



**BOARD OF ADJUSTMENT NUMBER 1
AGENDA**

October 15, 2024

Regular Meeting

4:00 p.m.

Central Annex Auditorium

22251 Palmer Street

Robertsdale, Alabama

Email-planning@baldwincountyal.gov

1. Call to Order
2. Roll Call
3. Approval of Previous Meeting Minutes August 20, 2024
4. Approval of Previous Meeting Minutes September 17, 2024
5. Announcements/Registration to Address the Board of Adjustment
6. Consideration of Applications and Requests

ITEMS:

a.) Case No. ZVA24-60 Speir Property, 23687 3rd St

Request: Approval of a Variance from Section 4.3.4 of the Baldwin County Zoning Ordinance as it pertains to the building setbacks in order to allow for a single-family dwelling.

Location: The subject property is located at 23687 3rd St, Daphne, AL in Planning District 16.

b.) Case No. ZVA24-61 Coumanis Property, 11541 County Road 1

Request: Approval of a Variance from Section 4.3.4 of the Baldwin County Zoning Ordinance as it pertains to the building setbacks and 12.5.2 (f) Yard Requirements to allow for a single-family dwelling.

Location: The subject property is located at 11541 County Road 1 Fairhope, AL in Planning District 26.

Attachments: Within Report:

7. Old Business
8. New Business
 - a. Approval of 2025 BOA 1 Calendar**
9. Adjournment

To view maps/plats in higher resolution please visit the ‘Upcoming Items’ Planning and Zoning webpage”

<https://baldwincountyal.gov/departments/planning-zoning/meeting-agenda>

<p>Page 1</p> <p>AUDIO TRANSCRIPTION FOR BALDWIN COUNTY PLANNING AND ZONING COMISSION Board of Adjustment Meeting</p> <p>The following audio filed was transcribed by Lydia Egan on the 6th day of September, 2024.</p>	<p>Page 3</p> <p>1 Can we take a vote, please? 2 SECRETARY: Ms. Hope? 3 MS. HOPE: Yes. 4 SECRETARY: Mr. Bragg? 5 MR. BRAGG: Yes. 6 SECRETARY: Ms. Coggin? 7 MS. COGGIN: Yes. 8 SECRETARY: Ms. Frost? 9 MS. FROST: Yes. 10 SECRETARY: Mr. Stejskal? 11 MR. STEJSKAL: Yes. 12 SECRETARY: Mr. Ward? 13 MR. WARD: Yes. 14 SECRETARY: Ms. Barnes? 15 MS. BARNES: Yes. 16 SECRETARY: Minutes are passed. 17 MS. HOPE: All right. Mr. Buford, would you 18 like the floor, please? 19 MR. BUFORD: Madam Chairwoman, thank you. 20 We have a large crowd here today, and knowing that many 21 of our citizens may be unfamiliar with Board of 22 Adjustment or with the County Board of Adjustment, we 23 wanted to take just a moment to have a meeting preamble</p>
<p>Page 2</p> <p>1 MS. HOPE: All right. It's time. We're 2 going to call the meeting to order. May we have a roll 3 call, please? 4 SECRETARY: Mr. Bragg? 5 MR. BRAGG: Here. 6 SECRETARY: Mr. Stejskal? 7 MR. STEJSKAL: Here. 8 SECRETARY: Ms. Hope? 9 MS. HOPE: Here. 10 SECRETARY: Ms. Frost? 11 MS. FROST: Here. 12 SECRETARY: Ms. Barnes? 13 MS. BARNES: Here. 14 SECRETARY: Ms. Coggin? 15 MS. COGGIN: Here. 16 SECRETARY: Mr. Ward? 17 MR. WARD: Here. 18 SECRETARY: Chairman, you have the court. 19 MS. HOPE: Can I have the minutes to approve 20 the previous minutes? 21 MR. STEJSKAL: Motion to approve. 22 MR. WARD: Second. 23 MS. HOPE: Approved.</p>	<p>Page 4</p> <p>1 to review procedures and the authority of this board. 2 And so first of all, the zoning authority of 3 the county is on the map as you see in yellow. So this 4 board's authority only applies in the yellow areas that 5 have zoning, the areas that have adopted zoning. 6 And so first of all, please silence or turn 7 off your phones or other devices. Know that this board 8 follows Robert's Rules of Order for parliamentary 9 procedure. The chair, Ms. Hope, is our chair today. 10 Please when you have the -- when you speak during the 11 public hearing, direct all your comments toward the 12 chair. 13 If you wish to speak during one of the 14 public hearings, please register at the information 15 booth in the lobby. So if you do wish to speak and have 16 not registered, there is an information booth in the 17 lobby of this building where you may fill out the form 18 to speak. 19 We will conduct a public hearing after staff 20 has presented each case. The Chair will invite the 21 applicant to speak after staff has addressed the board. 22 And then once that occurs, the Chair will open the 23 public hearing and that is where citizens are able to</p>

1 speak.

2 We ask that citizens limit their comments to

3 approximately three minutes. We will operate a timer,

4 and we'll demonstrate that timer right here so you will

5 know what it sounds like when it -- when it -- when the

6 alarm goes off. Also, the timer will be up on your

7 screen -- up on the screens here in the auditorium.

8 (Timer goes off.)

9 So we ask you that you keep your comments to

10 about three minutes, and the Chair can interject if

11 necessary. Please do not attempt to address the board

12 outside of the public hearing.

13 Certainly, again, if you wish to please

14 register. Please do not try to speak aloud. Any

15 comments that are spoken aloud will not be heard -- may

16 not be heard on the recording of this meeting. So it's

17 very important for when you go to the podium to speak

18 that you speak directly into the microphone and, of

19 course, all board members, as well, speak into their

20 microphones so all of the comments can be heard on the

21 recording.

22 Understand that the BOA members, the Board

23 of Adjustment members, they are unpaid volunteers. They

1 are not elected officials. They are not sworn members.

2 They simply volunteer their time to serve the citizens

3 of Baldwin County.

4 Also, understand that the Board of

5 Adjustment is not the planning commission. This board

6 does not approve developments of any kind. This board

7 does not approve zoning changes. This board has no

8 authority or ability to repair roads or patch potholes

9 or that sort of thing. We hear lots of comments at

10 these types of meetings. Their focus and their

11 authority are very narrow.

12 Understand, that no subdivision or site plan

13 will be considered or approved today. Subdivisions and

14 site plan approval, that is the authority of the

15 planning commission. That approved variance is not a

16 building permit. It does not authorize construction or

17 land disturbance activities. If there are variances

18 approved, that does not relieve the applicant from

19 requirements from other agencies. And then finally, an

20 approved variance is not an approved site plan or an

21 approved subdivision.

22 Madam Chairwoman, thank you, and I will turn

23 it back over to the Chairwoman to begin the meeting.

1 MS. HOPE: Are there any other

2 announcements?

3 MR. BUFORD: No, ma'am.

4 MS. HOPE: Okay. Than we can proceed for

5 the first case, case No. ZVA24-35, Green Property.

6 STAFF SPEAKER 1: : This is ZVA24-35. Green

7 Property is located in planning district 14 in zone

8 based community zoning. It's in between Groves Road and

9 Margaret Drive. The physical address is 13040 Groves

10 Road and the applicant and the owner is Leeann Green.

11 The applicant is requesting a variance from

12 section 3.4.5(a) the area and dimensional regulations of

13 the Baldwin County Zoning Ordinance as it pertains to

14 the 30-foot building setback in order to build a single

15 family dwelling. The future residence will not be no

16 closer than 15 feet to the front property line. Staff

17 recommends that case ZVA24-35 be denied due to the lack

18 of hardship on the land as contemplated by the zoning

19 ordinance unless information to the contrary is revealed

20 at the public hearing.

21 Here is the locator map and the site map of

22 the property. The property to the north -- south -- to

23 the north is zoned base community zoning and is res --

1 the use is residential. And the property to the south

2 and to the east is base community zoning and vacant.

3 And the property to the west is also base community

4 zoning and occupied with a residence.

5 Here's the locator map and the site map, the

6 subject property, the property to the north, the

7 property to the south, the property to the west, and I

8 believe this is to the east.

9 Here is the site plan, and then the enlarged

10 site plan showing the home being 15 feet to the front

11 property line which is Groves Road, and then being 55

12 feet from the rear setback on Margaret Drive.

13 Here's the POA/HOA statement. There is no

14 active POA or HOA. Here's the zoning requirements for

15 the minimum front yard and rear yard setbacks for a

16 single family dwelling. The exceptional, narrowness,

17 shallowness, or shape of the specific piece of property

18 existing at the time of enactment of zoning regulations

19 per revenue commission records. The parcel dimensions

20 are 100 by 125 which is approximately 12,500 square

21 feet.

