

ORDINANCE NO. 1633

AN ORDINANCE AMENDING ORDINANCE NO. 1253  
KNOWN AS THE ZONING ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA as follows:

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, together with the Zoning Map of the City of Fairhope, be and the same hereby is changed and altered in respect to that certain property described below:

After the appropriate public notice and hearing of the Planning Commission of the City of Fairhope, Alabama has forwarded a **favorable** recommendation,

The property of The Bills' No. 2, LLC and Fairhope Single Tax Corporation generally located on the west side of Lawrence Road approximately ¼ mile north of Gayfer Avenue, Fairhope, Alabama.

PPIN #: 369809 and 369810

**Legal Description:** (Case number ZC 18.12)

LOT 2 OF THE BILLS' NO. 2 SUBDIVISION AS SHOWN BY A MAP OR PLAT THEREOF, RECORDED AT SLIDE 2582-F, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA.

AND

LOT 3 OF THE BILLS' NO. 2 SUBDIVISION AS SHOWN BY A MAP OR PLAT THEREOF, RECORDED AT SLIDE 2582-F, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA.

A map of the property to be zoned is attached as Exhibit A

**The property is hereby initially zoned R-2 Medium Density Single Family Residential District concurrent with annexation into the City of Fairhope.** This property shall hereafter be lawful to construct on such property any structures permitted by Ordinance No. 1253 and to use said premises for any use permitted or building sought to be erected on said property shall be in compliance with the building laws of the City of Fairhope and that any structure shall be approved by the Building Official of the City of Fairhope and that any structure be erected only in compliance with such laws, including the requirements of Ordinance No. 1253.


**Severability Clause** - if any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

**Effective Date** – This ordinance shall take effect immediately upon its due adoption and publication as required by law.

ADOPTED THIS 28TH DAY OF JANUARY, 2019

  
Karin Wilson, Mayor

ATTEST:

  
Lisa A. Hanks, MMC  
City Clerk

Ord. No. 1633 Published in  
FAIRHOPE COURIER  
on Wednesday, February 6, 2019  
L. Hanks City Clerk



CITY OF FAIRHOPE  
P.O. DRAWER 429  
FAIRHOPE, AL 36533  
251/928-2136

# **PETITION FOR ANNEXATION**

STATE OF ALABAMA )(  
COUNTY OF BALDWIN )(  
)

We, the undersigned PETITIONER(S), owner(s) of the lands in fee simple described in the attached EXHIBIT A, such property being without the Corporate Limits of the City of Fairhope, Alabama, but being contiguous to the said Corporate Limits; and such property not lying within the corporate limits or police jurisdiction of any other municipality, do, by these presents, hereby petition the City of Fairhope, a municipal corporation, that said property be annexed into the City of Fairhope, Alabama.

The subject land is delineated on the map attached hereto as EXHIBIT B.

This petition is filed under authority of Section 11-42-21, Code of Alabama, 1975, as amended.

☐ This petition is for R-1 Zoning

☒ The condition of the Petition is that zoning be established as R-2  
Concurrent with Annexation. (Zoning Request)

Is this property colony property X Yes        No. If this property is colony property the Fairhope Single Tax Office must sign as a petitioner.

Michael C. Bills  
Signature of Petitioner

Michael C. Bills  
Print petitioner's name

Michael C. Bills, Sec. FSTC  
Signature of Petitioner

Michael C. Bills  
Print petitioner's name

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Print petitioner's name

Physical Address of property being annexed: \_\_\_\_\_

Petitioner's Current Physical Address:  
THE BILLS NO.2 LLC  
PO BOX 1659  
ROBERTSDALE, AL 36567

Petitioner's Current Mailing Address:  
THE BILLS NO.2 LLC  
PO BOX 1659  
ROBERTSDALE, AL 36567

Telephone Number(s): \_\_\_\_\_  
Home Work

County Tax Parcel Number: 05-46-01-11-0-000-001.622 & 05-46-01-11-0-000-001.621  
LOT 3 LOT 2



**U.S JUSTICE DEPARTMENT INFORMATION**

- ☐ Size of property (acres or square feet) 31.93 AC (LOT 3) & 22.00 AC (LOT 2)
- ☐ If property is occupied, give number of housing units 0
- ☐ Number of Persons residing in each unit, and their race 0
- ☐ If property is unoccupied, give proposed use TWO SINGLE-FAMILY SUBDIVISIONS
- ☐ If property is being developed as a subdivision, give subdivision name  
TRACERY (LOT 3) & RIVERHORSE (LOT 2)
- ☐ Number of lots within proposed subdivision TO BE DETERMINED

I, PATRICIA W. MOORE a Notary Public in and for said State and County, hereby certify that Michael C. Bill whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this 21 day of SEPTEMBER 20 18.

