



COMMUNITY DEVELOPMENT DEPARTMENT

120 S. MCKENZIE STREET

Foley, Alabama 36535

www.cityoffoley.org

(251) 952-4011

March 16, 2023

Mayor and City Council
City of Foley
407 East Laurel Avenue
Foley, Alabama 36535

RE: Request for Rezoning

Dear Mayor Hellmich and City Council Members,

The City of Foley Planning Commission held a meeting on March 15, 2023 and the following action was taken:

Riverside at Arborwalk Phase 3- Request for Rezoning

The City of Foley Planning Commission has received a request to recommend to the Mayor and Council the rezoning of 1.26 +/- acres. Current zoning is M-1 (Light Industrial District). Proposed zoning is R-1D (Residential Single Family). Property is located E. of County Rd. 65 and S. of Pencarro Blvd. Applicant is Dewberry Engineers, Inc.

Planning Commission Action:

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

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

Please let me know if you have any questions or concerns.

Respectfully,

Melissa Ringler

Melissa Ringler
Planning & Zoning Coordinator

MAYOR: Ralph Hellmich

CITY ADMINISTRATOR: Michael L. Thompson

CITY CLERK: Kathryn Taylor

COUNCIL MEMBERS: J. Wayne Trawick; Vera Quaites; Richard Dayton; Cecil R. Blackwell; Charles Ebert III



**CITY OF FOLEY, ALABAMA
APPLICATION FOR
ZONING OF PROPERTY**

1. LOCATION OF PROPERTY (ADDRESS, PIN #, LEGAL DESCRIPTION, MAP/SURVEY, DEED, CORPORATION OWNERSHIP INFORMATION, AND AGENT AUTHORIZATION IF REQUIRED):

See attached.

2. ATTACH A SEPARATE LIST OF ADJACENT PROPERTY OWNERS:

See attached.

3. APPROXIMATE SIZE OF PROPERTY:

Total area 50.03 acres
Area proposed to rezone: ± 1.26 acres

4. PRESENT ZONING OF PROPERTY:

M-1

5. REQUESTED ZONING:

R-1D

6. BRIEF DESCRIPTION OF CURRENT USE AND STRUCTURES LOCATED ON THE PROPERTY:

Property is part of a residential subdivision under construction.

7. BRIEFLY DESCRIBE THE CONTEMPLATED USE OF THE PROPERTY IF REZONED (TYPE OF DEVELOPMENT, DENSITY, ETC.)

Single family use of approved subdivision—this is eliminating split zoning on this lot

8. IF REQUESTING A PLANNED DEVELOPMENT ZONE (PUD, PDD, R-3, TH-1, PID) ATTACH A PRELIMINARY TRAFFIC ANALYSIS, OFFICIAL UTILITY COMMITMENT LETTERS, DRAWING, AND WRITTEN NARRATIVE AS DEFINED IN THE CURRENT ZONING ORDINANCE.

N/A

9. PROCESSING FEE OF \$500.00 FOR 20 ACRES OR LESS, PLUS \$15.00 PER ADDITIONAL ACRE OVER 20.

Check enclosed.

I CERTIFY THAT I AM THE PROPERTY OWNER AND ATTEST THAT ALL FACTS AND INFORMATION SUBMITTED ARE TRUE AND CORRECT.

DATE: 02/20/2023

PROPERTY OWNER/APPLICANT
707 Belrose Ave, Daphne, AL 36526

PROPERTY OWNER ADDRESS
251.929.9782

PHONE NUMBER
dewberry-daphneplanning@dewberry.com

EMAIL ADDRESS

← pd notebook # 00249



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**PLANNING COMMISSION
JOINT STAFF REPORT:
March 2023**

STAFF RECOMMENDATION: Approve / Deny / Conditional

PROJECT NAME: Riverside at Arbor Walk Ph3

REQUEST: Rezoning

APPLICANT:
Emily Phillips w/ Dewberry

ACREAGE: ±1.26 ac

PIN#(s): 383288

LOCATION: E of CR65, S
of Pencarro Blvd

PROJECT DESCRIPTION:
cleaning up zoning on
former separate parcel

CURRENT ZONING:
M-1

REQUESTED ZONING:
R-1D (to match remainder
of development)