22 Zoning in planning district 14 came into

23 effect November the 21st of 2023. The required minimum

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1 lot size for base community zoning for a parcel served
 2 by public water and public sewer is 7500 square feet
 3 with a minimum lot width at the street line of 60.
 4 Based on the dimensions of the property, the buildable
 5 area is 80 by 65 or 5200 square feet.
 6 The required buildable area allows the
 7 property to be used for a single family dwelling without
 8 approval of the variance. Therefore, staff does not
 9 believe there is an exceptional, narrowness,
 10 shallowness, or shape of the subject property that would
 11 require a variance.
 12 Under the exceptional typographic conditions
 13 or extraordinary situations, the subject property
 14 doesn't appear to have any jurisdictional wetlands. And
 15 the granting of the application is necessary for
 16 preservation of property right and not merely to serve
 17 as convenience to the applicant or based solely on loss.
 18 The subject project is zoned base community
 19 zoning which allows for residential use and single
 20 family accessory uses. The request is allow for a
 21 single family to be built. Staff perceives that
 22 granting of this application is not necessary for the
 23 preservation of property right, and it may be merely to

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1 be Groves Road.
 2 MS. HOPE: Does anybody else have any
 3 questions for staff?
 4 Okay. Then we'll go ahead and open the
 5 meeting. I have a Mr. Joe Pintavalle. Is that -- sorry
 6 if I'm mispronouncing it. If you'd like to come up to
 7 speak.
 8 MR. PINTAVALLE: Do I need to press
 9 anything?
 10 MS. HOPE: If you'll just put the microphone
 11 to your -- so we can hear you.
 12 MR. PINTAVALLE: Okay. Can you hear me?
 13 Okay.
 14 Margaret Drive is actually unpaved, and
 15 originally that's where this ordinance was. It's
 16 supposed to be 35 off of Margaret Drive is what we
 17 understood, but we really just want to be 15 feet off of
 18 Groves Road to give us a bigger backyard, put a pool
 19 back there, increase property value in the area.
 20 It's actually two lots put together; so
 21 we're going to really improve the area by having a house
 22 in a better position for everybody in the area. I'm
 23 sure we could get letters of people in the area that

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1 serve as a convenience to the applicant. And then we
 2 didn't find anything -- staff does not believe that the
 3 granting of the application would mess -- do anything
 4 for No. 4. Sorry.
 5 Number 5, other matters that may be
 6 appropriate. The applicant may -- the applicant has
 7 submitted documentation stating that there's no active
 8 POA, and we have not received any opposition or in favor
 9 at the time that the variance was written -- staff
 10 report was written.
 11 Again, the applicant is requesting a
 12 variance from the aerial and dimensional regulations as
 13 it pertains to the 30-foot building setback for a single
 14 family dwelling, and staff recommends denial for
 15 ZVA24-35. And I will go back to any slides or answer
 16 any questions that you may have.
 17 MR. WARD: Do you have any letters as of now
 18 for or against it?
 19 STAFF SPEAKER 1: No, sir. We didn't have
 20 anything before the meeting.
 21 MS. BARNES: Is this a paved road?
 22 STAFF SPEAKER 1: : Yes, ma'am. Both roads
 23 are paved. And I was told the 911 address is going to

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1 approve of this if that would help because everybody's
 2 stopped by and asked our dad what's going on, and
 3 they're like Oh, we just want to build closer to the
 4 road, and nobody has complained so. I'm not sure if
 5 anybody has any questions.
 6 MS. HOPE: Does anybody have any questions
 7 for Mr. Pintavalle?
 8 MS. FROST: I have one question. Is there a
 9 way to reconfigure the home and the pool the way you
 10 have it laid out to allow for the proper setback?
 11 MR. BUFORD: Ms. Frost, can you speak into
 12 your microphone?
 13 MS. FROST: I was asking if it is possible
 14 to reconfigure either the home or pool or both so they
 15 would meet the setback requirements.
 16 MR. PINTAVALLE: We wouldn't be able to put
 17 in a pool. There just wouldn't be enough room to allow
 18 for the other setbacks that you have as well.
 19 MS. FROST: Thank you.
 20 MS. HOPE: Thank you, Mr. Pintavalle.
 21 MR. PINTAVALLE: Okay. Thanks.
 22 MS. HOPE: Ms. Leeann Green Pintavalle,
 23 would you like to come up to speak? You do not? Okay.

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1 Okay.

2 Is there anyone else who would like to speak

3 on behalf of this case? Then I'm going to close the

4 hearing.

5 Can I get a motion?

6 MR. STEJSKAL: I'm going follow the staff's

7 recommendation to deny.

8 MR. BRAGG: I'll second.

9 MS. HOPE: Can we have a roll call, please?

10 SECRETARY: Ms. Hope?

11 MS. HOPE: Yes.

12 SECRETARY: To go with staff's

13 recommendation to deny?

14 MS. HOPE: Yes.

15 SECRETARY: Okay. Mr. Bragg?

16 MR. BRAGG: Yes.

17 SECRETARY: Ms. Coggin?

18 MS. COGGIN: Yes.

19 SECRETARY: Ms. Frost?

20 MS. FROST: Yes.

21 SECRETARY: Mr. Stejskal?

22 MR. STEJSKAL: Yes.

23 SECRETARY: Mr. Ward?

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1 MR. WARD: No.

2 SECRETARY: Ms. Barnes?

3 MS. BARNES: Yes.

4 SECRETARY: The motion passed to deny.

5 MS. HOPE: Okay. We're going to move on to

6 case No. ZVA24-42, Swindle property.

7 STAFF SPEAKER 2: All right. This is

8 ZVA24-42, the Swindle property. This property is

9 located in planning district 26 and is zoned RSF 2, and

10 as you can see, it's along county road 1. The applicant

11 is requesting a variance from section 2.3.26.3(b), the

12 local provisions at the planning District 26 ordinance

13 as it pertains to the minimum building separation. And

14 staff is recommending that ZVA24-42 be approved.

15 Here are the locator and site maps. As you

16 can see, the adjacent properties are all RSF 2, RA, and

17 they're being used for residential purposes.

18 Here is the subject property, property to

19 the north, property to the east, and the property to the

20 west. This property has been before this board before.

21 B2116 it was heard in August of 2021 and the previous

22 request was for a variance from the VE setback on the

23 front side and from the rear which is the road side.

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1 And this board did recommend -- did approve the request.

2 And so what's going on here is that in

3 district 26 for homes that have existed -- for lots that

4 have existed before May 19th of 2020 and do not meet the

5 minimum lot size requirements for the zoning designation

6 there are reduced setbacks for only this district where

7 it's 10 on one side and 3 on the other as long as

8 there's a 13-foot separation between buildings. And as

9 you can see on this northwest side, they're requesting a

10 10, but the house to the northwest is only 1.7 feet from

11 that property line meaning there's not 13 feet of

12 separation.

13 And here are the zoning requirements which

14 list that from the local provisions. So the zoning and

15 planning district 26 came into effect in September of

16 1993. The lots were previously combined for tax

17 purposes. However, the owner intends to return them to

18 the lots of record. Once they do so, the property will

19 be approximately 50 by 88.

20 The minimum lot size requirement for RSF 2

21 zoning is 15,000 feet with a minimum lot width of 80

22 feet. And this property would not meet either of those

23 minimum lot requirements. So therefore staff does

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1 believe there is exceptional narrowness, shallowness, or

2 shape of subject property for the topographic

3 conditions, staff cannot find any for this property.

4 Staff perceives that the granting of this

5 application may be a necessity for the preservation of

6 the property right as all the other lots in district 26

7 are allowed to have those 3-foot and 10-foot setbacks,

8 and we do not see this granting this application

9 impairing those factors. We had no documentation in

10 favor or opposition. And there's the HOA letter.

11 So once again, the applicant is requesting a

12 variance from the local provisions of planning district

13 26 so that pertains to the minimum building separation,

14 and staff is recommending that ZVA24-42 be approved with

15 the conditions below unless there's information to the

16 contrary revealed at the public hearing. And I can

17 answer any questions.

18 MR. BUFORD: Madam Chairwoman, if you would

19 please announce Mr. Ward's recused himself from this

20 particular case.

21 MS. HOPE: Mr. Ward has recused himself from

22 this particular case. He's over there. He's stepped

23 down. Thank you.

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1 So this was one lot, and it's going to
 2 become two now? No?
 3 STAFF SPEAKER 2: Yes, ma'am. So these were
 4 originally lots of record. It was lots 2 and 3, and
 5 those are lots of record. And they are going to put
 6 them back into the lots of record, which is allowed. So
 7 it will be two lots eventually.
 8 MR. STEJSKAL: They were two lots of record?
 9 STAFF SPEAKER 2: Yes.
 10 MR. STEJSKAL: They weren't one lot?
 11 STAFF SPEAKER 2: They were never one lot.
 12 MR. STEJSKAL: Okay. That -- just foggy
 13 brain. Thank you.
 14 MS. HOPE: Any other questions for staff?
 15 Okay. Then we'll open up the forum for the
 16 public. I have Mr. Corey Swindle signed up to talk.
 17 MR. SWINDLE: So I'm the landowner, and I'll
 18 be building the home there. We agree entirely with Ms.
 19 Callie for approving this. It's the -- I spoke with
 20 both my neighbors, and they have no qualms with this.
 21 The one who owns the peach house in the drawing, he --
 22 actually the house itself is not really inside of that 3
 23 foot. It's kind of some little deck that's he's built

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1 off of it up there. And you see that little -- and it's
 2 really -- it's not any structure of any sort. It more
 3 or less a harness. I feel like I'm in line with the 10,
 4 3 setback so.
 5 MS. HOPE: Does anybody have any questions
 6 for Mr. Swindle? Okay. Thank you, Mr. Swindle.
 7 MR. SWINDLE: Thank you.
 8 MS. HOPE: Does anybody else want to have
 9 any discussion on this particular case?
 10 Then we're going to close the open forum.
 11 Can I get a motion?
 12 MR. BRAGG: I'll make a motion that the
 13 variance be approved.
 14 MR. STEJSKAL: Second.
 15 MS. HOPE: Roll call, please. Do we need
 16 the conditions added to it?
 17 MR. BRAGG: I make a motion that the
 18 variance be approved in accordance with the staff
 19 recommendation.
 20 MR. STEJSKAL: I'll second that.
 21 SECRETARY: Okay. Ms. Hope?
 22 MS. HOPE: Yes.
 23 SECRETARY: Mr. Bragg?