(Seal)

PATRICIA W. MOORE  
Notary Public

My commission expires 5-27-2020

I, Emily N. Boyett a Notary Public in and for said State and County, hereby certify that C. Michael Arnold whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this 21<sup>st</sup> day of Sept., 20 18.

(Seal)

Emily N. Boyett  
Notary Public

My commission expires 7/6/21

I, \_\_\_\_\_ a Notary Public in and for said State and County, hereby certify that \_\_\_\_\_ whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

(Seal)

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_







# City Council

January 2019

## Conditional Annexation and Rezone

Case: ZC 18.12 Lot 2 & 3, The Bills' No. 2

**Project Name:**

Lot 2 & 3, The Bills' No. 2

**Project Type:**

Rezoning/Conditional Annexation

**Jurisdiction:**

Unincorporated Baldwin County

**Zoning District:**

Unzoned

**PPIN Number:**

369809 and 369810

**General Location:**

East of State Hwy 181, South of State Hwy 104 and North of Gayfer Road Extension

**Engineer:**

Dewberry Engineers, Inc.

**Applicant:**

The Bills' No. 2, LLC

**School District:**

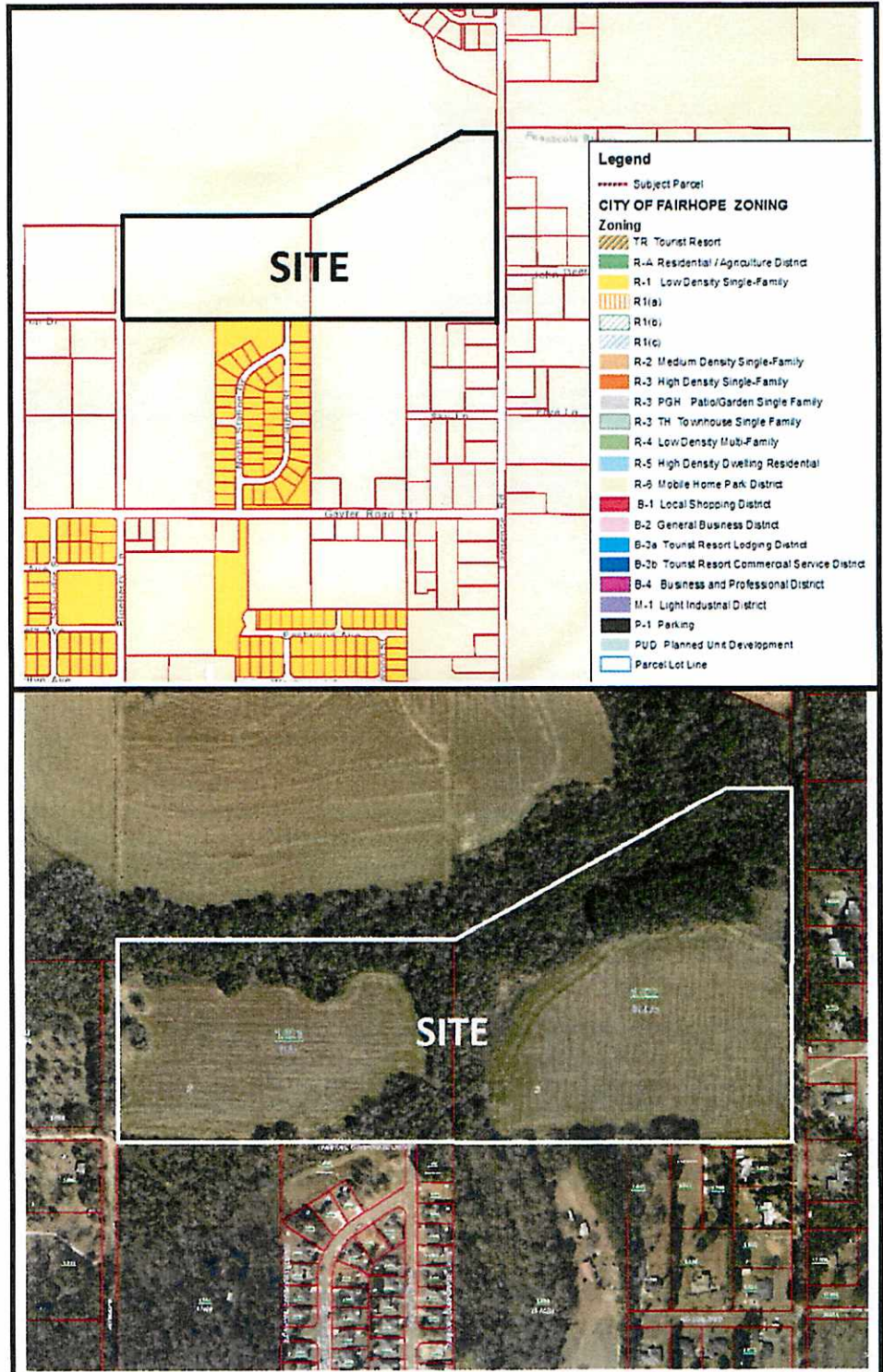
Fairhope Elementary, Middle and High schools