ADJACENT ZONING:
Unzoned BC Dist 34, M-1,
B-2, R-1D, R-2

FUTURE LAND USE: IN,
Industrial District

EXISTING LAND USE:
vacant



UTILITY LETTERS RECEIVED: YES / NO / NOT APPLICABLE
DEED RECEIVED: YES / NO / NOT APPLICABLE
AGENT AUTHORIZATION: YES / NO / NOT APPLICABLE

ZONING:

Miriam Boone - This is an unusual situation. As you can see from the map above, a small portion of this phase is zoned M1 - Light Industrial District. The applicants were advised at preliminary that this small portion of the Riverside at Arbor Walk Phase 3 Subdivision would need to be rezoned. It received preliminary approval on 3/20/19 & there were several extenuating circumstances - staff changes at Dewberry, COVID, etc. so this never took place. In general we are not zoning any more property R1D but in this instance it is only a couple of lots that will be affected & then the entire subdivision will be in compliance for the final plat. PC approved a 6 month extension at the February 2023 meeting.

ENGINEERING:

Chad Christian - Not opposed.

ENVIRONMENTAL:

Angie Eckman - Not opposed.

FIRE:

Brad Hall - Not opposed.

BUILDING/FLOODPLAIN:

Chuck Lay - Not opposed.



**CITY OF FOLEY
AGENT AUTHORIZATION FORM**

I/We authorize and permit DEWBERRY
to act as My/Our representative and agent in any manner regarding this application which
relates to property described as tax parcel ID# 05-61-03-07-0-000-006.178

I/We understand that the agent representation may include but not be limited to decisions
relating to the submittal, status, conditions, or withdrawal of this application. In understanding
this, I/We release the City of Foley from any liability resulting from actions made on My/Our
behalf by the authorized agent and representative. I hereby certify that the information stated
on and submitted with this application is true and correct. I also understand that the submittal of
incorrect information will result in the revocation of this application and any work performed will
be at the risk of the applicant.

**Note: All correspondence will be sent to the authorized representative. It will be the
representative's responsibility to keep the owner(s) adequately informed as to the status of the
application.*

PROPERTY OWNER(S):
68V RIVERSIDE 2022 LLC

Name(s) printed
707 BELROSE AVE

Address
DAPHNE, AL 36526

City/State

(257) 349-6484 permitting@teracoredev.com

Phone Nathan L. Cox Email Fax 2.16.2023

Signature(s) Date

PROPERTY OWNER(S):

Name(s) printed

Address

City/State

Phone Email Fax

Signature(s) Date

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BALDWIN COUNTY, ALABAMA
HARRY D'OLIVE, JR. PROBATE JUDGE
Filed/cert. 11:08:2019 02:45:12 PM
Deed Tax: \$375.00
Total: \$394.00
3 Pages

1794354

TT 2019-729

REAL ESTATE SALES VALIDATION			
The following information is provided pursuant to Alabama Code § 40-22-1, and is verified by the signature of Grantor below.			
Grantor's Name:	GCOF Arbor Walk, LLC	Grantee's Name:	68V Rosewood 2019, LLC
Mailing Address:	29891 Woodrow Lane, Suite 300 Spanish Fort, AL 36527	Mailing Address:	29891 Woodrow Lane Suite 300 Spanish Fort, AL 36527
Property Address:	Rosewood/Riverside Foley, AL 36535	Date of Sale:	4 November 2019
		Purchase Price:	\$375,000.00 based on the Contract of Sale

STATE OF ALABAMA
COUNTY OF BALDWIN

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that GCOF ARBOR WALK, LLC, A DELAWARE LIMITED LIABILITY COMPANY ("Grantor"), in consideration for the sum of TEN and NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid to Grantor by 68V ROSEWOOD 2019, LLC, AN ALABAMA LIMITED LIABILITY COMPANY ("Grantee"), the receipt and sufficiency whereof are hereby acknowledged, does, subject to all matters and exceptions hereinafter mentioned, hereby GRANT, BARGAIN, SELL, and CONVEY unto Grantee, and the successors and assigns of Grantee, the following described real property situation in the County of Baldwin, State of Alabama, to wit:

LOTS 1 AND 2 OF ARBOR WALK ACRES, ACCORDING TO THE PLAT THEREOF RECORDED AS SLIDE 2681-E IN THE OFFICE OF THE JUDGE OF PROBATE OF BALDWIN COUNTY, ALABAMA.