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1 MR. BRAGG: Yes.
 2 SECRETARY: Ms. Coggin? Ms. Coggin?
 3 MS. COGGIN: Yes.
 4 SECRETARY: Ms. Frost?
 5 MS. FROST: Yes.
 6 SECRETARY: Mr. Stejskal?
 7 MR. STEJSKAL: Yes.
 8 SECRETARY: And Ms. Barnes?
 9 MS. BARNES: Yes.
 10 SECRETARY: The motion passed to approve
 11 ZV24-42.
 12 MS. HOPE: Okay. We're going to our next
 13 case, case ZVA24-47, Brahana property.
 14 STAFF SPEAKER 1: This property is located in
 15 planning district 16, in zone RSF 2. The subject
 16 property is located on the south side of North Winding
 17 Brook Drive. The physical address is 6588 North Winding
 18 Brook Drive, and the applicant and the owner is Daniel
 19 and Bridgette Brahana.
 20 The applicant is requesting a variance from
 21 section 13.1.2(b), rural and residential district
 22 requirements of the Baldwin County Zoning Ordinance as
 23 it pertains to an accessory structure requirement in

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1 order to allow for a garage to be located in the
 2 required front yard. Staff recommends ZVA24-46[sic] to
 3 be approved unless information to the contrary is
 4 revealed at the public hearing.
 5 Here is the locator map of the subject
 6 property and the site map. The property to the north is
 7 zoned residential single family 2 and is being occupied
 8 with a residence, and the other lot is vacant. And then
 9 to the south is zoned residential single family with a
 10 residence. And then to the east is residential single
 11 family vacant. And to the west is residential single
 12 family and vacant.
 13 Here is the subject property, the adjoining
 14 property to the north, the adjoining property to the
 15 south, the adjoining property to the east, and to the
 16 west. Here's the site plan showing the house and the
 17 detached garage. Here's the enlarged site plan showing
 18 the proposed detached garage meeting the setbacks. It's
 19 just in the required front. Here's the zoning
 20 requirements.
 21 Zoning in planning district 16 came to
 22 effect on March 4, 1993. The subject property is an
 23 irregular-shaped lot. The minimum lot size for RSF 2

1 allow a future development which is current disallowed
2 by the zoning of this property. And so as a result
3 staff recommends denial of this case.

4 And so, board members, before we begin, I'm
5 going to go through a small graphic here. This was not
6 in your staff report because we need to represent it
7 with animations. But 10.4 of the zoning ordinance
8 describes this 30-foot wide non-disturbed buffer.

9 So if we assume a typical lot that contains
10 jurisdictional wetlands as governed by the Corps of
11 Engineers and then let's also assume that an applicant
12 has applied for and received their permit for Corps of
13 Engineers and also further assume the property's located
14 within the zoned area of the county.

15 So if we have just a typical rectangle lot
16 in a typical road frontage right of way, and then the
17 area in the northwest corner, that is our GIS. That is
18 their symbology they use for wetlands. Forgive the
19 non-clarity. Now, the zoning ordinance requires a
20 non-disturbed buffer around that wetland area. So you
21 see the jurisdictional wetlands, and then you have the
22 wetland buffer, that will be 30 feet wide.

23 And so if a jurisdictional wetland or stream

1 So we have a -- this is a wetland
2 delineation, and so what we'll call your attention to
3 is, of course, the border of the property and then the
4 jurisdictional wetlands themselves. You see the graphic
5 here.

6 Let me pause and thank Crystal for her hard
7 work in preparing this. These graphics are very, very
8 time consuming to prepare so thank her very much for
9 doing that.

10 So -- some of the statistics from the
11 property. What I'd call out to you is that if you look
12 at both areas primary upland areas and small area of
13 upland areas plus or minus 10, possibly as many as 11
14 areas of upland exist right now. Now, this is
15 overlaying the requested wetland fill.

16 Now, a supporting document in that Corps of
17 Engineers permit shows a future subdivision that is
18 currently disallowed by the zoning of this property.
19 And so current -- the current zoning of the property is
20 conservation resource district CR which has a minimum
21 lot size of five acres.

22 Though we don't have data, I think it's a
23 safe assumption that the lot sizes shown on this

1 will be filled or altered, the applicant will submit the
2 copy of their Corps of Engineers permit. And unless
3 exempted in another part of the zoning ordinance, they
4 will also apply for a stream or wetland setback variance
5 that comes before this board for consideration.

6 And so that's where we find ourselves today
7 is before those wetland filling operations may commence,
8 then a variance must be obtained from this board in
9 order to cross the line which would disturb that
10 non-disturbed buffer.

11 And so going back to our case, you see your
12 zoning map on the left and the aerial map on the right.
13 What I call out to you here is you see the subject
14 property. The areas in the purple color are within the
15 City of Fairhope. All other areas are zoned by the
16 county and have the appropriate color coding.

17 Here is a zoomed in area showing the zoning
18 and also showing both the zoning and the City of
19 Fairhope, and then we have a zoom in of the aerial map.
20 We can go back to any of these to answer questions. We
21 also have some photos of the surrounding properties, and
22 the pin of each property so they can be found in the map
23 viewer.

1 preliminary subdivision plat are much smaller than five
2 acres.

3 Now, let me be very clear. We, the county,
4 do not have a application for a subdivision on this
5 property. We have the original wetland fill permit
6 dating back to 2002 from the Corps of Engineers. We'll
7 just simply make some clarification here that this
8 permit has been updated and extended and altered over
9 the years and the amount of fill has decreased slightly
10 authorized by the permit. It originally was 10.4 acres.
11 Now it's 9.6.

12 There's also a slight conflict in the amount
13 of mitigation credits that have to be purchased in the
14 Corps of Engineers requirements versus the ADEM
15 requirements. We just simply include that as background
16 information at this time.

17 Here, we are showing where the Corps of
18 Engineers permit has been updated. And then on the
19 right, we just add the additional commentary that we
20 mentioned earlier, that the subdivision above has not
21 been approved by the planning commission and also a
22 zoning changed required to allow that subdivision to be
23 submitted has not been approved by the county

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1 commission.

2 This is a clarification email from Corps of

3 Engineers staff. I have a summary toward the end that I

4 think will bring everything together. This lengthy

5 narrative was for your staff report purposes. Again, we

6 have a summary toward the end of our slides. Here are

7 some additional correspondence between ADEM to

8 summarize.

9 It appears if a project goes forward, there

10 would be additional mitigation credits that would have

11 to be purchased to satisfy ADEM's requirements because

12 this is a water quality certification area governed by

13 ADEM. And again, memorializing that as background

14 information.

15 This is some correspondence from the

16 wetlands mitigation bank. And again we would clarify

17 that a project would require actually 33 credits to be

18 purchased to satisfy ADEM. We have verification that

19 there is not a neighborhood association or a property

20 owner's association on the property. This is some

21 additional information that was in your staff report.

22 What I would like to do is summarize a

23 couple things. So first of all, the area did come under

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1 the zoning authority of the county. That occurred --

2 the referendum for that zoning occurred on February 15th

3 of 2022. And had we received a subdivision application

4 or a similar application before that date and before

5 7 p.m., it could have been processed as if it was an

6 unzoned piece of property. We did not receive any kind

7 of complete application by that date and time.

8 Also, we're -- that there was -- we're aware

9 that there was some prior attempts to develop the

10 property circa 2008, that there was a land disturbance

11 permit of that era that was applied but has long since

12 expired in -- over the course of 16 years.

13 So in summary, the bulletpoint at the bottom

14 is that from our investigation is there is not a

15 nonconforming or grandfather situation on here that

16 predated zoning. So the CR conservation resource

17 applies to the property.

18 This is summarizing the zoning requirements

19 of CR zoning. What I call to your attention here is

20 that the minimum lot size should a subdivision occur be

21 five acres. This is clarifying section 10.4 of the

22 zoning ordinance so that you have the full text in your

23 staff report.

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1 As you've seen in the prior cases, we have

2 five criteria. The first criteria is we just simply

3 summarize here is that we have a variance that the

4 supporting documents contemplates a development that has

5 not been applied for, has not been approved, and doesn't

6 have proper zoning. So it's difficult for us to

7 evaluate the application because there is a property

8 zoned CR that has uplands that can be developed without

9 a variance. So we do not perceive there to be a

10 hardship on criteria one.

