



COMMUNITY DEVELOPMENT DEPARTMENT

200 NORTH ALSTON STREET

Foley, Alabama 36535

www.cityoffoley.org

(251) 952-4011

FAX (251) 971 -3442

June 19, 2015

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

RE: Request for Rezoning

Dear Mayor Koniar and City Council Members:

The City of Foley Planning Commission held a regular meeting on June 17, 2015 and the following action was taken:

Agenda Item : Smart Living LLC- Request to Rezone

The City of Foley Planning Commission has received a request to recommend to Mayor and Council the rezoning of 37.98+/- acres. Property is currently zoned PUD (Planned Unit Development-Condo) proposed zoning is PUD (Planned Unit Development-Residential Single Family Lots). Property is located on the south side of County Rd. 10 west of State Hwy. 59. Applicant is Smart Living LLC.

Action Taken:

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

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

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

Respectfully,

Melissa Ringler
Planning & Zoning Coordinator
mringler@cityoffoley.org

MAYOR: John E. Koniar

CITY ADMINISTRATOR: Michael L. Thompson

CITY CLERK: Vickey Southern

COUNCIL MEMBERS: J. Wayne Trawick; Vera Quaites; Ralph G. Hellmich; 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, AND CORPORATION OWNERSHIP INFORMATION):
**PIN# 341559, LEGAL DESCRIPTION/MAP/DEED ARE ATTACHED
CORPORATION OWNERSHIP IS LOUIS BRELAND & WES ALFORD**
2. ATTACH A SEPARATE LIST OF ADJACENT PROPERTY OWNERS:
SEE ATTACHED
3. APPROXIMATE SIZE OF PROPERTY:
37.98 ACRES
4. PRESENT ZONING OF PROPERTY:
PUD
5. REQUESTED ZONING:
PUD MODIFICATION
6. BRIEF DESCRIPTION OF CURRENT USE AND STRUCTURES LOCATED ON THE PROPERTY:
UNDEVELOPED
7. BRIEFLY DESCRIBE THE CONTEMPLATED USE OF THE PROPERTY IF REZONED (TYPE OF DEVELOPMENT, DENSITY, ETC.)
PROPOSED SINGLE FAMILY DEVELOPMENT/Kensington Place (old Sea Pines Condos)
8. PROCESSING FEE OF \$500.00 FOR 20 ACRES OR LESS, PLUS \$15.00 PER ADDITIONAL ACRE OVER 20.
\$769.70