TO HAVE AND TO HOLD said property, together with all and singular, the rights, members, privileges, tenements, improvements, hereditaments, easements, and appurtenances thereunto belonging or in anywise appertaining; subject, however, to the matters and exceptions to which reference is hereinbelow made, unto the said Grantee, and the successors and assigns of Grantee, forever.

The property is conveyed subject to any and all applicable zoning and other land use laws, ordinances, regulations, etc. and to the lien for ad valorem taxes hereafter falling due, which taxes Grantees assume and agree to pay when due, and to the following:

1. Oil, gas and mineral lease and all rights in connection therewith by Roger M. Orth to John C. Albury recorded at Instrument #750471. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
2. Transmission line easement and right-of-way as set forth in Deed Book 278, page 525.
3. Reservation of all oil, gas and other minerals, and all rights in connection therewith as contained in deed from Magnolia Land Company to the Estate of John Burton Foley recorded in Real Property Book 103, page 1879. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
4. Easement granted Baldwin County Electric Membership Corporation in Deed Book 288, page 239.
5. Reservation of all oil, gas and other minerals, and all rights in connection therewith as contained in deed from John B. Foley as Executor to Gordon Barnhill, Jr., et al. recorded in Real Property Book 121, page 53. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
6. Reservation with reference to oil, gas and other minerals, and all rights in connection therewith as contained in deed from Paul Kaiser, Jr., to Roger Orth recorded in Real Property Book 372, page 789. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
7. Reservation with reference to oil, gas and other minerals, and all rights in connection therewith as contained in deed from Paul Kaiser, Jr., et al. to Roger Orth recorded in Real Property Book 392, page 1433. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.



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8. Reservation with reference to oil, gas and other minerals, and all rights in connection therewith as contained in deed from Paul Kaiser, Jr., to Kenneth D. McLeod, et al. recorded in Real Property Book 372, page 793. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
9. Easement granted Alabama Power Company in Deed Book 500, page 856.
10. Reservation of all oil, gas and other minerals, and all rights in connection therewith as contained in deed from John B. Foley as Executor to Kenneth McLeod, et al. recorded in Real Property Book 122, page 251. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
11. Forty foot right-of-way as set forth in Real Property Book 122, page 251.
12. Reservation of all oil, gas and other minerals, and all rights in connection therewith as contained in deed from Roger Orth to Arbor Walk Development, L.L.C. dated February 22, 2005 and recorded at Instrument #872888. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
13. Subject to the reservations, restrictions, covenants, easements and rights to royalties deriving from existing natural gas well, rights to underground aquifers or water reserves, existing surface area for installation of a well and pumping house and easement for pipeline and electric power line as set forth in Exhibit A in deed from Roger Orth to Arbor Walk Development, L.L.C. dated February 22, 2005 and recorded at Instrument #872888.
14. Proposed utility line and sanitary sewer easements as shown on the recorded plat recorded on 2224-E.
15. Lack of access to portions of the insured land by reason of location of wetlands creating such lack of access.
16. Subject to utilities as shown on survey by Ercil E. Godwin (Al. Reg. No. 26621) including but limited to sanitary sewer force main, sanitary sewer valves, manholes, sewer lines and transformer boxes.
17. Subject to record and actual distances and bearing not being the same as shown on survey by Ercil E. Godwin (Al. Reg. No. 26621).
18. Subject to encroachments located along the south line of Riverside at Arbor Walk, Phase One as shown on survey by Ercil E. Godwin (Al. Reg. No. 26621) including but not limited to wooden fences and flower boxes.
19. Subject to encroachment of hogwire and electric fence as shown on survey by Ercil E. Godwin (Al. Reg. No. 26621).
20. Subject to the terms, conditions, reservations, restrictions, limitations and all rights set forth in Access and Utility Easement dated August 15, 2011 and recorded at Instrument #1303041.
21. Building setback lines, drainage easements, utility easements, restrictions, reservations and all other matters shown and stated on the plat of ARBOR WALK ACRES, ACCORDING TO THE PLAT THEREOF RECORDED AS SLIDE 2681-E, including but not limited to the survey notes.
22. Terms, conditions, provisions and restrictions of all permits and licenses of Federal, State and local government, including applicable agencies and departments and private and quasi governmental agencies having jurisdiction over the real property, including, but not limited to, restrictions on construction of any areas delineated by governmental agencies as wetlands.
23. Subject to any portion of the property described in Schedule "A" being designated as wetlands and being restricted as to the use thereof, by the Army Corp of Engineers or other governmental authorities having jurisdiction over the same.

