

**CITY OF DAPHNE, ALABAMA  
ORDINANCE NO. 2018-14**

**Ordinance to Pre-zone Amendment for Property  
Located Southeast of Alabama 181 and Austin Road  
Bertolla Properties, LLC**

**WHEREAS**, Bertolla Properties, 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 RSF-2, Single Family District and RA, Rural Agricultural in Baldwin County, in the extraterritorial planning jurisdiction of the City of Daphne, to be pre-zoned as PUD, Planned Unit Development prior to annexing into the City of Daphne; and

**WHEREAS**, said real property is Southeast of Alabama 181 and Austin Road, and more particularly described as follows:

**Legal Description for Pre-zone:**

BEGINNING AT A 3/4" CRIMP TOP IRON PIPE AT THE "LOCALLY ACCEPTED" SOUTHEAST CORNER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA AND RUN THENCE SOUTH 89°49'02" WEST, ALONG THE SOUTH LINE OF SAID SECTION 26, A DISTANCE OF 2669.96 FEET TO A 1/2" CAPPED REBAR (CA-0604) AT THE SOUTHEAST CORNER OF LOT 28, DUNMORE, PHASE TWO, PART B, AS SHOWN BY MAP OR PLAT THEREOF, RECORDED AT SLIDE 2448-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 00°11'14" EAST, ALONG THE EAST MARGIN OF SAID DUNMORE, PHASE TWO, PART B AND DUNMORE, PHASE TWO, PART A, AS SHOWN BY MAP OR PLAT THEREOF, RECORDED AT SLIDE 2443-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA AND A PROJECTION THEREOF, A DISTANCE OF 2671.05 FEET TO 1/2" CAPPED REBAR (CA-1109) AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 26; THENCE RUN SOUTH 89°34'24" WEST, ALONG THE SOUTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 26, A DISTANCE OF 2610.05 FEET TO 1/2" CAPPED REBAR (CA-1109) ON THE EAST RIGHT-OF-WAY OF ALABAMA HIGHWAY 181; THENCE RUN NORTH 00°10'51" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID ALABAMA HIGHWAY 181, A DISTANCE OF 400.02 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°34'24" EAST, DEPARTING SAID RIGHT-OF-WAY, A DISTANCE OF 1402.13 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN NORTH 00°03'11" EAST, A DISTANCE OF 902.21 FEET TO A 1/2" CAPPED REBAR ON THE SOUTH RIGHT-OF-WAY OF AUSTIN ROAD; THENCE RUN NORTH 89°32'12" EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID AUSTIN ROAD, A DISTANCE OF 1256.80 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN NORTH 00°07'47" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID AUSTIN ROAD, A DISTANCE OF 30.14 FEET TO 1/2" CAPPED REBAR AT THE SOUTHWEST CORNER OF LOT 1 OF AUSTIN BRIDGES, UNIT 1, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2007-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA AND RUN THENCE NORTH 89°22'04" EAST, ALONG THE SOUTH MARGIN OF SAID AUSTIN BRIDGES, UNIT 1 AND THE SOUTH MARGIN AUSTIN BRIDGES, UNIT TWO, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2082-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, A DISTANCE OF 1297.53 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE SOUTHEAST CORNER OF LOT 18 OF SAID AUSTIN BRIDGES, UNIT TWO; THENCE RUN SOUTH 00°46'05" WEST, A DISTANCE OF 670.61 FEET TO 1/2" REBAR; THENCE RUN NORTH 89°25'58" EAST, A DISTANCE OF 1069.01 FEET TO A 1/2" CAPPED REBAR AT THE NORTHWEST CORNER OF LOT 1 OF STEPHEN SPRINGS, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2346-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00°11'38" WEST, A DISTANCE OF 300.66 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE SOUTHWEST CORNER OF LOT 2 OF SAID STEPHEN SPRINGS; THENCE RUN NORTH 89°25'14" EAST, A DISTANCE OF 214.96 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE SOUTHEAST CORNER OF LOT 2 OF SAID STEPHEN SPRINGS; THENCE RUN SOUTH 00°11'25" WEST, A DISTANCE OF 80.01 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE NORTHEAST CORNER OF LOT 3 OF SAID STEPHEN SPRINGS; THENCE RUN SOUTH 89°25'14" WEST, A DISTANCE OF 214.96 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE NORTHWEST CORNER OF LOT 3 OF SAID STEPHEN SPRINGS; THENCE RUN SOUTH 00°11'38" WEST, A DISTANCE