**Staff Recommendation:**

Approve

**PC Recommendation:**

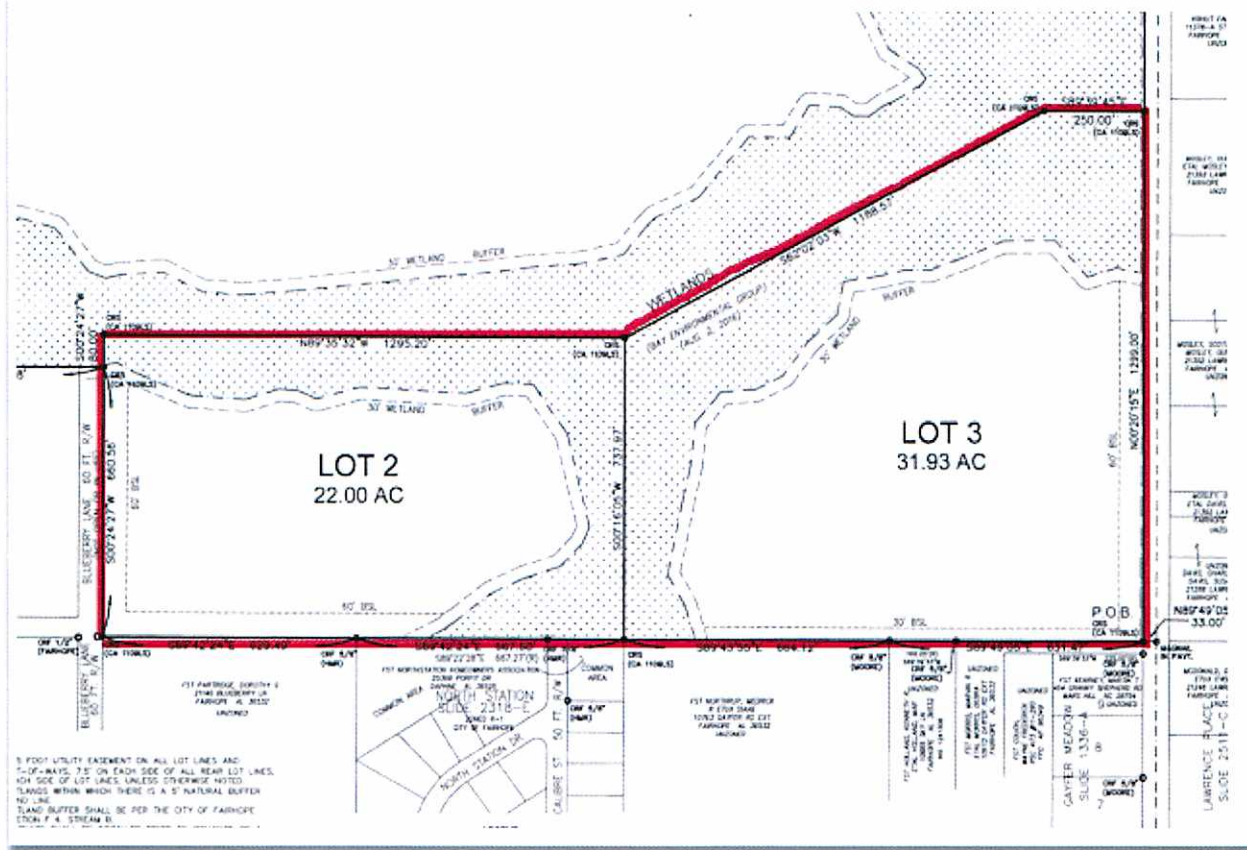
Approve





### Summary of Request:

The applicant is requesting to conditionally annex approximately 53.93 acres conditioned upon a rezoning to R-2 Medium Density Single-Family Residential District. The 53.93 acres represents lots 2 and 3 of the Bills' No. 2 Subdivision recorded on December 27, 2016.



