

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-38**

**Ordinance to Pre-Zone Property Located Southeast of the Intersection of Pleasant Road and
County Road 13**

Ann E. Berga and Teresa Warner

WHEREAS, Ann E. Berga and Teresa Warner, as the owners of certain real property located within the unincorporated area of Baldwin County, Alabama, has requested that said property that is currently zoned by the County as RSF-E, Residential Single-Family Estate, Baldwin County District 15, in the extraterritorial planning jurisdiction of the City of Daphne, be pre-zoned as R-6(G), Garden or Patio Home, prior to annexation into the City of Daphne; and

WHEREAS, said real property is located Southeast of the Intersection of Pleasant Road and County Road 13, being more particularly described as follows:

Legal Description for Property to be Pre-Zoned:

BEGINNING AT A 1/2 INCH CAPPED REBAR FOUND AT THE NORTHEAST CORNER OF OTTAWA SPRINGS, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2255-E, BALDWIN COUNTY PROBATE RECORDS, AND RUN THENCE NORTH 00 DEGREES 12 MINUTES 23 SECONDS EAST, A DISTANCE OF 1327.57 FEET TO A 5/8 INCH CAPPED REBAR FOUND (EDS) AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 89 DEGREES 35 MINUTES 00 SECONDS WEST, A DISTANCE OF 661.74 FEET TO A 5/8 INCH CAPPED REBAR FOUND (EDS) AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15; THENCE RUN SOUTH 00 DEGREES 18 MINUTES 10 SECONDS WEST, A DISTANCE OF 664.28 FEET TO A 1/2 INCH CAPPED REBAR SET (SE CIVIL) AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15; THENCE RUN NORTH 89 DEGREES 29 MINUTES 01 SECONDS WEST, A DISTANCE OF 662.65 FEET TO A 1/2 INCH CAPPED REBAR FOUND AT THE SOUTHEAST CORNER OF ASHLEY PLACE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 1608-A, BALDWIN COUNTY PROBATE RECORDS; THENCE RUN NORTH 89 DEGREES 36 MINUTES 48 SECONDS WEST, ALONG THE SOUTH LINE OF SAID ASHLEY PLACE, A DISTANCE OF 1284.52 FEET TO A 1/2 INCH CAPPED REBAR SET (SE CIVIL) ON THE EAST RIGHT-OF-WAY OF COUNTY ROAD 13 (80 FOOT RIGHT-OF-WAY); THENCE RUN SOUTH 00 DEGREES 18 MINUTES 48 SECONDS WEST, ALONG SAID EAST RIGHT-OF-WAY, A DISTANCE OF 664.82 FEET TO A 1/2 INCH CAPPED REBAR SET (SE CIVIL) AT THE NORTHWEST CORNER OF THE AFOREMENTIONED OTTAWA SPRINGS; THENCE RUN SOUTH 89 DEGREES 37 MINUTES 44 SECONDS EAST, ALONG THE NORTH LINE OF SAID OTTAWA SPRINGS, A DISTANCE OF 1260.40 FEET TO A 1/2" CAPPED REBAR SET (SE CIVIL); THENCE RUN SOUTH 89 DEGREES 35 MINUTES 05 SECONDS EAST, ALONG SAID NORTH LINE OF OTTAWA SPRINGS, A DISTANCE OF 1320.86 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 49.90 ACRES, MORE OR LESS.

WHEREAS, at the regular Planning Commission meeting on April 28, 2022, the Commission considered said request and voted to set forth a favorable recommendation to the City Council to pre-zone the property R-6(G), Garden or Patio Home; 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, and a public hearing was held before the City Council on June 20, 2022; and,

WHEREAS, the City Council of the City of Daphne, after due consideration and upon consideration of the recommendation and notes of the Planning Commission, deemed that said application for pre-zoning of the above described real property and as set forth on a map of the property attached hereto and made a part of this Ordinance as Exhibit "A" 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-6(G), Garden or Patio Home, 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 shall be amended to reflect 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 into 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-E, Residential Single Family Estate, Baldwin County District 15, Exterritorial Planning Jurisdiction.

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 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 subject property shall become effective upon the date the territory is annexed into the corporate limits. If any portion of the subject property is not annexed into the corporate limits within 180 days of the initiation of annexation proceedings as provided by law, 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 5th day of July, 2022.



Robin LeJeune, Mayor

ATTEST:


Candace G. Antinarella, CMC, City Clerk