11 In terms of exceptional topographical

12 conditions, again, you have over possibly more than ten

13 acres of uplands that could developed without a

14 variance. So we do not establish that as an exceptional

15 topographical hardship since CR zoning could be

16 implemented and land use for CR zoning could be used on

17 this property right now.

18 The preservation of the property right is

19 once again that it could be developed with CR zoning

20 with the uplands, and you have supporting documentation

21 for a 45-lot subdivision not permitted by the current

22 zoning. Item four, we put our standard disclaimer that

23 some of the items here cannot really be quantified at

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1 this point.

2 So item five, other matters that might be

3 appropriate. Here we'll summarize the following: So

4 the development reflected in the Corps of Engineers

5 permit is disallowed by CR conservation resource zoning;

6 the variance is not supported by the development

7 contemplated in the Corps of Engineers permit; the

8 requested variance, therefore, is not alined with the

9 permit.

10 So there are options going forward. One,

11 the Corps of Engineers permit could be amended and

12 request a variance to allow buffer disturbance for

13 wetland fill to create a land use that is allowed in CR

14 zoning. There may very well be a need to develop the

15 property as is with CR zoning that might justify -- that

16 might justify a hardship for which a variance could be

17 contemplated, but that's not what we have before us.

18 The other option would be request rezoning

19 of the subject properties. If that rezoning is

20 successful, request a subdivision preliminary plat of

21 the subject properties which would include any

22 appropriate Corps of Engineers permits that contemplate

23 any type of wetland fill, also include any appropriate

1 ADEM permits since this falls in their area of
2 jurisdiction. And then once those processes have gone
3 through and a preliminary subdivision plat is approved
4 by the planning commission, obtain a subdivision permit
5 which is what allows the improvements to be installed.

6 We as a practice, if an applicant has a
7 subdivision permit and a preliminary plat approved, that
8 does not require that they come back for an additional
9 zoned land disturbance permit. There's an entire
10 development process for that if they're going through
11 the subdivision process and have all the necessary
12 documents.

13 We'll note here that staff is in receipt of
14 more than 20 pieces of correspondence in opposition to
15 this variance. All of that was placed in the public
16 folders where it can be viewed on the county website.
17 It's too numerous to try to place into slides and show
18 here today. So the staff's recommendation is denial.

19 We would also memorialize in our denial
20 recommendation that the applicant may still apply for a
21 rezoning and a subdivision of subject property is
22 contemplated by a future Corps of Engineers permit. If
23 the subdivision permit is successfully obtained, a zoned

1 MR. BUFORD: Correct. So I put that slide
2 back on screen and I went through that very quickly,
3 board members, I apologize. The area in white on your
4 screen up here is upland that could be developed right
5 now.

6 MS. FROST: Just up here. Yeah. Okay.
7 Thank you.

8 MS. HOPE: Well, if there aren't any more
9 questions for staff, we're going to go ahead and open
10 the meeting to public.

11 My first speaker Jason Wats -- Watson?
12 Watson? I'm sorry. You're name?

13 MR. STEEL: Eric Steel. You have a letter
14 from me also.

15 MR. BUFORD: Chairwoman, Mr. Steel has --
16 Mr. Steel has a document here he'd like to present to
17 the board, and I may have to pause and zoom in or zoom
18 out for him and we'll work that out as we go. Mr. Steel
19 has the wireless -- wireless remote so he can advance
20 the slides. The upper button advances.

21 MR. STEEL: Interesting. Well, I'd like to
22 say thank you. I used to be staff for the City of
23 Alabaster for seven years. So I was staff to the board

1 land permit would not be required which would not
2 trigger the requirement to come back before this board
3 for a variance to cross a wetland buffer. And so with
4 that board members, I am happy to answer questions.

5 MS. HOPE: Any questions for staff? No
6 questions?

7 MR. WARD: Are they wanting to fill the
8 whole 9.6 acres or just cross it? Are they wanting a
9 wetland filling?

10 MR. BUFORD: So, Mr. Ward, this is the
11 document we were furnished. That is the requested
12 wetland fill area.

13 MR. WARD: So they're wanting to fill the
14 whole 9.6 acres.

15 MR. BUFORD: Yes, sir. They're wishing --
16 the desire is to fill 9.6 acres.

17 MR. WARD: Okay.

18 MS. HOPE: Any other questions for staff?

19 MS. FROST: Buford, you said that they can
20 develop part of the property now without a variance,
21 correct?

22 MR. BUFORD: Yes, ma'am so I've --

23 MS. FROST: Under the current zoning.

1 of zoning adjustments and used to be a county manager
2 and all that good stuff before I decided to join the
3 other team.

4 I think it's interesting that no one has
5 pointed out -- I mean, it was announced in passing to
6 you -- but Mr. Breland, he made this permit to the Corps
7 of Engineers in 2002. That's the reason that the lot
8 layout that you see doesn't conform with your zoning
9 because you didn't have any in '02. So -- let's see if
10 I can flip through this. Okay. That's the wrong one.

11 MR. BUFORD: Mr. Steel -- there you go.
12 There you go.

13 MR. STEEL: There we go. And you guys -- I
14 guess y'all are going to have to look over there.

15 Uh, oh. I've messed it up.

16 MR. BUFORD: Top button.

17 MR. STEEL: If you look at the screen I'm
18 on, you see what I did?

19 MR. BUFORD: Okay.

20 MR. STEEL: Sorry.

21 MR. BUFORD: Let me do this. I'm going to
22 relaunch. All right. There you go. All right. So top
23 button to advance. Bottom to go back.

1 MR. STEEL: So would everybody in the
2 audience agree that is not the top button? That would
3 be the middle button.

4 MR. BUFORD: The large button.

5 MR. STEEL: The large button. So -- so
6 anyway, Mr. Breland ends up in a lawsuit with the City
7 of Fairhope for guess how long. Let's just see if we
8 can find it. Okay. So this map here shows you the
9 floodway, right, and you see the yellow outline there is
10 approximately Mr. Breland's property.

11 So here's the land disturbance application
12 that we made that was denied because we were in this
13 lawsuit with Fairhope until the state law changed and
14 did away with the extra territory of planning
15 jurisdiction. So in the meantime, you guys institute a
16 CR district, and, you know, it's illegal under -- where
17 it wasn't before, it's now -- we would be violating your
18 ordinance if we went in there and disturbed this 30-foot
19 buffer.

20 I would point out this is the Corps of
21 Engineers permit along with ADEM. And again you see
22 here the wetlands that were -- that were -- that we
23 would like to disturb. And here again this is "The High

1 of the road. All of this drains right across.

2 I would also point out to you -- we can't
3 see it real well right here -- but all of this property
4 and this is your county GIS data. This is your lidar --
5 14 feet, 13 feet, 13 feet, 14 feet. Councilman Jay
6 Robertson's house, which has been built since 2002, he's
7 at 11 feet. He's also in the flood way. So you have to
8 ask yourself, is there some favoritism going on here?
9 Certainly looks like it.

10 So off of Nelson Road here, you've got a
11 relief ditch that is cut, that's bringing water here.
12 So all this water has to make it from Nelson down to
13 here, Molokai, and all that water's coming this way.
14 Right here in particular is the -- is the choke point
15 for all your drainage problems.

16 So if you see the yellow mark, that's where
17 the person would be standing, and the arrow indicates
18 the direction that my camera is pointing when I took
19 this picture. So here's old 98 right here where the
20 property meets the road. We seem to have some drainage
21 problems guys. Do y'all think so?

22 Here's another one. So about where that
23 truck is in the picture to the right is where the city

1 Court Rules Against Fairhope in Development Suit," and I
2 don't know if we can zoom in on it, but you'll see that
3 the City of Fairhope spent \$800,000 stopping this
4 development. And then, of course, 841,273 to be exact
5 came over, and that's been since 2013. So you can
6 understand how when we say this is a bit of a surprise
7 to us that after having been issued two permits to
8 disturb this, that the county now has opposition to it.

9 I want to walk you through a couple of
10 photographs here, and I want -- I want to describe to
11 you what's going on here. This ten acres -- and maybe I
12 can just advance through some of this stuff to get to
13 the good ones. So this ten acres here, you have a
14 problem -- and I'm going to walk over here so I can show
15 you guys.

16 So this is the fish house, and this is
17 approximately the property that we're talking about
18 filling right here. For some -- and -- and also when
19 Mr. Breland bought this property, he gave the county
20 this right-of-way. This road was -- this road here was
21 built on a right-of-way, donated by Mr. Breland. The
22 road was installed by the county. And to add insult to
23 injury, they didn't put any drainage wells on the side

1 limits ends now, and the water is topping the road.
2 Now, of course, this is kind of strange because the Bay
3 is this way. Right? All the water wants to go to the
4 Bay, but it can't because the county put a road here and
5 created an impervious surface.

6 And then -- and I'll show you here in a
7 second. Oh, here we go. The same spot looking up the
8 ditch that's next to the Supper Club. Right? So it
9 would follow that the water is falling from
10 Mr. Breland's property down here to this point. Right?
11 But it's not. It can't. Well, why can't it? Well,
12 because the drainage structure there is completely
13 inadequate. Let's see if I can find this thing.