Grantor covenants to and with Grantee that, except as to the matters and exceptions to which reference is made herein, Grantor is lawfully seized of an indefeasible estate in fee simple in and to said property, same is free from other encumbrances and liens, Grantor has a good and lawful right to sell and convey same, Grantor is in quiet and peaceable possession of same, and Grantor shall, and Grantor's successors and assigns shall, forever warrant and defend the title to said property as herein conveyed, unto Grantees, and the successors and assigns of Grantees, against the lawful claims of all persons whomsoever.

All recordations mentioned herein refer to the records in the Office of the Judge of Probate of Baldwin County, Alabama.

IN WITNESS WHEREOF, Grantor, by and through its undersigned authorized representative, has executed this deed this 4th day of November 2019.

GCOF ARBOR WALK, LLC,
A DELAWARE LIMITED LIABILITY COMPANY

By: [Signature]
As: Manager

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public, in and for said County in the said State, do hereby certify that William H. Simpson, whose name as Manager of GCOF Arbor Walk, LLC, a Delaware Limited Liability Company, 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 the said conveyance, he, as said Manager and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal on this 4th day of November 2019.

[Signature]
NOTARY PUBLIC
My commission expires: Sept. 29, 2021

THIS INSTRUMENT PREPARED BY:
James E. Johnston, Esq.
Thrive Title, LLC
30941 Mill Lane, Unit D
Daphne, AL 36527
(251) 345-6245



TT 2019-729

Rezoning Petition

Legal Description

COMMENCE AT A 4" ROUND CONCRETE MONUMENT (CA-0604-LS) AT THE SOUTHWEST CORNER OF LOT 48 OF RIVERSIDE AT ARBOR WALK, PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2271-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA AND RUN THENCE SOUTH 89 DEGREES 59 MINUTES 34 SECONDS EAST, A DISTANCE OF 38.69 FEET TO THE POINT OF BEGINNING; RUN THENCE SOUTH 89 DEGREES 59 MINUTES 34 SECONDS EAST, A DISTANCE OF 272.00 FEET; THENCE RUN SOUTH 00 DEGREES 11 MINUTES 37 SECONDS EAST, A DISTANCE OF 201.23 FEET; THENCE RUN SOUTH 89 DEGREES 52 MINUTES 28 SECONDS EAST, A DISTANCE OF 272.00 FEET; THENCE RUN NORTH 00 DEGREES 11 MINUTES 37 SECONDS EAST, A DISTANCE OF 201.86 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 1.26 ACRES, MORE OR LESS, LIES IN SECTION 7, TOWNSHIP 8 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA.

