 3, TOWNSHIP 8 SOUTH - RANGE 4 EAST

ST. STEPHENS MERIDIAN
CITY OF FOLEY
BALDWIN COUNTY, ALABAMA



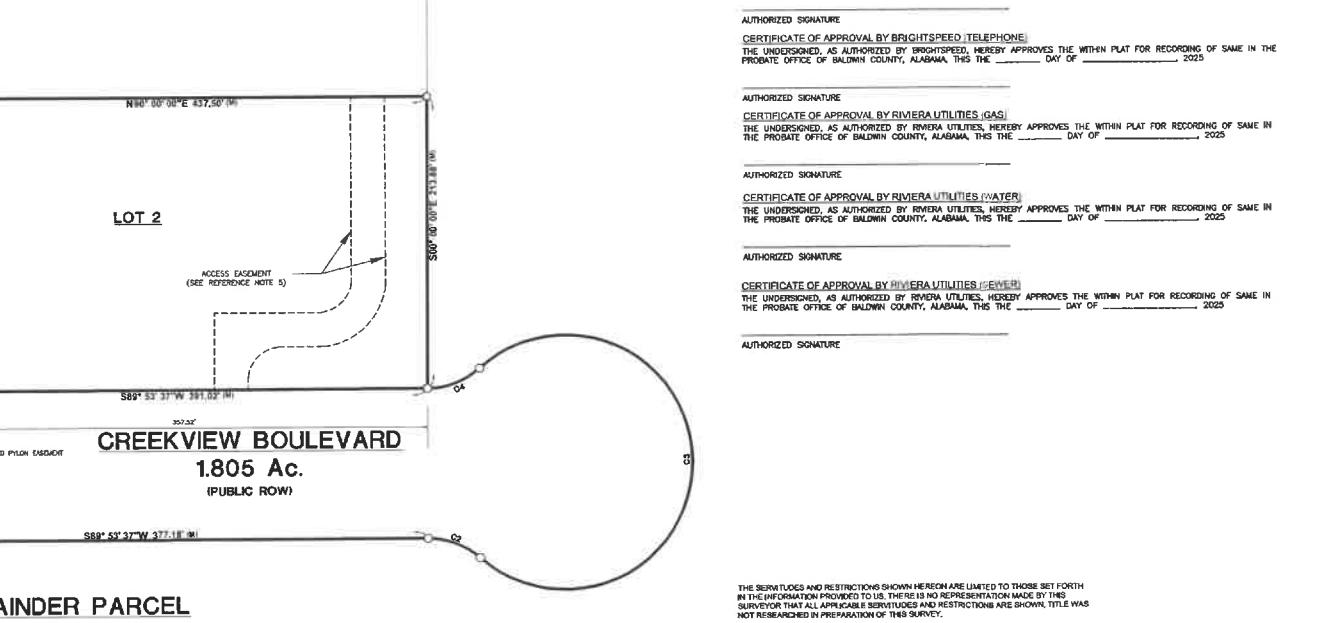
VICINITY MAP

NOT TO SCALE

DESCRIPTION:
SCP/BPG MAGNOLIA HOLDINGS, LLC REMAINDER TRACT FROM THE MINOR SUBDIVISION OF MAGNOLIA WALK: A CERTAIN PIECE OF LAND, LOCATED IN SECTION 3, TOWNSHIP 8 SOUTH, RANGE 4 EAST, ST. STEPHENS MERIDIAN, CITY OF FOLEY, STATE OF ALABAMA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMADING AT A 4'X4' CONCRETE SECTION CORNER MONUMENT FOUND, COMMON TO SECTIONS 3 AND 2 OF TOWNSHIP 8 SOUTH - RANGE 4 EAST AND SECTIONS 3 AND 4 OF TOWNSHIP 7 SOUTH - RANGE 4 EAST.
THENCE ALONG SAID SECTION LINE OF SECTIONS 3 AND 2, AND SECTION 3 AND 4, A LINE OF 328.87 FEET TO A 5/8" CAPPED IRON ROD SET IN CONCRETE.
THENCE DEPARTING SAID EASTELY RIGHT OF WAY LINE AND ALONG SAID SECTION LINE 120'0"13"8" A DISTANCE OF 2286.47 FEET TO A 3/8" IRON ROD IN A CONCRETE MONUMENT FOUND AT THE QUARTER CORNER COMMON WITH SAID SECTION 2.
THENCE 300'14"15"8", CONTINUING ALONG SAID SECTION LINE A DISTANCE 2002.41 FEET TO A 1/2" CAPPED IRON ROD (LINDSEY C40A32) ON THE NORTHERN RIGHT OF WAY LINE OF COUNTY ROAD (MILFIN ROAD), SAID ROD BEING IRODS 13" A 2191.23 FEET, A CIRCLE WITH A RADIUS OF 1103.30 FEET, AND AN ARC LENGTH OF 175.40 FEET, AND TO A 5/8" CAPPED IRON ROD SET;
THENCE DEPARTING SAID SECTION LINE AND ALONG SAID RIGHT OF WAY LINE, 5M48.85" A DISTANCE OF 1103.30 FEET TO A POINT ON THE EASTELY RIGHT OF WAY LINE OF FOLEY BEACH EXPRESSWAY;
THENCE DEPARTING SAID NORTHERN RIGHT OF WAY LINE AND ALONG SAID EASTELY RIGHT OF WAY LINE, 100'12"54" A DISTANCE OF 2881.36 FEET TO A 6X6" MONUMENT FOUND CAPPED (MARKED PC 338407/100);
THENCE DEPARTING SAID EASTELY RIGHT OF WAY LINE, ON A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 2191.23 FEET, A CIRCLE WITH A RADIUS OF 1103.30 FEET, AND AN ARC LENGTH OF 175.40 FEET, AND TO A 5/8" CAPPED IRON ROD SET;
