

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2019-46**

**Ordinance to Pre-zone Amendment for Property
Located Northeast of County Road 64 and County Road 13, southeast of Rand Avenue and
County Road 13
Down by the Bay, LLC**

WHEREAS, Down by the Bay, LLC, as the owner of certain real property located within the unincorporated area of Baldwin County, Alabama, has requested that said property that is currently zoned B-1 Professional Business District, in the extraterritorial planning jurisdiction of the City of Daphne, to be pre-zoned as B-2(a), General Business Alternate District prior to annexing into the City of Daphne; and

WHEREAS, said real property is Northeast of County Road 64 and County Road 13, southeast of Rand Avenue and County Road 13, and more particularly described as follows:

Legal Description for Pre-zone:

COMMENCING FROM A 1/2" IRON REBAR WITH CAP (CA#604) AT THE NORTHEAST CORNER OF LOT 1, GCOF & WSR 64-13 REPLAT, AS SHOWN ON PLAT THEREOF RECORDED ON SLIDE 2514-A IN PROBATE RECORDS BALDWIN COUNTY ALABAMA; THENCE RUN NORTH 72°55'50" EAST A DISTANCE OF 100.53 FEET TO A 1/2" IRON REBAR WITH CAP (LS#23660) ON THE EAST MARGIN OF BALDWIN COUNTY HIGHWAY 13, AN 80' RIGHT-OF- WAY, FOR THE POINT OF BEGINNING; THENCE RUN NORTH 00°22'21" EAST ALONG SAID EAST RIGHT-OF-WAY A DISTANCE OF 415.12 FEET TO A 5/8" IRON REBAR WITH CAP (ILLEGIBLE); THENCE LEAVING SAID RIGHT-OF-WAY NORTH 87°43'08" EAST A DISTANCE OF 154.33 FEET TO A 5/8" IRON REBAR WITH CAP (CA#597); THENCE RUN NORTH 05°43'56" WEST A DISTANCE OF 76.78 FEET TO A 5/8" IRON REBAR WITH CAP (LS#17519); THENCE RUN NORTH 89°55'57" EAST A DISTANCE OF 207.66 FEET TO A 5/8" IRON REBAR WITH CAP (LS#17519); THENCE RUN SOUTH 89°56'17" EAST A DISTANCE OF 391.26 FEET TO A 1" OPEN TOP IRON PIPE; THENCE RUN SOUTH 89°43'25" EAST A DISTANCE OF 40.29 FEET TO A 1/2" IRON REBAR WITH CAP (CA#604); THENCE RUN SOUTH 00°14'00" EAST A DISTANCE OF 46.77 FEET TO A 1/2" IRON REBAR; THENCE RUN SOUTH 00°09'40" WEST A DISTANCE OF 453.13 FEET TO A 1/2" IRON REBAR WITH CAP (ILLEGIBLE); THENCE RUN NORTH 89°43'41" WEST A DISTANCE OF 85.37 FEET TO A 1/2" IRON REBAR; THENCE RUN NORTH 89°56'59" WEST A DISTANCE OF 420.50 FEET TO A 1/2" IRON REBAR WITH CAP (ILLEGIBLE); THENCE RUN NORTH 89°24'57" WEST A DISTANCE OF 60.14 FEET TO A 1/2" IRON REBAR WITH CAP (LS#10675); THENCE RUN NORTH 89°27'19" WEST A DISTANCE OF 60.37 FEET TO A 3/4" IRON REBAR; THENCE RUN NORTH 89°45'57" WEST A DISTANCE OF 161.01 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 8.74 ACRES, MORE OR LESS, AND LYING WITH THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

WHEREAS, at the regular Planning Commission meeting on August 22, 2019, the Commission considered said request and set forth a unanimous favorable recommendation to the City Council to pre-zone the property B-2(a), General Business Alternate District; and,

WHEREAS, due notice of said proposed pre-zoning has been provided to the public as required by law through publication and open display at City Hall, a public hearing was held before the City Council on October 21, 2019; and,

WHEREAS, the City Council of the City of Daphne after due consideration and upon consideration of the notes of the Planning Commission, deemed that said application for pre-zoning of the above described real property is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, as follows:

SECTION I: ZONING

That above described real property is hereby pre-zoned to B-2(a), General Business Alternate District, City of Daphne. Upon annexation of the property prior to the expiration of the pre-zoning as set forth in Section IV, the property shall be assigned the zoning district in accordance with the pre-zoning and the zoning ordinance and zoning map be amended to reflect the said zoning. Should annexation not occur prior to the expiration of this pre-zoning as set forth in Section IV, this pre-zoning shall have no effect and the designation of a zoning district for the property shall be set forth in the annexation ordinance.

Until such time as the property is annexed to the City of Daphne, the property shall remain in the unincorporated area of Baldwin County and zoned in accordance with the Baldwin County Commission's zoning plan. The County's zoning for the property at the time the request for pre-zoning was submitted was B-1 Professional Business District.

SECTION II: REPEALER.

All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION III: SEVERABILITY.

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence, or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of said Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof separately and independently of each other.

SECTION IV: EFFECTIVE AND EXPIRATION DATE.

This Ordinance, and in particular the pre-zoning shall take effect after the date of its approval by the City Council of the City of Daphne and publication as required by law. Pursuant to Code of Alabama (1975) Section 11-52-85, the zoning of the property, shall become effective upon the date the territory is annexed into the corporate limits. If any portion of the territory is not annexed into the corporate limits within 180 days of the initiation of annexation proceedings as provided by law then this pre-zoning shall be null and void. Should the pre-zoning become null and void, the applicant may reapply for pre-zoning at any time as long as an annexation petition is pending.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS 4th day of November, 2019.



Dane Haygood, Mayor

ATTEST:



Candace G. Antinarella, City Clerk