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

DATE: **5-22-15**

SMART LIVING LLC

PROPERTY OWNER/APPLICANT

2101 W. CLINTON AVE., HUNTSVILLE, AL 35805

PROPERTY OWNER ADDRESS

256-713-3636

PHONE NUMBER

lwbreland@brelandcompanies.com

EMAIL ADDRESS

5-22-2015
pd 769.70
NC # 16032
CHK # 15158

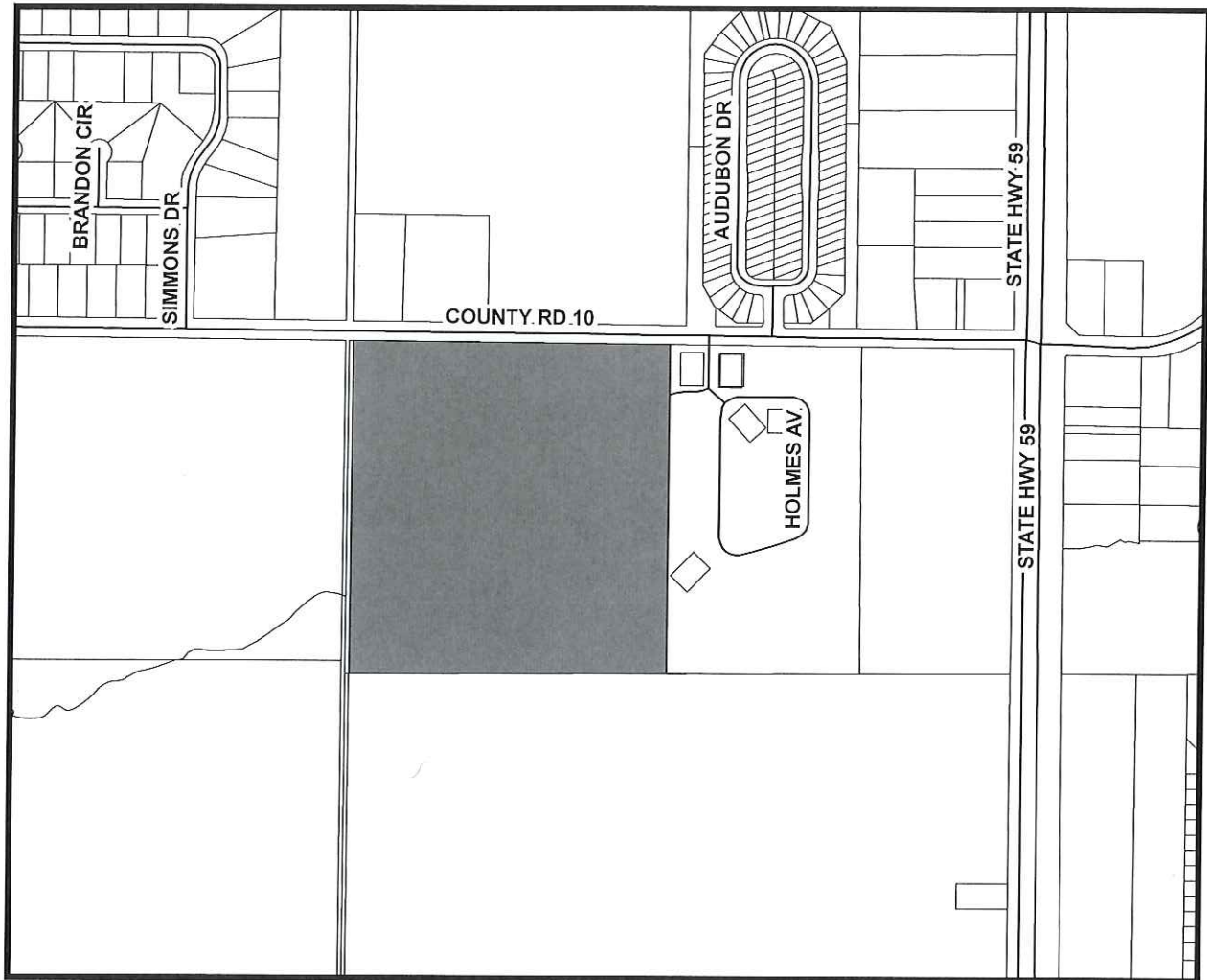
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5-22-2015

LEGAL DESCRIPTION FOR KENSINGTON PLACE, APUD

COMMENCE AT THE RECORD LOCATION OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 8 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA AND RUN THENCE NORTH 89 DEGREES 24 MINUTES 58 SECONDS WEST, A DISTANCE OF 666.30 FEET TO A POINT; THENCE RUN SOUTH 00 DEGREES 03 MINUTES 14 SECONDS EAST, A DISTANCE OF 40.00 FEET TO A CONCRETE MONUMENT ON THE SOUTH RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY 10; THENCE RUN NORTH 89 DEGREES 24 MINUTES 38 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY OF SAID BALDWIN COUNTY HIGHWAY 10, A DISTANCE OF 746.79 FEET TO A CAPPED REBAR (CA-0951-LS) FOR A POINT OF BEGINNING: CONTINUE THENCE NORTH 89 DEGREES 24 MINUTES 38 SECONDS WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 1267.97 FEET TO A CAPPED REBAR (LS #14568); THENCE RUN SOUTH 00 DEGREES 32 MINUTES 56 SECONDS WEST, A DISTANCE OF 1306.84 FEET TO A CAPPED REBAR (LS #4563); THENCE RUN SOUTH 89 DEGREES 53 MINUTES 50 SECONDS EAST, A DISTANCE OF 1274.40 FEET TO A CAPPED REBAR (CA-0951-LS); THENCE RUN NORTH 00 DEGREES 15 MINUTES 58 SECONDS EAST, A DISTANCE OF 1296.04 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 37.98 ACRES, MORE OR LESS, AND LIES IN THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 8 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA.

received
5-22-15

PUBLIC NOTICE



The City of Foley Planning Commission has received a request to recommend to Mayor and Council the re-zoning of 37.98 +/- acres. Property is currently zoned PUD (Planned Unit Development-Condo), proposed zoning is PUD (Planned Unit Development-Residential Single Family Lots). Property is located on the south side of County Rd. 10 west of State Hwy. 59. Applicant is Smart Living LLC.

Anyone interested in this re-zoning request may be heard at a public hearing scheduled for Wednesday, June 17, 2015 in City Hall Council Chambers located at 407 E. Laurel Ave. at 5:30 p.m. or may respond in writing to 200 N. Alston St., Foley, AL 36535.