THENCE DEPARTING SAID EASTELY RIGHT OF WAY LINE, 100'0"0"0" A DISTANCE OF 437.50' TO A 5/8" CAPPED IRON ROD SET, THENCE 100'0"0"0" A DISTANCE OF 245.38 FEET TO A 5/8" CAPPED IRON ROD SET ON THE EASTELY RIGHT OF WAY LINE OF FOLEY BEACH EXPRESSWAY;
THENCE CONTINUING ON SAID EASTELY RIGHT OF WAY LINE, ON A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 2191.23 FEET, A CIRCLE WITH A RADIUS OF 1103.30 FEET, AND AN ARC LENGTH OF 175.40 FEET, AND TO A 6X6" MONUMENT FOUND CAPPED (MARKED PC 338407/100);
THENCE ALONG SAID EASTELY RIGHT OF WAY LINE 100'0"31"8" A DISTANCE OF 1279.10 FEET TO THE POINT OF BEGINNING.
THE ABOVE DESCRIBED PARCEL CONTAINS 100.96 ACRES AS SHOWN ON THE MINOR SUBDIVISION OF MAGNOLIA WALK BY DULANTI'S DESIGN GROUP, PC, PROJECT NUMBER 21-1111, ORIGINAL DATE FEBRUARY 8, 2024, REVISED DATE MARCH 31, 2023, AND IS SUBJECT TO ANY SERVITUDES OR RESTRICTIONS THAT MAY BE OF RECORD.

REMAINDER PARCEL 96.99 Ac.

LOT 1
OCTAVE FOLEY, LLC
5065 NORTH POINT PKWY
ALPHARETTA, GA 30022
PARCEL NO. 03-01-02-03-0-030-001.010



REMAINDER PARCEL 96.99 Ac.

EASEMENT NOTE:
GRANTED TO BALDWIN EMC HEREON ARE NON-EXCLUSIVE UTILITY EASEMENTS BEING 10' IN WIDTH IMMEDIATELY ADJACENT TO AND PARALLEL WITH ALL RIGHT OF WAY LINES AND BEING 5' IN WIDTH IMMEDIATELY ADJACENT TO AND PARALLEL WITH ALL LOT LINES.

UTILITY LOCATIONS:
UTILITIES SHOWN HAVE BEEN LOCATED FROM VISIBLE UTILITY FEATURES. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMprise ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR DOES NOT MAKE ANY REPRESENTATION AS TO THE LOCATION OF ANY UNDERGROUND UTILITIES NOT SHOWN. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES, EXCEPT FOR ABOVE GROUND VISIBLE UTILITY FEATURES. NO EXCAVATIONS WERE MADE DURING THE PROCESS OF THIS SURVEY TO LOCATE BURIED UTILITIES/STRUCTURES.