The request for conditional annexation is pursuant to the following:

#### ***City of Fairhope Zoning Ordinance***

#### ***Article 1. C 6.***

#### ***Newly Annexed Land***

***Property annexed into the City shall be zoned according to the following:***

- a. Property shall have any zoning designation given to it by the City Council according to the procedures specified in this ordinance.***
- b. Where no designation is given by the City Council and the property is otherwise un-zoned, it shall be classified as R1 – Low Density Single Family Residential District.***
- c. Property annexed into the City that is zoned by Baldwin County shall be classified as the most similar district at the time of application, unless a different classification is given by the City Council. The Director of Planning and Building shall make the determination of the most similar district. Similar classifications do not require due process and public notice procedures before the Planning Commission or the City Council. These requests are considered directly by the City Council at the time of annexation consideration. If the applicant requests a different zoning district then the case shall follow the annexation contingent on zoning procedures.***

#### **Zoning History of Nearby Properties:**

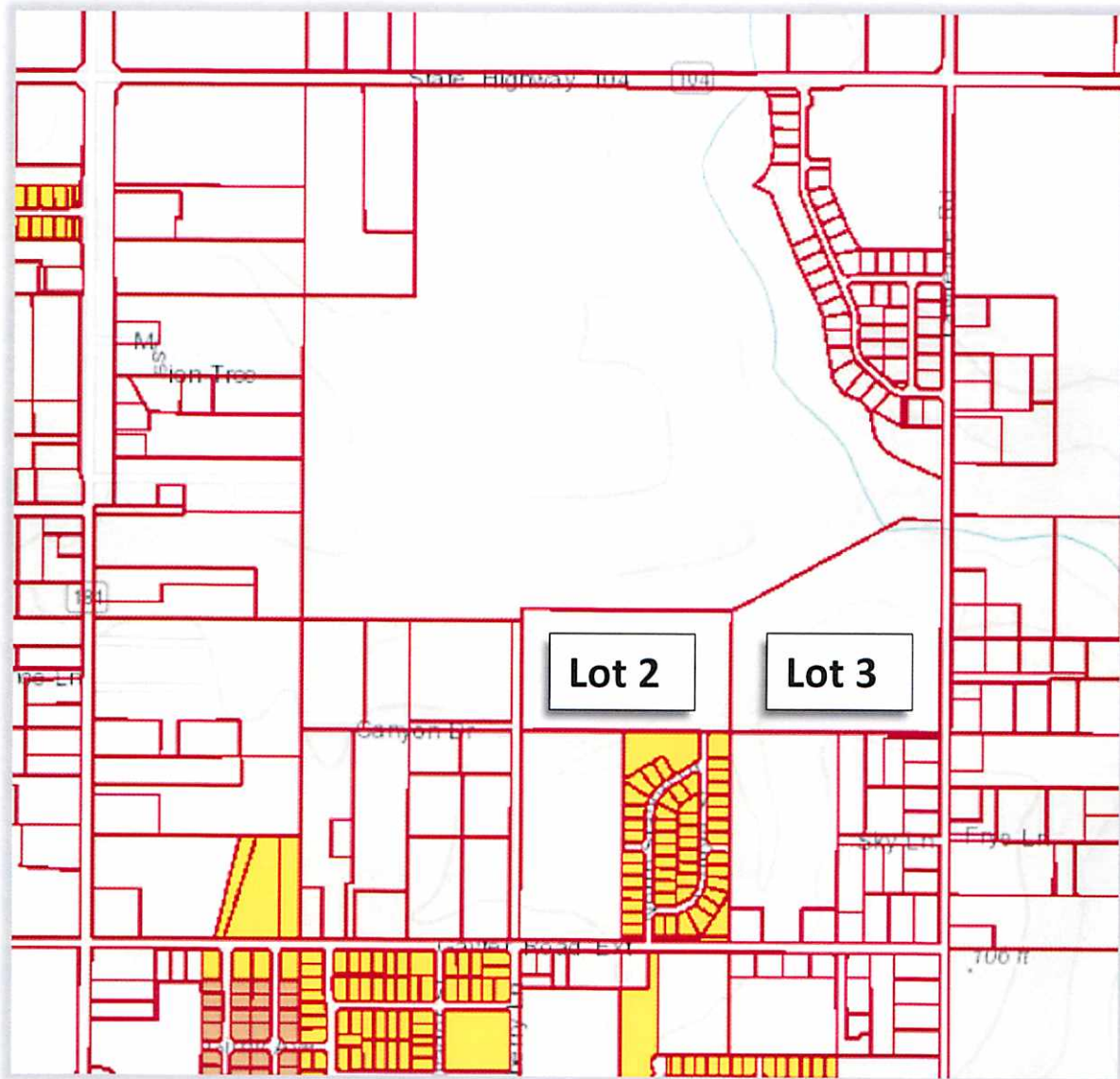
The image below is taken from the City of Fairhope online Map viewer. The subject annexation and rezoning of properties are indicated as Lot 2 and 3 below. The areas in yellow are zoned R-1 - Low Density Single-



Family Residential District and the areas in brown are zoned R-2 Medium Density Single-Family Residential District.

