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**CITY OF DAPHNE, ALABAMA  
ORDINANCE NO. 2017-61**

**Ordinance to Pre-Zone Property Located  
East side of County Road 13, North of Sehoj Subdivision  
Malbis Plantation Inc.**

**WHEREAS**, Malbis Plantation Inc. as the owner of certain real property located within the unincorporated area of Baldwin County, Alabama, has requested that said property that is currently under County zoning as RSF-3, Single Family District, Baldwin County District 15, in the extraterritorial planning jurisdiction of the City of Daphne, to be pre-zoned as R-3, High Density Single Family Residential District, prior to annexing into the City of Daphne; and

**WHEREAS**, said real property is East side of County Road 13, north of Sehoj Subdivision, and more particularly described as follows:

**Legal Description for Pre-zone:**

Lot 1 of Malbis-CR13 Subdivision as recorded on Slide 2594-F in the Probate Office of Baldwin County, Alabama.

**WHEREAS**, at the regular Planning Commission meeting on June 22, 2017, the Commission considered said request and set forth an unanimous favorable recommendation; 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 the Daphne Public Library and City Hall, a public hearing was held before the City Council on August 7, 2017; 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 R-3, High Density Single Family Residential 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 RSF-3, Single Family District, Baldwin County District 15 in the extraterritorial planning jurisdiction of the City of Daphne.

**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.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA,  
THIS THE 21<sup>ST</sup> DAY OF AUGUST, 2017.**

  
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**Dane Haygood, Mayor**

**Attest:**

  
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**Candace G. Antinarella, City Clerk**