**PRELIMINARY - NOT TO BE USED FOR
CONSTRUCTION, BIDDING, RECORDATION,
CONVEYANCE, SALES, OR AS THE BASIS
FOR THE ISSUANCE OF A PERMIT.**
DENNIS L. GOWIN, P.L.S. NO. PL550981
REGISTERED PROFESSIONAL LAND SURVEYOR
DOWING@DDGPC.COM

© 2022 DULANTI'S DESIGN GROUP, PC.



**PLANNING
COMMISSION
JOINT STAFF
REPORT:
June 2025**

11

STAFF**RECOMMENDATION:**

Approval

PROJECT NAME:

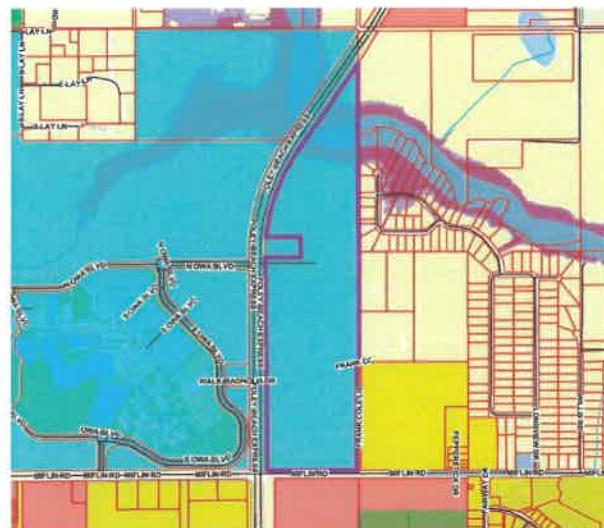
Second Minor Resubdivision of Magnolia Walk

REQUEST:

Subdivision

SUB TYPE:

Minor

OWNER / APPLICANT: Bowman Consulting Group, Jim Kirkendall**ACREAGE:** 1.061**NUMBER OF LOTS:** 1**PIN#(s):** 17683**LOCATION:** 21797 Miflin Rd- E of Foley Beach Express, N of Co Rd 20**PROJECT DESCRIPTION:** Re-Subdividing a PDD, parcel will be approximately 1.1 acres in size.**CURRENT CITY ZONING:** PDD**OVERLAY DISTRICT:** FBEOD (Foley Beach Express Overlay District)**REQUESTED ZONING:** N/A**ADJACENT ZONING:** PDD & Unzoned Baldwin County District 34**COUNTY ZONING:** N/A**COUNTY LOT SIZE:** N/A**FUTURE LAND USE:** MXU, Mixed Use Commercial/Residential & RM, Residential Med. Density (4-7)**EXISTING LAND USE:** Vacant

UTILITY LETTERS RECEIVED: Yes

DEED RECEIVED: Yes

AGENT AUTHORIZATION: Yes

12

Reviewer: Miriam Boone, 251-952-4011, mboone@cityoffoley.org, Building Department
Review Status: Approved

Reviewer: Engineering Team, 2519524021, tdavis@cityoffoley.org, Engineering
Review Status: Approved with Comments

1. Engineering recommends Approval. The remainder acreage needs to be reduced to reflect the Lot 3 acreage.

Reviewer: Angie Eckman, 251-923-4267 xt. 885, aeckman@cityoffoley.org, Environmental
Review Status: Approved

Reviewer: Brad Hall, 251-200-3800, bhall@cityoffoley.org, Fire Department
Review Status: Approved

Reviewer: Gene Williamson, 251-952-4011, gwilliamson@cityoffoley.org, Building Department
Review Status: Approved

AMENDING THE CITY OF FOLEY ZONING ORDINANCE

WHEREAS, the City of Foley, Alabama, adopted Ordinance No. 387-87 on June 15, 1987, ordaining a new Zoning Ordinance and Zoning Map for the City of Foley which has subsequently been amended, and

WHEREAS, the City of Foley Planning Commission has recommended changes within the current Zoning Ordinance, and the City Council of the City of Foley deems it necessary, for the purpose of promoting the health, safety, morals and general welfare of the City to amend said Ordinance, and