The development abutting the subject properties to south is the North Station neighborhood. All other areas around it is unzoned properties located in unincorporated Baldwin County. The abutting North Station development was annexed by the City on January 23, 2006 and platted in 2007, with 49 lots with the smallest lot being 0.24 acres. Additionally, the properties within the corporate limits south of Gayfer Road Extension is part of the Gayfer Estates Plantation platted in 2004. It is zoned R-1 Low Density Single-Family Residential District and the smallest lot there is 0.26 acres (approximately 11,300 sq.ft.). The existing zoning does not necessarily correspond to the existing density as these subdivisions were developed in the County and then annexed into the City voluntarily. Per the Zoning Ordinance, voluntary annexations automatically come into the City as R-1 Low Density Single-Family Residential District.

The minimum lot size for R-1 Low Density Single-Family Residential District is 15,000 sq.ft. with a minimum lot width of 100'. The minimum lot size for R-2 Medium Density Single-Family Residential District is 10,500 sq.ft. with a 75' minimum lot width. Many of the R-1 zoned developments do not appear to meet the minimum lot sizes and minimum lot width i.e. North Station, Gayfer Estates, Falls Creek, River Station, and therefore the current zoning of R-1 appears to be inconsistent with the actual development of the subdivisions. The R-2 Medium Density Single-Family Residential District appears to be more consistent with the pattern of development of these developments.



### Current Conditions:

The subject property is currently undeveloped containing cultivated fields but does contain wetlands.