Roderick Burkle
Planning Commission Chairman

18274

1493338

THIS INSTRUMENT PREPARED BY:

Jeremy L. Retherford
Balch & Bingham LLP
Post Office Box 306
Birmingham, Alabama 35201

SEND TAX NOTICE TO:

Smart Living, LLC
2101 West Clinton Avenue, Suite 201
Huntsville, Alabama 35805

BALDWIN COUNTY, ALABAMA
TIM RUSSELL, PROBATE JUDGE
Filed/Ret. 11/6/2015 3:17 PM
DEED TAX \$ 200.00
TOTAL \$ 215.00
3 Pages

STATUTORY WARRANTY DEED

STATE OF ALABAMA)

BALDWIN COUNTY)

KNOW ALL MEN BY THESE PRESENTS:

THAT FOR AND IN CONSIDERATION OF Two Hundred Thousand Dollars (\$200,000.00) and other good and valuable consideration in hand paid to **CADENCE BANK, N.A.**, as successor by way of merger to Superior Bank, National Association, a national banking association (the "Grantor") by **SMART LIVING, LLC**, a Delaware limited liability company (the "Grantee"), the receipt and sufficiency of which are acknowledged hereby, Grantor does by these presents **GRANT, BARGAIN, SELL and CONVEY** unto Grantee the following described real estate situated in Baldwin County, Alabama (the "Property"), together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining:

Commencing at the Northeast corner of the Southeast Quarter of Section 20, Township 8 South, Range 4 East, Baldwin County, Alabama, thence North 89°40'56" West along the North line of said Southeast Quarter a distance of 666.30 feet to a point; thence South 00°19'12" East a distance of 40.00 feet to a point on the South right of way of County Highway 10; thence North 89°40'36" West along said South right of way a distance of 746.98 feet to the point of beginning of the property herein described: Thence continue North 89°40'36" West along said South right of way a distance of 1267.97 feet to a point; thence South 00°16'58" West a distance of 1306.84 feet to a point; thence North 89°50'12" East a distance of 1274.40 feet to a point; thence North a distance of 1296.04 feet to the point of beginning.

THIS CONVEYANCE IS SUBJECT, HOWEVER, to the following:

1. Current ad valorem taxes.
2. Mineral and mining rights not owned by Grantor.

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5-22-15

3. Easements of record, recorded restrictions, rights-of-way, agreements and other matters of record.
4. Matters that would be revealed by an accurate survey of the Property or that may be shown on any recorded map or plat of the Property.
5. Any applicable zoning, subdivision or other land use ordinances, laws or regulations.
6. The Property is conveyed "As is" and "where is", with all faults and specifically and expressly without any warranties, representations, or guaranties of any kind, oral or written, express or implied, other than statutory warranties of title, concerning the Property or this conveyance from or on behalf of Grantor;
7. To the maximum extent permitted by law, Grantor makes no representations, warranties or guarantees of any kind, oral or written, express or implied concerning the Property or the title to the Property, other than statutory warranties of title, including, without limitation, (i) the profitability, suitability or fitness of the Property for a particular use or purpose, (ii) the manner or quality of the construction or materials incorporated into the improvements, if any, on the Property, (iii) the manner of repair, quality, state of repair, or lack of repair of the Property, and (iv) the availability of utilities and access of the Property to public roads.
8. To the maximum extent permitted by law, Grantor makes no representations or warranties with regard to compliance with any environmental protection, pollution, or land use laws, rules, regulations, orders or requirements, including but not limited to, those pertaining to the handling, generating, treating, storing, or disposing of any solid waste, as defined by the U.S. Environmental Protection Agency Regulations at 40 C.F.R. Part 2261, or hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1990, as amended, and regulations promulgated thereunder.
9. Grantor is not liable or bound in any manner by any verbal or written statement, representations or information pertaining to the Property furnished by any broker, agent, employee, servant, or other person.
10. Grantor shall not be liable to the Grantee for any prospective or speculative profits, or special, indirect or consequential damages, whether based upon contract, tort, or negligence or in any other manner arising from the transactions contemplated by this conveyance.

TO HAVE AND TO HOLD to the Grantee and Grantee's heirs, successors and assigns forever;

IN WITNESS WHEREOF, Grantor has caused this Deed to be executed by Grantor's duly authorized representative this 10th day of December, 2014.

GRANTOR:

By: **CADENCE BANK, N.A.**, as successor by way of merger to Superior Bank, National Association, a national banking association

By: Charles Powell

(Printed Name): Charles Powell

Its: Vice President

whose address is: 1100 Third Ave., N, Suite 100
Birmingham, AL 35203

STATE OF Alabama

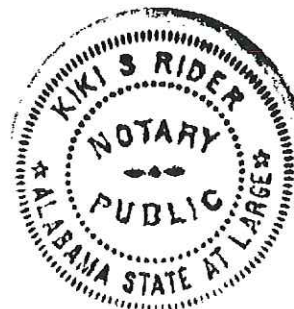
COUNTY OF Jefferson

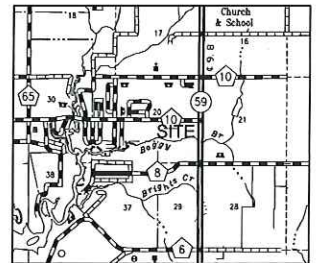
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles Powell, whose name as VP of Cadence Bank, N.A., is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said institution.