WHEREAS, all requirements to the laws of the State of Alabama, with regard to the preparation of the report of the Foley Planning Commission and subsequent action of the City Council have been met,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA while in regular session accepted the following changes:

2.1 DEFINITIONS APPLICABLE TO THIS ORDINANCE

DEFINITION OF "FAMILY"- AMENDED VERSION

The definition of "Family" in Section 2.1 of Article II of the City of Foley Zoning Ordinance is hereby amended to read as follows:

Family: One or more persons occupying a dwelling unit and living as a single or traditional housekeeping unit who are related by blood, legal adoption, marriage, foster children, plus no more than (1) additional unrelated person; or, up to a maximum of three (3) unrelated persons living together in a dwelling unit. The Maximum occupancy is determined by the Fire Department and a minimum of seventy (70) square feet of bedroom gross floor area per resident. For the purpose of this definition, a bedroom is defined as a room designed or designated for sleeping and not bathrooms, hallways, closets, utility or storage rooms or areas or rooms which primary use is for eating, cooking or general congregating.

DEFINITION OF "GROUP HOME/FAMILY CARE HOME" - AMENDED VERSION

The definition of "Group Home/Family Care Home" in Section 2.1 of Article II of the City of Foley Zoning Ordinance is hereby amended to read as follows:

Group Home/Family Care Home: Group home means a dwelling unit, operated by an affiliate of a national, regional, state or county organization with a philanthropic mission, shared by four or fewer persons, excluding resident staff, who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education and participation in community activities, under a structured and scheduled plan that must be provided to the county, for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential under the direction and guidance of a designated managing caregiver,

designated as such by the affiliate organization, who must be a resident of the group home and available by telephone on a 24-hour basis in case of complaints. A copy of the home rules shall be provided to the City. This use cannot be located within one-thousand (1,000) feet of the same use. This is a Use Permitted on Appeal and requires a city license to operate.

The term "group home" shall not include a halfway house, a treatment center for alcoholism or drug abuse, a work release facility for convicts or ex-convicts, a home for the detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in the custody of the state, or other housing facilities serving as an alternative to incarceration. The term "group home" shall also not allow the use of a dwelling as an apartment or duplex. A group home shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in Alabama Code § 13A-6-60 to § 13A-6-71 or individuals required to register as sex offenders pursuant to Alabama Code 15-20A-1 to § 15-20A-48. A group home may include a home for the disabled. As used in this subsection, the term "disabled" shall mean:

- a) Having a physical or mental impairment that substantially limits one or more of such person's major life activities;
- b) Having a record of having such an impairment; or
- c) Being regarded as having such an impairment.

However, "disabled" shall not include persons who currently use illegal controlled substances, persons who have been convicted of the illegal manufacture or distribution of controlled substances, sex offenders, and juvenile offenders or persons with or without disabilities who present a direct threat to the persons or property of others.

DEFINITION OF "COMMUNAL LIVING FACILITIES" - AMENDED VERSION

The definition of "Communal Living Facilities" is hereby added to Section 2.1 of Article II of the City of Foley Zoning Ordinance to read as follows:

Communal Living Facilities: Communal Living Facilities are facilities in which 3 or more unrelated families live in group living arrangements. Communal Living Facilities include Group Home/Family Care Home; Bed and Breakfast; Mentally Retarded or Mentally Ill Facilities; Transitional Home.

DEFINITION OF "BED AND BREAKFAST" - AMENDED VERSION

The definition of "Bed and Breakfast" in Section 2.1 of Article II of the City of Foley Zoning Ordinance is hereby amended to read as follows:

Boarding House / Bed and Breakfast: A building or structure which is capable of and used for providing lodging or lodgings and meals for up to three (3) guest

rooms. This use cannot be located within one-thousand (1,000) feet of the same use. The owner of the Bed and Breakfast must reside on site. This is a Use Permitted on Appeal and requires a city license to operate.