14 So this is just the other day, Friday,
15 August 17th, we had a rain event at 6:15 in the evening.
16 Okay? And this shows the intensity, and you can see
17 right there it was 0.88 inches. And it was a fairly
18 intense rain event. So standing right there at the
19 corner of the Supper Club again, this problem junction
20 where the water's coming down old 98, it's coming into
21 an open space.

22 There -- there's a pipe running to the west
23 that should go under the road and carry that water down

1 to the Bay, except that pipe's completely inadequate and
 2 clogged. The pipe to the south that's supposed to carry
 3 it to the part at the Supper Club is also -- and I'll
 4 show you so right here. You'll see the red arrow going
 5 that way, that's going under the road. The one heading
 6 towards the south there with the smaller red arrow is
 7 supposed to go under the road there. So now watch this.
 8 So now we're standing there looking the
 9 other way. Right? This hole is full of water, and it's
 10 trying to go somewhere. So where it's going? Well,
 11 it's not going this way because there's that dry ditch.
 12 So if you turn and look to the south and you'd expect
 13 all this water to be coming out of that pipe, that's how
 14 much water's coming out of the pipe. It's a joke. It's
 15 totally inadequate. And that's what's creating
 16 Mr. Breland's problem here.
 17 AUDIENCE MEMBER: I guess the three minute
 18 rule doesn't apply.
 19 MR. STEEL: It doesn't with the applicant.
 20 In addition, down on this south part of the
 21 property here, Mr. Breland's going to put in a boardwalk
 22 for the public along the creek. Are y'all -- I don't
 23 guess staff mentioned there's a creek on the property --

1 and that's where all this water is trying to get so that
 2 it can get to the Bay. But because of the county's
 3 inadequate drainage structures, none of that's
 4 happening. The only way for Mr. Breland to fix the
 5 problem that was created by the county is for him to go
 6 in there and fix this drainage problem.
 7 Now, here's another thing I want y'all -- so
 8 I live up off of 225. I live on Burns Lake, so I know
 9 what a quality wetland is. Okay? I walked out here,
 10 and I kept waiting to see the wetlands. So this is what
 11 you call Savannah Pine wetlands. It's a bunch of pine
 12 trees. It's maybe some ferns growing here and there.
 13 And I kept look for a cyprus knees or a big pond, some
 14 bulrushes or some cattails. That's not what this is.
 15 There's not a wood duck out there. There's not any
 16 standing water on the property except what's in these
 17 ditches.
 18 Now, I would point you to this ditch right
 19 here. Now, this is behind the Supper Club. So the
 20 water can come -- can make the corner and come down.
 21 Instead of it going down 98, they've cut this release
 22 ditch where it goes, it backfills, it goes behind this
 23 property onto Mr. Breland and it sheet drains across his

1 property trying to get to the south because of all of
 2 the county drainage structures are completely
 3 inadequate.
 4 These are pictures of the -- of some ditches
 5 that were cut on Mr. Breland's property, not by
 6 Mr. Breland, and you can see here the scour where this
 7 occurs. See how high -- pine trees don't grow this high
 8 off the ground. See it's a difference of this and that.
 9 That's how much scour has occurred because of the water
 10 running back, contra flowing up the ditches, inundating
 11 this property with water. And there's no way for him to
 12 do anything about this and fix the county's impoundment.
 13 You got to understand there's a watershed,
 14 and all this water's got to go somewhere. So where are
 15 we putting it? On Mr. Breland's property, and you're
 16 damaging his property. And all we're trying to do is
 17 fix the problem and move on with -- well, I don't know
 18 if you saw the name of the application, but this is the
 19 Villas. This is no longer going to be single lot
 20 subdivisions. But like staff said, we're not required
 21 -- we're not asking for a use variance or any of that
 22 kind of stuff. We're asking for a variance to cross the
 23 30-foot buffer to fill some low quality wetlands.

1 And there was something else that you stated
 2 that I wanted to speak to, and I can't think of what it
 3 is right now. Give me one second with my notes, please.
 4 So I guess I would just open it for any --
 5 if anybody has any questions for me.
 6 MR. WARD: So you think by filling the
 7 property, then that's going to prevent the water from
 8 coming onto your property. So then where's it going to
 9 go after that?
 10 MR. STEEL: That would be why we met with
 11 your county planner, your county environmental planner,
 12 and you're county engineer out there on the property to
 13 say, Hey guys, we thought -- we thought that we were on
 14 the same page, that we were going to fix your problem
 15 for you. But apparent not.
 16 MR. WARD: But how are you fixing the
 17 problem?
 18 MR. STEEL: I don't understand. By keeping
 19 their water on their property and off of ours.
 20 -MR. WARD: Okay. But you were saying you
 21 were going to fix the problem.
 22 MR. BRAGG: Goes to somebody else, right?
 23 -MR. WARD: That's -- yeah. Filling it's

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1 not going --

2 MR. STEEL: Let me -- let me explain it to

3 you. So I wish the county attorney was here because we

4 could get into a legal discussion about how water is

5 treated as a common enemy. And, you know, if

6 Mr. Breland were to go out there and put a weir dam up

7 and flood the Supper Club, I assure you they would be

8 suing him.

9 I mean, he could go out there and put berms

10 up assuming that he wouldn't get in trouble for crossing

11 the 30-foot buffer. And you got to remember, he had a

12 guy out there on a Bush Hog in 2004, and the City of

13 Fairhope came down and arrested that man. And this is

14 when he had all his permits in hand.

15 I understand that y'all don't care but this

16 is -- but to say that he's showing up today asking for

17 some variance about something that we're totally shocked

18 about, from the staff perspective must be because their

19 new staff members because they've been issuing new

20 permits to this man for years and years and years and,

21 Oh, if we'd only known between the time the police

22 jurisdiction changed and this new law came into effect,

23 we wouldn't be here at all. We would be allowed to do

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1 it because number one, the United States government is

2 in charge of wetlands in this country, not the Baldwin

3 County commission.

4 Anyway, thank you for your time, and if you

5 have any questions I'll be glad to answer.

6 MR. WARD: So you're saying if the county

7 will fix the drainage problem, then you won't -- that

8 will dry up your wetlands, and then you won't have a

9 wetland problem.

10 MR. STEEL: Well, potentially, but what I'm

11 saying is the hardship here has nothing to do with how

12 we're going to use the property. Okay? And, oh, and by

13 the way, here's what I wanted to tell you about this

14 30-foot buffer.

15 So we're going to fill this 10 acres right

16 here, and the entirety of the other portion of the 52

17 acres is all under a conservation easement. It'll never

18 be -- it'll be protected 'til the end of time. So what

19 else -- what else would you like for the man to trade

20 off here? I mean -- and to speak to the fact that we

21 don't have enough mitigation credits -- believe me, if

22 we didn't have enough mitigation credits, we would have

23 never gotten that permit from the Corps of Engineers or

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1 ADEM, and they've renewed it twice.

2 If you turn us down today, this permit has

3 been in place since 2002, and it will be renewed again.

4 It runs out in December. We got -- we got to cut bait.

5 It's time. And, you know, the fact that the county has

6 thrown some new development hurdle on us, I think it's

7 -- I think -- I think we've more than shown that we

8 don't have a self-imposed hardship of any kind. We

9 didn't -- we didn't impose this on ourselves. The

10 county did it. The city did it over years and years of

11 impounding this property with water. And anyway, we've

12 got our engineer here if y'all want to talk to him.

13 That's who you called on to begin with,

14 Ms. Hope.

15 MS. HOPE: Anybody else have any questions

16 for him?

17 MS. BARNES: I guess what I would like to

18 understand is that once you fill this in, if this was

19 created by runoff, how do you intend to stop it from

20 happening again?

21 MR. STEEL: Because we're going put adequate

22 drainage structures in place to make sure there's not an

23 impoundment of water. And we'll also, on the northern

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1 property line, we'll have to create some kind of

2 drainage structure there either on our property or in

3 conjunction with the country on the right-of-way.

4 MS. BARNES: Where will it drain?

5 MR. STEEL: It will go down to the corner,

6 and it will it -- will come to the same problem junction

7 spot. They're going to have improve the drainage on the

8 road.

9 And I don't know where you folks are from,

10 but if you're from Fairhope, you'll know we spend

11 \$3,000.00 a year on tulips and we don't have any water.

12 We -- I'll tell you this. On both of old 98 right

13 there, there should be a ditch as wide as these two

14 tables and four feet deep. When Fairhope had it under

15 their jurisdiction, anybody that came in and wanted to

16 cover that drainage easement with a million dollars

17 worth of landscaping, then that's exactly what happened.

18 So there is zero drainage on the side of 98 that should

19 be carrying the water, and on our side it's totally

20 inadequate. So over all these years by government

21 action, this problem has been exacerbated and

22 exacerbated and exacerbated.