### Comments:

#### **Fairhope Zoning Ordinance**

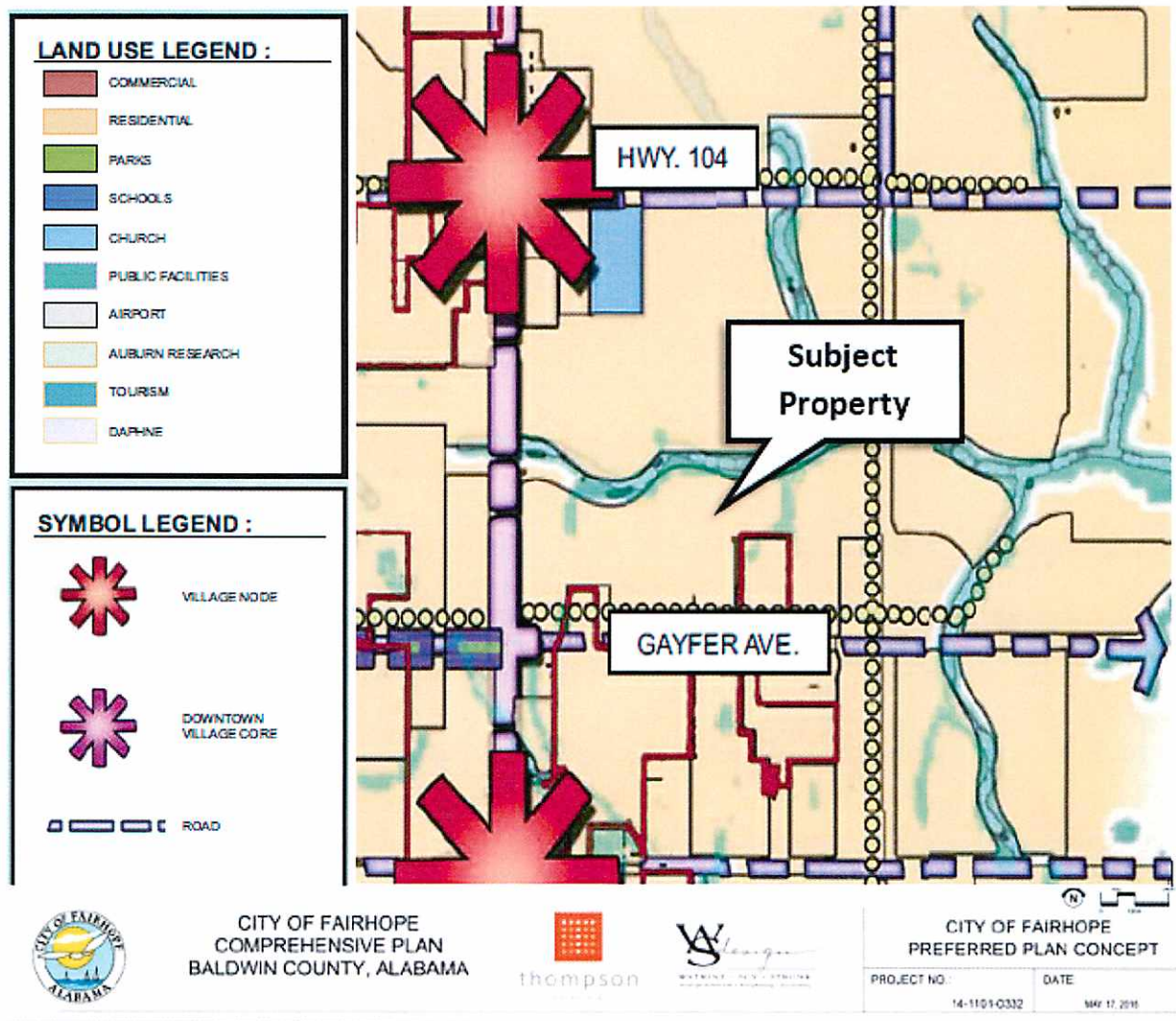
#### **Article II.C(e).**

**Criteria – The application shall be reviewed based on the following criteria:**

**(1) Compliance with the Comprehensive Plan;**

### **Response:**

The requested zoning is R-2 Medium Density Single-Family Residential District which is comprises the majority of the residential zoning in the City. The subject property is categorized as a residential in the Comprehensive Plan. Therefore, the requested zoning is consistent with the Comprehensive Plan guidance in terms of residential use. The comprehensive plan calls for higher densities for immediate areas around Villages. The villages are to be more dense (more units per acre) and then transition to lower density development patterns<sup>1</sup>. The subject property is located between to Village Nodes. Based on the transitional densities discussed in the Comprehensive Plan and the adjacency of the Village Nodes, staff suggests that a residential medium density is consistent with the Comprehensive Plan.



<sup>1</sup> Fairhope Comprehensive Plan, Page 34.



**(2) Compliance with the standards, goals, and intent of this ordinance;**

**Response:**

The purpose of the R-2 Medium Density Single-Family Residential District is to provide a medium density single family urban residential district, with lots of moderate size. The subject property, Lots 2 and 3 Bills Subdivision, equals approximately 53.93 acres.

**Table 3-2: Dimension Table - Lots and Principle Structure**

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by principle structure	Max. height
			Front	Rear	Side	Street side		
R-2	10,500 s.f. / -	75'	35'	35'	10' <sup>b</sup>	20'	37%	30' <sup>a</sup>

a. Structure may exceed the building height provided the lot width is increased by 10 feet for each additional foot in height