PUBLIC NOTICE



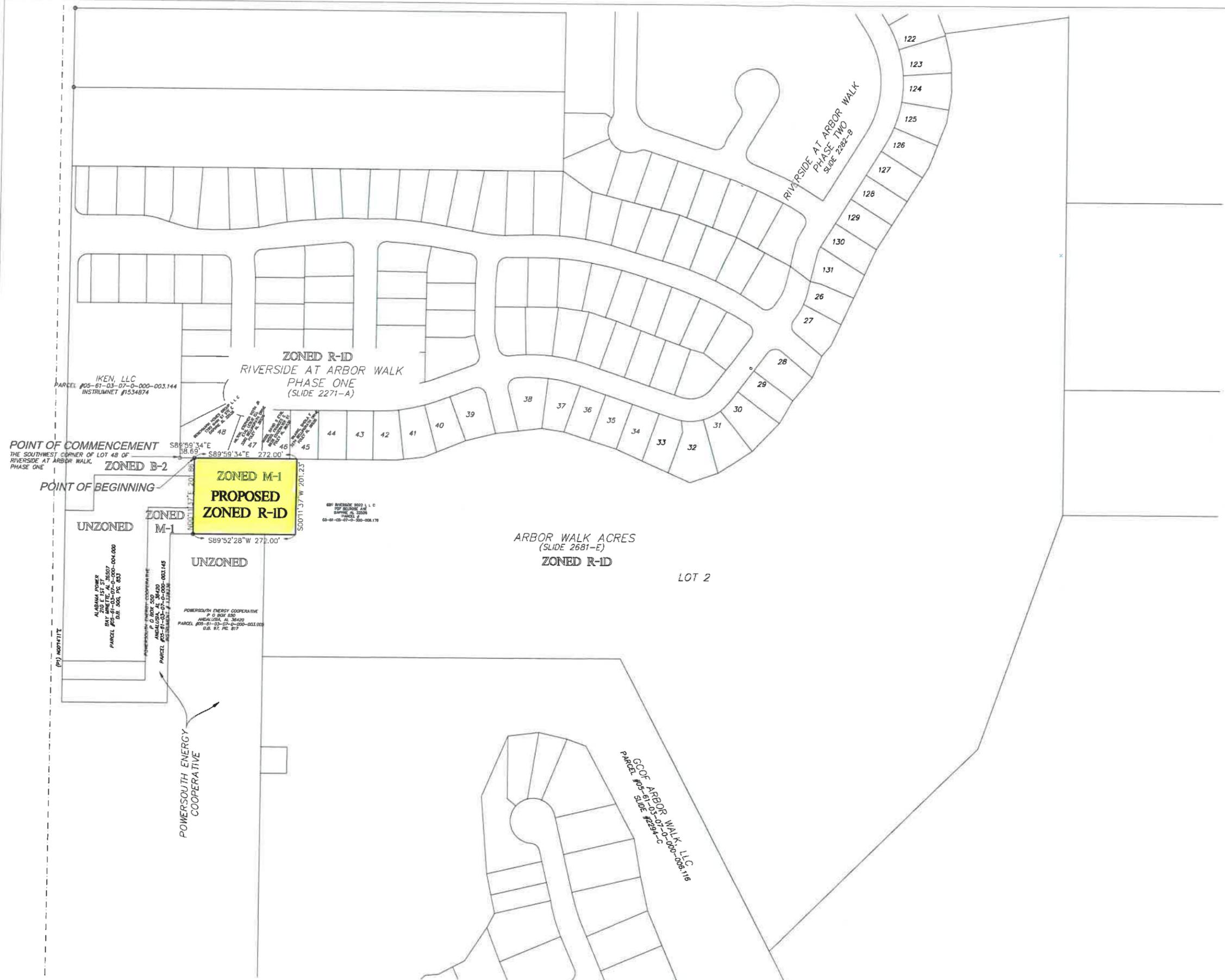
The City of Foley Planning Commission has received a request to recommend to the Mayor and Council the rezoning of 1.26 +/- acres. Current zoning is M-1 (Light Industrial District). Proposed zoning is R-1D (Residential Single Family). Property is located E. of County Rd. 65 and S. of Pencarro Blvd. Applicant is Dewberry Engineers Inc.

Anyone interested in this rezoning request may be heard at a public meeting scheduled for March 15, 2023 in the Council Chambers of City Hall located at 407 E. Laurel Ave., at 5:30 p.m. or may respond in writing to 120 S. McKenzie St., Foley, AL 36535.

Wes Abrams
Planning Commission Chairman



VICINITY MAP
1" = 1 MILE



REZONING SKETCH

FEBRUARY 16, 2023

W:\NATHAN\50106120 RIVERSIDE AT ARBOR WALK\REZONING\50106120_REZONING MAP.dwg, 2/16/2023 1:52:52 PM



25353 Friendship Road Daphne, AL 36526
251.990.9950 fax 251.929-9815