DEFINITION OF "CHILD/ADULT CARE" - AMENDED VERSION

The definition of "Child/Adult Care" is hereby added to Section 2.1 of Article II of the City of Foley Zoning Ordinance to read as follows:

Child/Adult Care: The provision of care for individuals, who are not related to the primary caregiver. A child care facility which is the family home in which the operator resides and which receives not more than six (6) children, and is licensed as a Family Day / Night Care Home by DHR. A child care facility which is the family home in which the operator resides and which receives not more than twelve (12) children, and is licensed as a Family Group Day / Night Care Home by DHR. This use cannot be located within one-thousand (1,000) feet of the same use. This is a Use Permitted on Appeal and requires licensing from DHR and a city license to operate.

DEFINITION OF "MENTALLY RETARDED OR MENTALLY ILL LIVING FACILITIES" - AMENDED VERSION

The definition of "Mentally Retarded or Mentally Ill Living Facilities" is hereby added to Section 2.1 of Article II of the City of Foley Zoning Ordinance to read as follows:

Mentally Retarded or Mentally Ill Living Facilities: The classification of "multi-family" shall not exclude a group home in which 10 or less unrelated persons who are mentally retarded or mentally ill may reside, and said home may, in addition thereto, include two additional persons who need not be related by blood or marriage to each other or to any of the mentally retarded or mentally ill persons living in the home. These are allowed in a Multi-Family zone.

DEFINITION OF "TRANSITIONAL HOME" - AMENDED VERSION

The definition of "Transitional Home" is hereby added to Section 2.1 of Article II of the City of Foley Zoning Ordinance to read as follows:

Transitional Home: A dwelling shared by four (4) or less mentally handicapped individuals who live for a short period while receiving social, psychological or similar therapy or counseling excluding jails, prisons, and other correctional institutions. Which may in addition, also include up to two (2) resident staff who need not be related by blood or marriage to each other or to any of the persons living within, who live together as a single housekeeping unit in which staff persons provide care. This use cannot be located within one-thousand (1,000) feet of the same use. This is a Use Permitted on Appeal and requires a city license to operate.

“USES/STRUCTURES PERMITTED ON APPEAL” PROVISION - AMENDED VERSION

The “Uses/Structures Permitted on Appeal” provision is hereby added to Section 13.1.2 of Article XIII of the City of Foley Zoning Ordinance to read as follows:

Unless specifically prohibited in a particular zoning district, the following uses and structures are permitted on appeal in all districts.

- a) Public Utilities such as electric and gas substations and water / wastewater pumping stations;
- b) Public buildings of a proprietary nature;
- c) General hospitals for humans (including nursing homes and assisted living facilities);
- d) Institutional uses;
- e) Semi-public buildings and uses, including private schools, churches and childcare and adult care facilities unless otherwise allowed;
- f) Lights for recreational facilities (subject to regulations based on the neighborhood, zoning district, and surrounding area that may limit the time of day and the number and nature of lights allowed);
- g) Public and semi-public buildings with heights greater than three (3) stories or fifty (50) feet;
- h) Class 2 Clubs or Lodges;
- i) Communal Living Facilities excluding Mentally Retarded or Mentally Ill in a multi-family zone.

“USES PROHIBITED” PROVISION - AMENDED VERSION

The “Uses Prohibited” provision found in Section 13.1.3 of Article XIII of the City of Foley Zoning Ordinance is hereby amended to read as follows:

13.1.3 USES PROHIBITED:

- A. On-street and off-street parking of motorized vehicles in excess of ten thousand (10,000) pounds and/or with more than six (6) wheels is prohibited in all residential zoning districts and in all residential areas of mixed use districts.
- B. Any occupancy of a dwelling unit by a group of people that do not meet the definition of a “Family” as defined herein.

It shall be presumptive evidence that three or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:

- (1) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit.
- (2) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers shall not be deemed to be occupied by the functional equivalent of a traditional family.
- (3) The group shares expenses for food, rent or ownership costs, utilities and other household expenses.
- (4) The group is permanent and stable. Evidence of such permanency and stability may include:
 - (a) The presence of minor dependent children regularly residing in the household who are enrolled in local schools;
 - (b) Members of the household have the same address for purposes of voter's registration, driver's licenses, motor vehicle registration and filing of taxes;
 - (c) Members of the household are employed in the area;
 - (d) The household has been living together as a unit for a year or more, whether in the current dwelling or in other dwelling units;
 - (e) There is common ownership of furniture and appliances among the members of the household; and
 - (f) The group is not transient or temporary in nature.
- (5) Evidence that the group is the functional equivalent of a traditional family may include other factors reasonably related to whether or not the group is the functional equivalent of a family.