If the rezoning is approved, any subsequent subdivision plat must conform to the R-2 standards.

**(3) The character of the surrounding property, including any pending development activity;**

**Response:**

The R-2 lot size of 10,500 sq.ft. equates to an approximate gross density of 4.14 dwelling units per acre (43,560sq.ft./10,500sq.ft.). However, the net density for a subdivision is generally less as the rights-of-way required for internal roads, which are dedicated to the City, typically reduce the total developable space by approximately 15%. In this case, the Bills No. 2 Subdivision, also includes wetlands and wetland buffers, reducing the developable area even further.

**(4) Adequacy of public infrastructure to support the proposed development;**

**Response:**

Fairhope Utilities gas is available for the subject property. Fairhope Utilities Water has an 8-inch main adjacent to the subject properties. Fairhope Utilities Sewer is also located near the subject properties. A letter of utility availability has been provided to the developers of the subject properties.

**(5) Impacts on natural resources, including existing conditions and ongoing post-development conditions;**

**Response:**

The current plat, Bills No.2 Subdivision, shows the 30' required wetland buffer as required by the Wetland Ordinance. During and post development, this wetland buffer will continue to be enforced.

**(6) Compliance with other laws and regulations of the City;**

**Response:**

At the time of development all applicable laws of the City will be applied.

**(7) Compliance with other applicable laws and regulations of other jurisdictions;**

**Response:**

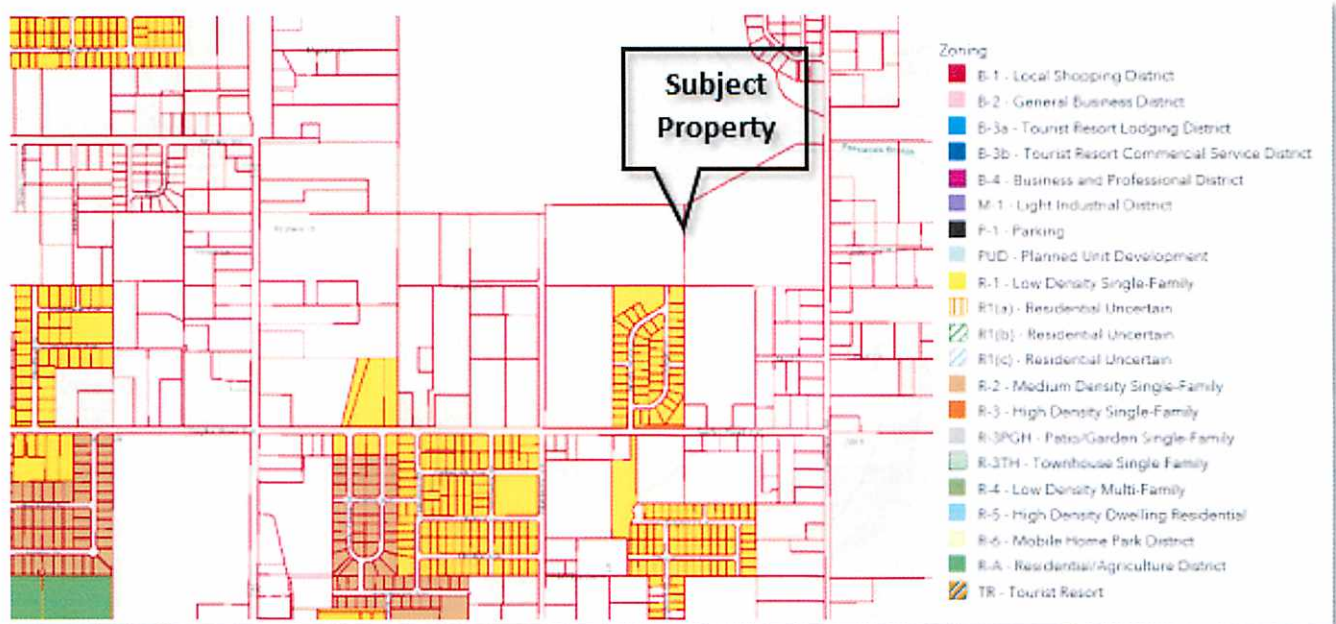
At the time of development all applicable laws of the City will be applied.