Given under my hand this the 10th day of December 2014.

Property Address: Vacant Land

Kiki S. Rider
Notary Public
My commission expires: 6.9.18





received
6-17-15
revised

KENSINGTON PLACE PUD NARRATIVE

Kensington Place, a Planned Unit Development (PUD), is located on the south side of County Road 10 approximately a quarter of a mile west of Alabama Highway 59. This proposed development was formerly Phase 2 of the Sea Pines Condominium, which was approved as a Planned Unit Development. The infrastructure for Phase 1 of that development has been built and a portion of the units have been constructed. No construction has been done on Phase 2. This application is a request to separate what was originally Phase 2 into its own PUD and changing the use from condominiums to single family residential.

Phase 1 and 2 of the Sea Pines PUD were basically stand alone phases. They each had their own planned entryways from County Road 10, separate clubhouse pool facilities, and separate drainage systems. There was a planned interior roadway connection between the two phases. Likewise, Kensington Place will have its own access to County Road 10, a Cabana/Pool/Playground facility, and a separate drainage system. Since these will now be separate developments with different uses, we are not proposing the interior connection.

The subject site of this application consists of 37.98 acres. The developers are proposing a single family residential development that will consist of 18 lots at approximately 70'x130' and 98 lots at approximately 50'x130'. That is a total of 116 lots at a density of 3.05 lots per acre. The former approved plan for this site consisted of 148 condominium units for a density of 3.90 units per acre. The proposed building coverage is 232,000 sq. ft. (formerly 322,640 sq. ft.).

The proposed setbacks for each lot will be 20' from the front and rear property lines and 5' from the side lot lines. There will be a mixture of 1 and 2 story homes with a minimum of 1,200 sq. ft. footprints (heated and cooled) and additional 400 sq. ft., 2 car garage.

All utilities will be constructed underground and water, sewer, electric, and telephone are all available to the site. The roadways within the development are proposed to have right-of-way widths of 50' and are proposed to be public and be constructed to the City of Foley standards. Sidewalks will be located on both sides of the proposed roadways. The stormwater management system will also be designed and constructed to City of Foley standards and will be maintained by the Property Owners Association. The stormwater design will consist of roadway gutter systems to collect and convey to inlets and underground storm drains to one or more detention ponds.

Upon approval of the PUD Master Plan, a Preliminary Plat application for Phase 1 will be submitted for Planning Commission approval. Following approval construction will begin. The first phase will consist of 47 lots. Approximately 2 years after Final Plat approval of Phase 1, a Preliminary Plat application will be filed for Phase 2. The filing of Phase 2 is only an estimate and will mainly be determined by the market.

In regards to public benefits, the developer proposes to construct a 5' wide sidewalk along County Road 10 for the full width of their property.

**Planning Commission Report
By Miriam Boutwell
June 2015
PUD Rezoning**

Applicant: Smart Living LLC

Location: South of CR 10, west of Hwy 59

Requested Zoning: PUD, Planned Unit Development (Single Family Lots)

Existing Zoning: PUD, Planned Unit Development (Condo)

Adjacent Zoning: PUD & Unzoned Baldwin County

Future Lane Use Map: MxU, Mixed Use

Flood Zone: X & AE

Comments: This parcel was originally part of the Sea Pines PUD approved in 2006. This portion, which is currently a separate parcel, is being considered to change from condo to SFR. The other portion of Sea Pines PUD will remain in effect.

<u>REQUIRED:</u>	<u>PROPOSED:</u>
Minimum Lot Width – 40'	50' & 75'
Minimum Front Yard – 15'	20'
Minimum Rear Yard – 20'	20'
Minimum Side Yard – 10' (Combination)	5' each side (Combination of 10')
Maximum Building Area – 50%	14%
Maximum Building Height – 85'	35'
Maximum # of Stories – 6	2
Off-Street Parking – 2 per unit	2 car garages
Maximum Density per Acre- 11	3.05
Open Space (not including drainage) 25%	27.15% (10.31 acres)

Public Benefits = A 5' sidewalk along CR 10 for the full width of the property.

Private Benefits = Cabana/Pool/Playground Facility - Sidewalks