23 MR. WARD: Well, is there any, you know, big

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1 ditches from Scenic 98 to the Bay in that area that they
 2 can channel it too?
 3 MR. STEEL: That's what I'm saying. They're
 4 going to have improve these existing ditches. And I
 5 guess they're going to have to dig up that ditch under
 6 the Supper Club parking lot.
 7 And I'll just say this. While we've been
 8 out there looking at this, on the other side of Jay's
 9 house -- I don't know, I guess on the other side of
 10 Molokai -- there's a big gravel parking lot, and there's
 11 an intake in the corner there for storm water. And they
 12 went all the way back to Gambino's and cleaned all that
 13 out. So before, where all of it was kind of trickling,
 14 now Fairhope's getting their water down there down, and
 15 there's nowhere for it to go. So it's topping the road
 16 on Molokai, it's going over here, it's flooding Supper
 17 Club, all these things that you saw.
 18 And quite frankly, when you only have two
 19 feet of elevation difference, you know, when that two
 20 feet gets up here, it just starts contra flowing all
 21 back on Mr. Breland's property. And it's caused all
 22 this scour that you see here with pine trees three feet
 23 off the ground inexplicably.

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1 MS. HOPE: Does anybody else have anything
 2 they would like to ask? Thank you.
 3 MR. STEEL: Thank you.
 4 MS. HOPE: Okay. Is there a Mr. Jason
 5 Watson that would like to come up to speak?
 6 MR. WOOTEN: Good afternoon. Jason Wooten.
 7 MS. HOPE: Sorry. I apologize.
 8 MR. WOOTEN: Probably my handwriting. I'm a
 9 civil engineer, practice in the county. I looked at
 10 this and made a visual observations based on
 11 Mr. Breland's complaints. There's some maintenance
 12 issues going on with the county drainage, and in my
 13 report to him, I stated that hydraulic -- H & H study,
 14 hydrology and hydraulic study would be required to find
 15 the magnitude of that impact.
 16 But in effect, there is water coming across
 17 Molokai. That culvert was found to be stopped up.
 18 Looks like it's coming across the road toward the Supper
 19 Club. And there's a large drainage passing under 98 at
 20 the Supper Club. I don't know if it's undersized. My
 21 gut instinct is it's probably undersized. It's also
 22 draining to a ditch back toward the Bay that is choked
 23 with weeds.

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1 So there are some drainage issues that need to be
 2 addressed based on my visual observation. And again it
 3 would take an H&H study to determine the impact or
 4 magnitude of impact. I'll answer any questions you
 5 have.
 6 MR. WARD: You say there's a few drainage
 7 ditches going to the Bay. Are they county easements, or
 8 are they on individual's property?
 9 MR. WOOTEN: I can't find an easement. Of
 10 course, we haven't employed a surveyor or an title
 11 company to see if there is an easement for that ditch,
 12 but that ditch does go toward the Bay. On the tax maps,
 13 I don't see an easement or any kind of common area or
 14 county property that defines that path. It just kind of
 15 runs into a backyard and dies out. That could be
 16 channelized, cleaned out, and improve the drainage for
 17 the entire area. And then the next major drainage way
 18 is the creek. That is south of there.
 19 MR. WARD: I know there's a lot of places
 20 where the county didn't take over the drainage, and it's
 21 public, you know, it's individual property. And they
 22 plugged a bunch of them.
 23 MR. WOOTEN: That is what it looks like,

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1 yes, sir. So with some county improvements or
 2 maintenance, the whole area could be improved in
 3 drainage. There does appear to be a backwater
 4 condition. What storm causes that, I can't tell what
 5 design storm or level storm causes that, I can't tell
 6 you, but there does appear to be a backwater condition.
 7 When it fills up around the Supper Club, it backs into
 8 Mr. Breland's property.
 9 MS. HOPE: Any other questions? Thank you,
 10 Mr. Wooten.
 11 MR. WOOTEN: Thank you.
 12 MS. HOPE: Mr. Steve Delamore, would you
 13 like to come up to speak?
 14 MR. DELAMORE: Thank you, Chairman Hope, for
 15 the opportunity to address the group this afternoon. I
 16 know there's others here that are a lot of more
 17 knowledgeable to this situation than I am, so I'm just
 18 going to keep it real brief.
 19 I will say that there were a tremendous
 20 amount of inaccuracies by the first gentleman, too many
 21 for me to really address one on one, and that's really
 22 not why I wanted to speak.
 23 We own a house on Nelson Drive, and we built

1 that house in 2018. And prior to getting the building
 2 permit, the City of Fairhope required a wetland
 3 delineation. And we had Gena Todia do that, and it was
 4 determined that our property had a very small percentage
 5 of it had wetlands. And that's when I learned a lot
 6 more about wetlands than I ever cared to know. What we
 7 learned about wetlands was that we could not interfere
 8 with that buffer zone. We had to rework some house
 9 plans, we had to gerrymander the house around that, and
 10 everything worked out great.

11 Upon completion of the home, when we were
 12 having our landscaper put landscaping in the backyard,
 13 the City of Fairhope shut us down. And they said, said
 14 not only can you not do anything to a wetland, which we
 15 knew, they said you could not do anything in the buffer
 16 zone of the wetland. We were just planting grass. And
 17 the City of Fairhope came out and said you cannot plant
 18 grass in that buffer zone.

19 So I cannot imagine disturbing, you know,
 20 that, you know, buffer zone to fill 10 acres of wetland.
 21 I think that once we do that as a community, once we do
 22 that, you know, as a jurisdiction, it's going to be
 23 Katie, bar the door, and everybody is going to be here

1 trying to fill wetlands, I'm afraid.

2 What I learned about wetlands is that they
 3 serve an invaluable purpose for absorbing water. That
 4 small percentage of our backyard that is wetlands, when
 5 we get that rain that Mr. Steel showed the other day,
 6 we'll have water in our backyard, and in 72 hours it's
 7 pretty much gone.

8 Wetlands are, you know, designed -- not
 9 designed -- but wetlands exist for a reason. And I'm
 10 just here in opposition to the program, and here to say
 11 let's let these wetlands do what they do, and let's not
 12 disturb that buffer zone. Because once we do that, you
 13 know, we're going -- you're going to be faced with how
 14 many other countless people wanting to do the same. You
 15 do one, you're going to have to do a dozen. You do a
 16 dozen, it's going to have to be two or three dozen. So,
 17 thank you for my time, Chairman Hope.

18 MS. HOPE: Is there a Mr. Lonnie Wilson,
 19 Dr. Lonnie Wilson here wanting to speak?

20 DR. WILSON: I'm not a speaker so please
 21 forgive me if you don't understand some of the things I
 22 say. I am a surgeon. I spent 30 years doing heart
 23 surgery in Mobile. I have a house on the Bay, and it's

1 across the street from the Supper Club.
 2 Water's a problem. I don't understand
 3 water. I won't speak about water. But I've seen it on
 4 a lot next to me in heavy rains. And I think I would
 5 support the last gentleman by saying, you know, when we
 6 mess with wetlands, they're there for a purpose. So I
 7 think we need to do our designing around what we do with
 8 the water when it comes floods frequently like it does
 9 in Mobile and Fairhope. So I think to disturb them from
 10 what they were designed to be is a mistake.

11 And I certainly wouldn't speak for some of
 12 our home owners across the street from the wetlands,
 13 that we really don't know what it's going to do if we do
 14 more damage than what we've already done to it. So
 15 thank you for letting me speak.

16 MS. HOPE: Thank you, Dr. Wilson.
 17 Ms. Elizabeth Earl? You do not? Okay.

18 Mr. David Dyson.

19 MR. DYSON: Good afternoon. Appreciate the
 20 opportunity to speak. My family owns property adjacent
 21 to the subject property, and I grew up on that property
 22 so I'm well familiar with the area, have seen it wet and
 23 dry in the area. But I know with the increased amount

1 of development in that watershed, it has become wetter;
 2 so I think filling additional wetlands is going to make
 3 the problem worse. And I think pushing the water off on
 4 the rest of the neighbors is not the correct approach to
 5 the issue.

6 I think there's a lot of people in this room
 7 more equipped to speak to the matter than I am, but I
 8 would encourage you to go with county staff's opinion on
 9 this one. Thank you.

10 MR. STEJSKAL: David, doesn't Moccasin Creek
 11 come across your property?

12 MR. DYSON: It does. I wasn't 100 percent
 13 sure of the applicant's discussion of it. I kind of got
 14 confused there. But I think he showed pictures of
 15 Moccasin Creek. They're next to the Max's Cafe.

16 MR. STEJSKAL: And Sweetwater Branch is a
 17 little further down.

18 MR. DYSON: Sweetwater Branch is to the
 19 south yes, sir.

20 MS. HOPE: Darien Pennington.

21 MR. PENNINGTON: Good afternoon, board. I
 22 spent ten years in the air force and civil engineer. We
 23 own, my wife and I, the property next to Fish River

1 Grill. Now, there are large, very deep drainage ditches
 2 right there. They do fill up, but that property does
 3 not flood right there. I know it floods up at the
 4 Supper Club, and maybe they can do what they've done
 5 down there at Fish River Grill and on past Fish River
 6 Grill.

7 On our property, there's a nice drain there
 8 that gets the water out of there. That water's out of
 9 there, within 24 hours it can be gone. I've never seen
 10 Fish River Grill itself flood from a drain problem; so
 11 there may be a drain problem right up there. But it
 12 didn't start yesterday. It's been this way for a long
 13 time, and I'm pretty sure it was that way when
 14 Mr. Breland purchased that property. And when he agreed
 15 to give an ordinance for a road to be put in, he did it
 16 probably so he could eventually build because he knew
 17 water was running on that property.