OF 145.04 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE NORTHWEST CORNER OF LOT 4 OF SAID STEPHEN SPRINGS; THENCE RUN SOUTH 00°11'38" WEST, A DISTANCE OF 145.05 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE SOUTHWEST CORNER OF LOT 4 OF SAID STEPHEN SPRINGS; THENCE RUN NORTH 89°58'37" WEST, ALONG AND WITH A BARBWIRE FENCE, A DISTANCE OF 412.34 FEET TO 1-1/2" OPEN END IRON PIPE; THENCE RUN SOUTH 00°02'13" WEST, ALONG AND WITH A BARBWIRE FENCE, A DISTANCE OF 672.87 FEET TO 1/2" CAPPED REBAR (CA-1109) AT THE SOUTHWEST CORNER OF TRACT 1 IN SECTION 26 OF HIGHLAND FARMS, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT MISCELLANEOUS BOOK 1, PAGE 290-291, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°47'09" EAST, A DISTANCE OF 1923.05 FEET TO 1/2" REBAR; THENCE RUN NORTH 00°06'23" EAST, A DISTANCE OF 630.48 FEET TO A 1/2" REBAR ON THE SOUTH RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY 54; THENCE RUN SOUTH 89°34'12" EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID BALDWIN COUNTY HIGHWAY 54, A DISTANCE OF 60.00 FEET TO 1/2" CAPPED REBAR (CA-1109) AT THE NORTHWEST CORNER OF LOT 1 OF AVALON PHASE 1A, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2104-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00°06'23" WEST, A DISTANCE OF 630.25 FEET TO A 1/2" CAPPED REBAR ON THE WEST MARGIN OF LOT 73 OF AVALON, PHASE 3, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2220-D AND 2220-E, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00°23'53" WEST, ALONG THE WEST MARGIN OF SAID AVALON, PHASE 3, A DISTANCE OF 663.68 FEET TO A 1/2" CAPPED REBAR; THENCE RUN SOUTH 88°35'21" EAST, A DISTANCE OF 7.96 FEET TO 5/8" CAPPED REBAR (CA-728); THENCE RUN SOUTH 00°08'21" WEST, CONTINUING ALONG THE WEST MARGIN OF SAID AVALON, PHASE 3, A DISTANCE OF 669.18 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°48'48" WEST, A DISTANCE OF 6.93 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN SOUTH 00°03'05" WEST, A DISTANCE OF 668.95 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN SOUTH 00°11'04" WEST, ALONG AND WITH A BARBWIRE FENCE, A DISTANCE OF 1319.23 FEET TO A 1/2" CAPPED REBAR (CA-1109) AT A FENCE CORNER AT THE "LOCALLY ACCEPTED" SOUTHEAST CORNER OF TRACT 4 IN SECTION 36 OF SAID HIGHLAND FARMS; THENCE RUN SOUTH 89°55'01" WEST, A DISTANCE OF 1326.54 FEET TO A 2" OPEN END PIPE AT A FENCE CORNER AT THE "LOCALLY ACCEPTED" SOUTHWEST CORNER OF TRACT 4 IN SECTION 36 OF SAID HIGHLAND FARMS; THENCE RUN NORTH 00°55'29" EAST, A DISTANCE OF 1323.76 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 361.55 ACRES, MORE OR LESS, AND LIES IN SECTIONS 25, 26 AND 36, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**WHEREAS**, at the regular Planning Commission meeting on February 22, 2018, the Commission considered said request and set forth a unanimous favorable recommendation to the City Council to pre-zone the property PUD, Planned Unit Development; 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 April 16, 2018; 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 PUD, Planned Unit Development, 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 RSF-2, Single Family District and RA, Rural Agricultural.

#### **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 7<sup>th</sup> day of May, 2018.**



**Dane Haygood,  
Mayor**

**ATTEST:**



**Candace G. Antinarella,  
City Clerk**