“PENALTIES” PROVISION - AMENDED VERSION

The “Penalties” provision found in Section 4.4 of Article IV of the City of Foley Zoning Ordinance is hereby renamed as the “Enforcement” provision and amended to read as follows:

4.4 ENFORCEMENT

4.4.1 ZONING ENFORCEMENT AND APPEALS

Whenever a violation of these ordinances is identified or is alleged to have occurred an application to the Board of Adjustment and Appeals may be considered if it meets the criteria for a variance.

Whenever the Community Development Director or his/her designee has knowledge of a violation or an alleged violation, a thorough investigation may be initiated. After such investigation, and upon the finding of a violation, the violation procedures contained in this Article shall be initiated.

Violation of the provisions of these ordinances, including violation of conditions and safeguards established in connection with a grant of a variance, site plan approval or appeal, shall be addressed and punishable in accordance with sections contained herein.

In the event that any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or in the event that any building, structure, or land is used in violation of these ordinances, the Community Development Director may institute or cause the institution of any appropriate action or proceeding to:

- (a) Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of the building, structure, or land.
- (b) Prevent the occupancy of the building, structure, or land.
- (c) Prevent any illegal act, conduct, business, or use in or about the premises.
- (d) Restrain, correct, or abate the violation.

4.4.2 VIOLATIONS

Any person(s), whether owner, lessee, principal, agent, employee, or occupant of any land or part thereof, and any architect, engineer, builder, contractor, agent or other person who: (a) violates any provision of these ordinances, (b) permits, participates, assists, directs, creates or maintains any such violation, (c) fails to comply with any of the requirements hereof, including conditions, stipulations, or safeguards attached to any approval, permit, variance, site plan approval or the like, or (d) who erects, constructs or reconstructs any building or structure, or uses any building, structure or land in violation of any written statement or plan submitted and approved pursuant to these ordinances, shall be in violation.

Any person(s) in violation of these ordinances shall be held responsible for such violation and be subject to the penalties and remedies as provided herein and as provided by law.

Each and every person who commits, permits, participates in, assists, directs, creates or maintains a violation may be found individually in violation of a separate offense. Each day that any violation continues to exist shall constitute an additional and separate violation.

Any structure or lot erected, constructed, altered, occupied or used contrary to any provision(s) of these ordinances or other applicable ordinances, stipulation, condition, approvals and variance shall be declared to be unlawful.

4.4.3 NOTICE OF VIOLATION

The Community Development Director or his/her designee shall issue a written notice of violation upon receipt of a complaint or knowledge of violation, to all persons in violation. The Notice of Violation may be served by certified mail, return receipt requested, or pursuant to Alabama Rules of Civil Procedure. The Notice of Violation shall allow thirty (30) days to correct or abate such violation.

The Notice of Violation ("Notice") shall clearly identify the property and particular alleged violation involved, the action necessary to correct it, the time permitted for such correction, and penalties for failure to comply. The Notice shall include but not be limited to:

- (a) A description of the location of the property involved, either by street address or by legal description.
- (b) A statement indicating the nature of the violation.
- (c) A statement showing the time within which all necessary remedial action must be accomplished, which time may not be less than 10 days nor more than 90 days from the date of such written Notice.
- (d) The name of the person(s) upon whom the Notice of Violation is served.
- (e) A statement advising that upon the failure to comply with requirements of the Notice, such enforcement procedure as may be required under these zoning ordinances shall be taken.

The Community Development Director may shorten or eliminate the time period to correct a violation if he/she determines that the alleged violation presents an imminent and serious threat to the public health, safety, or welfare, or the

violation is irreparable or irreversible. The Notice of Violation shall, in such case, state that an imminent and serious threat to public health, safety, or welfare exists or the violation is irreparable or irreversible, along with the allowed time period for correction if any.

When the Community Development Director or his/her designee determines that the violation has not been corrected or abated by end of the prescribed time period, he/she shall issue a written notice forwarding the matter to the Foley Municipal Court for further action.