**(8) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values; and,**

**Response:**

Although the adjoining and nearby developments are zoned R-1, the R-2 is primarily a residential use with a medium density. The property adjoining and connecting to the subject property is also residential.



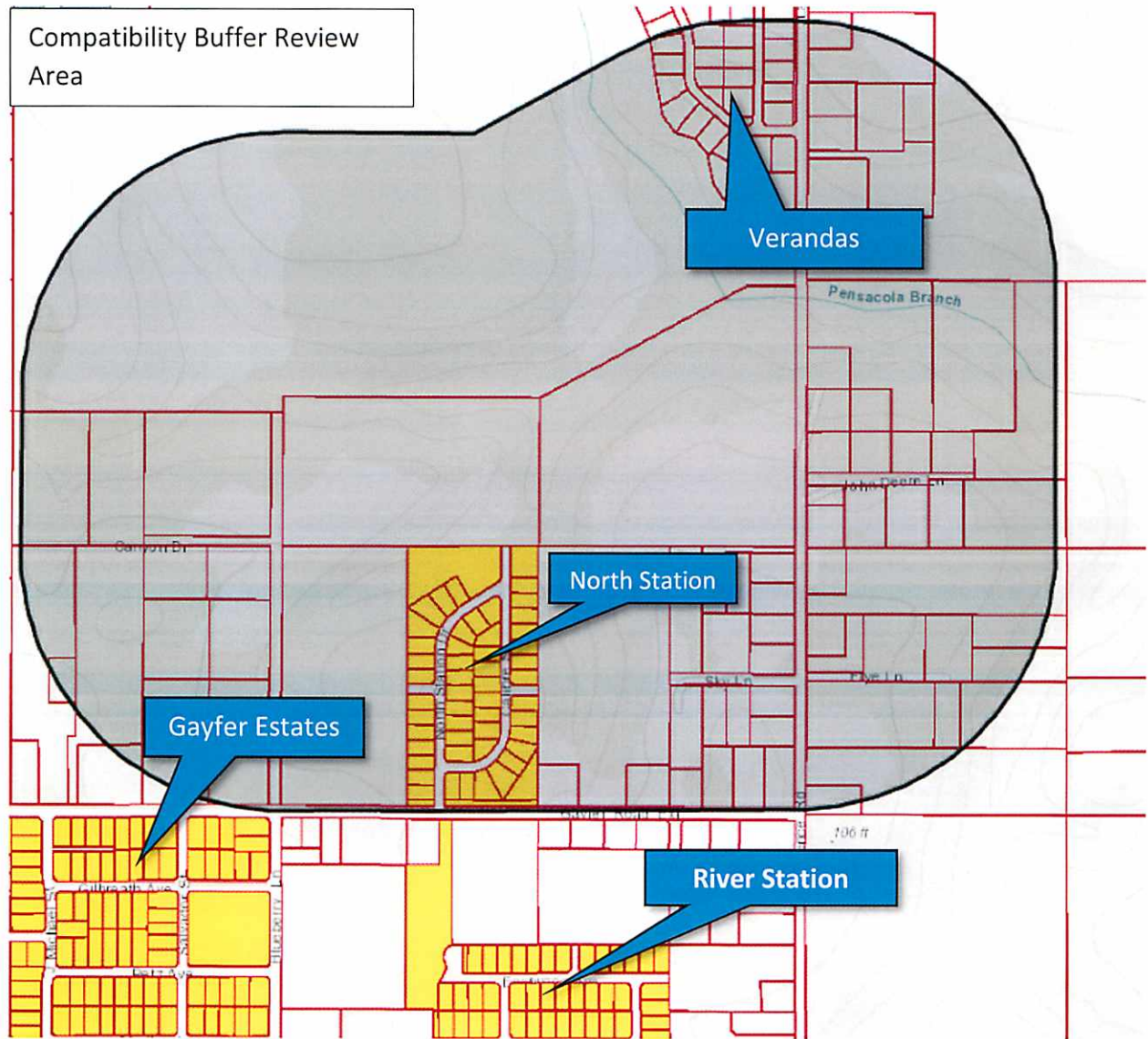




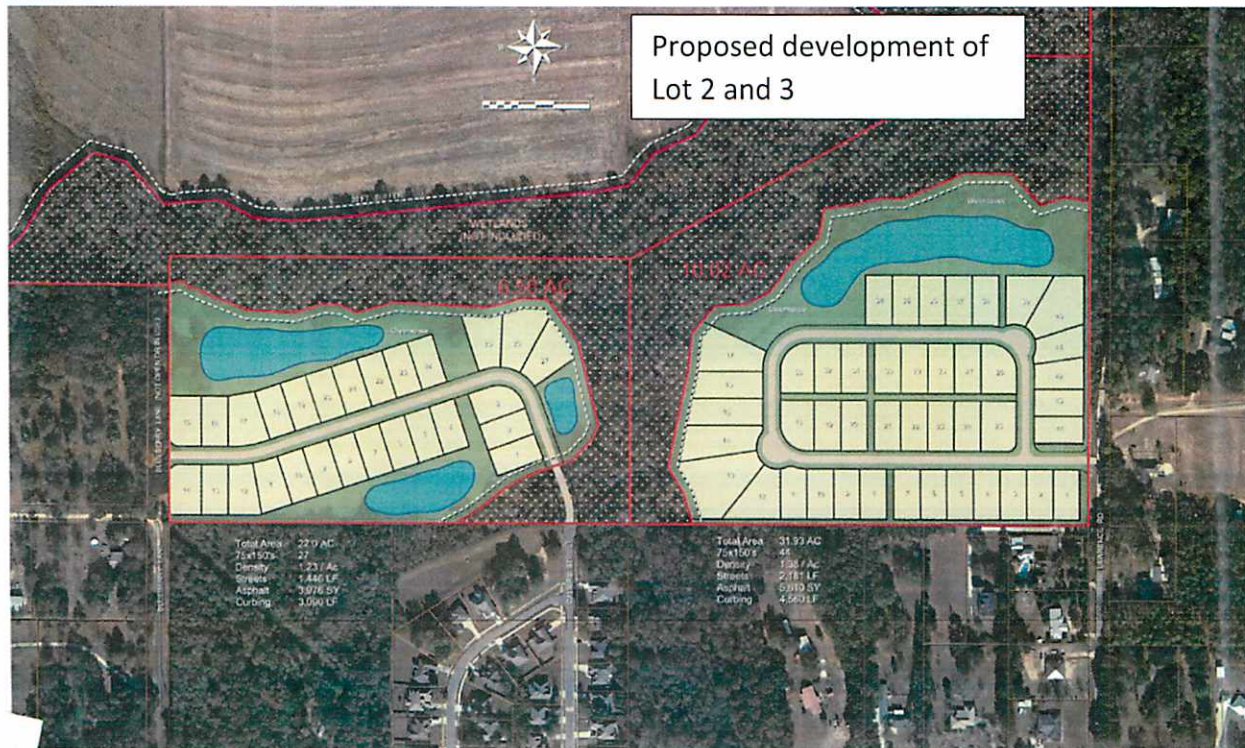
**(9) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.**

**Response:**

Staff conducted a compatibility analysis for the subject property.



The development immediately adjoining to the south is North Station (see image below) which was platted on December 28, 2016. The lot sizes in North Station range between 10,500 sq.ft. and 11,500 sq.ft. with a resulting density of approximately 2.48 units per acre.



The above proposed development lot lay out accompanied the rezoning and conditional annexation request. The development lot lay out represents a density of 1.23 – 12.6 dwelling units per acre. The compatibility analysis weighted allowable density, considering unzoned undeveloped (2.9 du's per acre) and the zoned developed area (North Station 2.48 du's per acre) is 2.76 dwelling units per acre.

**Staff Recommendation:**

Staff recommends **APPROVAL** of the rezoning to the R-2 Medium Density Single-Family Residential District and the conditional annexation.

**Planning Commission Recommendation:**

The Planning Commission of the City of Fairhope, at its November 5, 2018 regular meeting, unanimously recommended **APPROVAL** of the rezoning to the R-2 Medium Density Single-Family Residential District and the conditional annexation.