18 Everybody there knows water runs on that
 19 property. And if we really wanted to fix it, and he
 20 really wanted to fix it, then he could go in there and
 21 fix it. But the real reason he wants to fix it is
 22 because he wants to build a housing community right
 23 there.

1 Now, what do we do with the water? It's a
 2 problem, and it's going to get to be a bigger problem.
 3 You know, it was a problem up there when -- when the --
 4 I can't think of the restaurant that paved the back,
 5 flooded all of their neighbors out, and they had to go
 6 in there and tear the asphalt out -- Wintzell's, you
 7 think that ain't gonna happen again. Each one of y'all
 8 know and everybody in this building knows it's going to
 9 do it again.

10 If we were really concerned about our
 11 property, then we would go in there and we would fix
 12 that drainage problem and then we would see if we could
 13 put homes there. But that's not what's going on. We're
 14 -- they're building a home development and then just
 15 hoping and that by every good measure that Mr. Breland
 16 supposedly gave to everybody, that they're going to show
 17 him some favor now. So he can get richer. And that's
 18 what it's really about. It's not about tax dollars to
 19 me and you or anybody else. It's so the Breland family
 20 can get richer than they already are because if it was
 21 really about conserving the property and the community
 22 and the neighbors around there, it would have already
 23 been done. Thank you.

1 MS. HOPE: Mr. Fred Killion.
 2 FRED KILLION: Excuse me. I'm Fred Killion,
 3 and I live 19313 Scenic Highway 98. That's immediately
 4 across from Highway 98 where Mr. Breland is trying to
 5 build his subdivision.

6 Let me start with saying that I'm 98 years
 7 old. I have been fortunate to come and be on Mobile Bay
 8 in the summertime and enjoy Mobile Bay. I moved my
 9 house permanently there probably in 1992. When I grew
 10 up and enjoyed the Bay, it was clear, it was nice
 11 fishing was good, you had grass beds. And over my
 12 lifetime, I've seen the degradation of Mobile Bay go
 13 down.

14 I now have got a nice house on the Bay with
 15 a wharf. My great grandchildren don't want to go
 16 swimming because of the problems of Mobile Bay, the
 17 pollution. And to me, something has just got to be done
 18 to make sure that we don't allow any additional
 19 pollution in Mobile Bay. One of the ways to avoid that
 20 is the wetlands.

21 I had come prepared to make a presentation.
 22 I'm kind of changing it. I am representing myself and
 23 I'm representing the Battle's Wharf Point Clear

1 Association, and that was an association that got
 2 together in that neighborhood to join with Fairhope in
 3 defeating Mr. Breland and his lawsuit against Fairhope.
 4 And we tried that case for four days. That's where he
 5 wanted to fill 14 -- 10.4 acres of land, and he wanted
 6 to fill it for development of a subdivision.

7 I think a little history of that might help.
 8 He bought the property in 1999, and he bought
 9 approximately 60 some odd acres. Most of it was
 10 wetlands and he knew it was wetlands and he was told
 11 that he couldn't build on those -- on that land unless
 12 he got the approval of the appropriate authorities. So
 13 he paid a good price to get 64 acres but making sure
 14 that most of it was -- some of it was uplands.

15 He's got about 11 acres of uplands that he
 16 can develop without any fill of any wetlands. Okay?
 17 But he petitioned the Corps back in '01, 2001, to allow
 18 him to fill 14 some odd acres of the wetlands for the
 19 development of a 35- or 36-lot subdivision. When the
 20 Corps --

21 (Timer goes off.)
 22 Is my time up? Can I go on a little bit?
 23 At any -- well, the Corps sent Mr. Breland -- the Corps

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1 asked for objections from anybody. One of the
 2 objections that came in -- came from the county, Baldwin
 3 County, and it said wait a minute. What you're
 4 proposing violates the county subdivision regulations.
 5 You can't fill wetlands to create a buildable lot.
 6 So here it is before ever starts, the Corps
 7 says to Mr. Breland, What's your response to that? I
 8 have his response. His response was that I acknowledge
 9 that the authorities --
 10 (Timer goes off.)
 11 -- have the -- you have to go to the
 12 authorities to get permission, and unless you get their
 13 permission you can't build it. And he said if you can't
 14 get their permission I can't build it.
 15 I got to finish. Let me say this about the
 16 flooding. He tried to fill twice.
 17 MS. BARNES: Madam Chairman, can I request
 18 more minutes?
 19 FRED KILLION: Excuse me?
 20 MS. HOPE: I'm sorry.
 21 MS. BARNES: Could I request more minutes
 22 for him?
 23 MR. BUFORD: Madam chairwoman, that is

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1 strictly up to you.
 2 FRED KILLION: I'll be short.
 3 MS. HOPE: If you'll be short and please
 4 wrap it up.
 5 FRED KILLION: He --
 6 MS. HOPE: We've got one more person.
 7 FRED KILLION: He tried to fill in 2008 in
 8 the stop because he hasn't tried with the regulations.
 9 He then tried to fill again in 2011. And I've got for
 10 you two letters that he received from Baldwin County
 11 about why he was stopped working. He hadn't complied
 12 with anything. And in 2011, when he was stopped, he
 13 then decided maybe I should see what needs to be done.
 14 I have a letter that Rowe Engineering gave
 15 Mr. Breland -- since we're in the flooding -- and it
 16 said, "Before you can proceed, you need to have a better
 17 plan to present to the County about how the water
 18 situation is going to be because what you have presented
 19 is based on a 25-year rain, and it's now required that
 20 you make arrangements on a 100-year rain."
 21 Did he listen to that? Didn't listen. He
 22 filed a lawsuit against Baldwin County -- against
 23 Fairhope which we had to defend. So I've got for you,

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1 if you will, there are two letters that are important in
 2 2008 and 2011 about recently stopped the fill.
 3 And if you're talking about flooding, what
 4 happens if you fill 10 and a half or 9.6 acres of
 5 wetlands. Isn't that going to create some problem? I
 6 mean -- I listened to what the gentleman on drainage,
 7 but he -- Breland has not pretend -- and don't think
 8 Breland is going to do any favors for anybody because
 9 he's after just himself -- in getting what he can on the
 10 development of those lots.
 11 We oppose it. We don't want any sediment,
 12 any further improprieties going into the Bay. It all
 13 goes through either Sweetwater Branch or Rattlesnake
 14 Creek, I think it's called, but the mainly Sweetwater
 15 Branch. And you're experts have said to you -- told
 16 you, that this needs to be preserved.
 17 I have for you, the Audubon society when all
 18 this came up made a study of this for Fairhope and said
 19 that this is one of the main preservatives for the
 20 Mobile Bay to purify water before it gets into Mobile
 21 Bay. The sediment will settle while in the wetlands,
 22 and the vegetation in there will remove the impact
 23 proprieties.

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1 I've got now 63 signatures of individuals
 2 also that I presented to you that oppose it. My group
 3 of 120 on our association opposes it and our --
 4 MR. BUFORD: Madam Chairwoman, we need to
 5 move on.
 6 MS. HOPE: Thank you, Mr. Killion.
 7 Mr. Frances Paul Ripp.
 8 SECRETARY: Chairman, I did want to note
 9 that we have signatures for 55.
 10 MS. HOPE: I'm sorry. We couldn't hear you.
 11 SECRETARY: He gave me a petition for
 12 signatures for 55; so we do have that on record, as
 13 well.
 14 MR. RIPP: Hey. Good afternoon. My name is
 15 Frances Ripp. I'm with the Ripp Report. It's a not for
 16 profit consumer association. No one's paying me. I am
 17 not a lawyer, thank God. And what I'm going to tell you
 18 is what I witnessed in Fairhope.
 19 I was very, very active, still am, in
 20 Fairhope publics at the time around 2010 is when it
 21 really began to start. And there were -- our concern,
 22 my concern, was the amount of money that they were
 23 spending on lawsuits, Fairhope.

1 They had the Triangle lawsuit. That ended
 2 up costing a total of \$11.25 million, \$8.25 they had to
 3 pay for the property and \$3 million they had to pay for
 4 lawyer fees which they financed through the utility
 5 board.
 6 Then you had the Publix lawsuit, same time.
 7 I was involved in two of those lawsuits when there were
 8 two other lawsuits. The two lawsuits I was involved in
 9 was trying to get them to correct a wrong. I wasn't
 10 suing them for damages or money or anything else. I was
 11 trying to get them to do what they were supposed to do.
 12 Then you ended up with the apartments behind
 13 Publix. They were never going to be sold. They were
 14 signature apartments. All the drainage was okay. And
 15 they built it on a creek. That's flooded twice.
 16 They've sold the apartments. They've had water
 17 problems, they've had sewer problems, transfer problems
 18 across the Creek at 98 all because of that.
 19 The Breland lawsuit that was going on at the
 20 same time. I did not know Mr. Breland at the time. I
 21 was just trying to address the lawsuit. That series of
 22 lawsuits was about 800,000. I was involved in several
 23 different consumer issues with the water at Molokai