Upon the submission by the violator of evidence of compliance deemed adequate by the Community Development Director, the Director may deem the violation to be resolved and compliance achieved.

When, after issuance of a Notice of Violation but prior to commencement of any judicial proceedings, the Community Development Director determines that the person in violation is making a diligent effort to comply with the requirements of the Notice, the Community Development Director may issue a written stay of further enforcement actions pending full compliance. The stay shall list the diligent efforts to comply and should be provided to the violator(s). No enforcement actions shall be stayed longer than ninety (90) days.

When any Notice of Violation is issued to any person for substantially the same violation for which a previous Notice of Violation has been issued to such person, no period shall be allowed for correction or abatement of the violation. Rather, in such event, the Community Development Director shall immediately cause the matter to be forwarded to the Foley Municipal Court for further action.

Any person(s) violating any of the provisions herein shall be fined not more than \$150.00 for each separate violation, plus all costs of court, with each day such violation continues constituting a separate violation (see 4.2, above). The fines provided for herein shall commence and accrue upon receipt of the Notice of Violation or the expiration of the allowed period for correction, whichever is later. Said fines shall continue to accrue until paid, but shall not accrue on days during which the violation is properly on appeal.

When a violation results from a person's failure to obtain a permit or approval required by this Ordinance, and the person subsequently submits an application for the required permit, the Community Development Director may waive the daily fee and shall instead require double the normally required permit application fee as a reduced fine.

4.4.4 ADDITIONAL PENALTIES

The Community Development Director may issue, or cause to be issued, a Stop Work Order on a premises, lot or parcel that is in alleged violation of any provision of these ordinances, or is being maintained in a dangerous or unsafe manner. A Stop Work Order may be issued in place of or in conjunction with any other actions and procedures identified in these ordinances. Such Order shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state conditions under which work may be resumed. Upon receipt of a Stop Work Order, all work associated with the violation shall immediately cease. Any person who continues to work shall be in violation of these ordinances and subject to penalties and remedies contained herein. The Stop Work Order may be appealed to the respective Zoning Board of Adjustment for which the activity is located.

The Community Development Director may issue, or cause to be issued, a Cease and Abate Order to any person(s) maintaining any condition, or engaged in any activity or operation, which violates these ordinances. Such Order shall be in writing and shall be given to the owner of the property, or to the person maintaining such condition or engaged in such activity and operation. Upon receipt of a Cease and Abate Order, all conditions, activities and operations associated with the violation shall immediately cease and be abated. Any person who continues or fails to abate such condition, activity or operation shall be subject to penalties and remedies contained herein.

The Community Development Director may revoke, or cause the revocation of, permits or approvals in those cases where an administrative determination has been duly made that false statements or misrepresentations of material fact(s) were made in the application or plans upon which the permit or approval was based.

4.4.5 APPEALS

Any person(s) aggrieved by a decision of the Community Development Director or his or her designee in regards to zoning enforcement may file an appeal, made on forms provided by the City, to the respective Zoning Board of Adjustment and Appeals where the alleged violation has occurred. An appeal must be filed within fifteen (15) days of the date of the Notice of Violation. An appeal is deemed filed once submitted to the Planning and Zoning Department. See also Section 26.3.1.

“PROCEDURE FOR APPEALS” PROVISION - AMENDED VERSION

The “Procedure for Appeals” provision found in Section 26.3.1 of Article XXVI of the City of Foley Zoning Ordinance is hereby renamed as the “Appeals” provision and amended to read as follows:

26.3.1 APPEALS

In exercising its authority, the Zoning Board of Adjustment and Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as the Board deems proper and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of the Zoning Board of Adjustment and Appeals shall be necessary to reverse, affirm or modify any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to act. For purposes of this section, an appeal shall be filed with the board of adjustment at the Zoning Board of Adjustment and Appeals at the Community Development Department in Foley, Alabama, or by and shall be deemed filed when received regardless of the method of delivery.

Any party aggrieved by a final judgment or decision of a board of adjustment may within 15 days thereafter, appeal there from to the Circuit Court of Baldwin County, Alabama, by filing with the circuit court and the board of adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken and specifying in sufficient detail the grounds for appeal so that the non-appealing party may reasonably frame a responsive pleading.

PASSED, ADOPTED AND APPROVED this day of