1 make a decision on that property without having a field
 2 inspection and have somebody walk back there and look.
 3 I've been back there four or five times.
 4 MS. HOPE: Mr. Ripp, I'm sorry you're going
 5 to have to --
 6 MR. RIPP: Whoever cut those ditches on his
 7 private property should be liable, but the water problem
 8 is the county's fault and the City of Fairhope started
 9 every bit of this. Thank you.
 10 MS. HOPE: Thank you Mr. Ripp. Do we have
 11 anyone else? Crystal, we've got two that they need to
 12 check in.
 13 SECRETARY: Yeah. I have a Carson
 14 Nickelson.
 15 MS. HOPE: Ms. Nickelson. We'll just have
 16 Ms. Nickelson come up first to the podium.
 17 SECRETARY: Are you Carson? Okay.
 18 MS. NICKELSON: Somebody left glasses.
 19 My name is Carson Nickelson, and I am a
 20 lawyer and I promise to try and keep this brief.
 21 I don't think this is a referendum on what
 22 Fairhope has done and done incorrectly. The permit is
 23 to fill 9.6 acres of wetland. Whether the developer

1 intersecting Nelson. First it was the people in Molokai
 2 that had a problem. Then it was discovered that the
 3 problem on that corner has been there since 1989.
 4 I have stood in the center of the road at
 5 Molokai and had water come over the top of my shoe
 6 flowing down right into the property around some of
 7 these people's property that live there. I agree with
 8 two of them. One, it drains off real quick. How can it
 9 drain off that quick? It's draining off quick because
 10 your shoving water is all up in there. It doesn't have
 11 anywhere to go but back out.
 12 I agree with the other gentleman that said
 13 fix the drainage problem. Have the county fix all the
 14 drainage problem down there on that corner, and then
 15 he'll come back there and reapply. You won't have a
 16 drainage problem. There's no ditches.
 17 (Timer goes off.)
 18 In the last two weeks -- if I can get one
 19 minute -- in the last two weeks, they dug -- put in a
 20 culvert, dug out 186 feet of pipe, cleaned it out, and
 21 so now the water's not going to go over the road. Now
 22 the water's going to go through the pipe.
 23 On the property, I don't see how you can

1 believes that it's good wetland or bad wetland, it's
 2 wetland. I live there. I live a half a mile away from
 3 Nelson Road to the south. I live four driveways to the
 4 south from Sweetwater Branch. I've been in my home 30
 5 years. We are on the Bay. Yes, we have standing water
 6 every single hurricane and tropical storm. Mr. Steel
 7 did not state when his pictures were taken, but frankly
 8 it looked to me like it was Sally because the roads do
 9 not look like that on a regular rainstorm.
 10 The ditches on the east side of the road do
 11 fill up. They need to be cleaned out. However, the
 12 people where they say they have filled those ditches,
 13 there's a -- there's an actual pipe that runs underneath
 14 that fill where the water drains. It drains down to
 15 Sweetwater Branch. It drains down to, I think it's
 16 Moccasin Creek. I think there's an actual creek by the
 17 Supper Club as opposed to a drainage ditch. And then it
 18 continues on to drain.
 19 There are drainage areas going from the
 20 hotel all the way down, and they have been there my
 21 entire lifetime which is 63 years. As a child, Max's,
 22 which is the restaurant where the current Supper Club is
 23 located, flooded every single rainstorm. It began to be

1 a community joke. Everybody went down and helped
 2 Ms. Max sweep out of the water, and she got open the
 3 next week.
 4 Mr. Steel is incorrect, which is one thing I
 5 wanted to bring up. The City of Fairhope won the
 6 lawsuit at the county level, and the Alabama Supreme
 7 Court, I believe, affirmed that judgment. And I pulled
 8 that up while I was sitting here. Some of the other
 9 statements, I know were incorrect. We have one member
 10 of the audience who has seen wood ducks. Ma'am?
 11 OFF CAMERA SPEAKER: They're woodland ducks.
 12 MS. NICKELSON: They're woodland ducks in
 13 the area. Thank you.
 14 MS. HOPE: Thank you. And who's -- there's
 15 one other person who would like to speak I understand?
 16 SECRETARY: Toodles Dorgan.
 17 MS. HOPE: Ms. Dorgan you want to come up to
 18 speak? Dorgan?
 19 MS. DORGAN: I just wanted to say that I
 20 have lived on Nelson Drive since -- for 62 years.
 21 There's a brief period for eight years I was not there.
 22 But since I was a little girl, I lived there. My
 23 parents had a home there. I now live there again on the

1 corner of Nelson and Heard Road; so I know exactly where
 2 Mr. Breland's property is. And as a child growing up,
 3 we have watched and seen -- it was just part of that.
 4 There's a lot of houses built on that
 5 neighborhood in our -- on our street since then and also
 6 down on the bottom street, you know, down on Scenic 98.
 7 When we were small, there were -- there were no houses
 8 down there hardly at all. There was the Supper Club,
 9 which was Max's, and there was a Jehovah's Witness
 10 church which is where now where our bistro is. And
 11 that's all there was.
 12 So yes, there has been a lot of building
 13 going on and yes, there is water down there. But that's
 14 because the wetlands, the water that would come off of
 15 that to rush down toward -- actually Nelson is on a hill
 16 too if you don't know that. There is a hill that goes
 17 down -- but that water that comes off the wetlands
 18 rushes down toward 98, we've had all that building
 19 that's gone on there now. So that might be where your
 20 problem is. The water's coming from wetlands. That's
 21 where the water's coming from back there, you know,
 22 because that's -- and it does what it's supposed to do,
 23 to filter, to go down into the Bay.

1 You know, Sweetwater branch, that branch
 2 runs. If you have not ever been down there, you can see
 3 the flow of that water, running down there. In fact, I
 4 probably have a video on my phone of it because I go
 5 down there quite often and watch it.
 6 But I just want to say that we've seen the
 7 water and the wetlands on that property since we were
 8 little girls, my sister and I, so there's wetlands
 9 there.
 10 MS. HOPE: Thank you. Did we have anyone
 11 else?
 12 SECRETARY: Anthony Wilson?
 13 MS. HOPE: Anthony Wilson? Mr. Wilson, you
 14 want to come up to speak?
 15 MR. WILSON: Good evening. My name is
 16 Anthony Wilson. I'm born and raised. My folks was here
 17 when Fairhope didn't even exist. I normally don't speak
 18 this fast, but I can speak, and I'm going to try to rush
 19 as much as information I can out here as fast as I can.
 20 First, I'd like to commend you all because
 21 the way this county has grown, it's amazing that you can
 22 even much stay abreast of it. Okay. I've heard so much
 23 here this evening, you know, it kind of boggles the

1 mind; but not these folks. You know, we live here. We
 2 know what this is all about, some new, some not. Okay.
 3 It's a problem that's being thrown saying, Oh, the
 4 county, you know, they didn't do this and they didn't do
 5 that and this right here.
 6 Listen, the man come through and asked --
 7 and I'm just going to use a random, you know, just, I
 8 guess, you know, descriptions of people -- but anyway
 9 they came through and said, Listen, if y'all will give
 10 up just, you know, a foot or two or whatever of land
 11 this right here, heck, we'll pave the road this right
 12 here. Well, I told my sister who lives out here, my
 13 relatives, I say, we ain't got a dog in the fight. I
 14 mean, heck, if you're going to pave the road, pave it.
 15 You know, do it. So -- and that's what he did. Of
 16 course, he had you know, nefarious intent when he was
 17 doing that. Because once it went in, the road got
 18 paved -- okay -- it was, I'll buy the materials, the
 19 county do the work. That's what happened. He bought
 20 the materials. The county did the work. Hence, that's
 21 what the plan was. See that's all a part of the plan.
 22 We went to the city and we got, gosh, four,
 23 five plans. Every time it was something new every time.

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1 It was going to 150 houses. It was going to be one with
 2 a six-story building. He was going to dredge out
 3 Sweetwater Branch and sell waterfront homes on there.
 4 I mean, hey it ain't -- this is not nothing
 5 new, but this gentleman, they've -- they've put it on
 6 there -- when they finally went to the city, was joining
 7 other property owners on there. We went to a meeting
 8 some similar like this, and the City of Fairhope was
 9 there. And they told him, they said, Listen, you got to
 10 somebody in Bay Minette to give you sign a field permit.
 11 Who it is we're not going to investigate, but, you know,
 12 you got to -- when the man bought the property, they
 13 told him he should have never been able to develop it
 14 because it's a designated wetland. Okay? So he knew
 15 that.
 16 After much deliberation and this right here,
 17 the City told him, they said, We can't tell you that
 18 you'll never be able to develop it because you can get
 19 some funding from someplace else or wherever. But the
 20 thing is this. It was going to cost him back then
 21 somewhere in the neighborhood of \$2 or \$3 million to
 22 build a catch basin at the bottom of Twin Beach Hill to
 23 catch the run off because it would have to be filtrated

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1 hill and period -- now, that's just the paved road. All
 2 the people live on the property goes that way. And what
 3 you've heard most everybody here say it, it drains. It
 4 goes out, and it will. It does that.
 5 You think that's bad? Y'all talk about
 6 Molokai and Nelson Road. Why don't you go right down to
 7 the other end there where 98 -- Twin Beach 98 -- runs
 8 into Scenic 98 right down there in Battle's Wharf when
 9 it gets right, the water there crosses the road coming
 10 out of those swamps. It is a designated wetland. It's
 11 always going to be there.
 12 I was amazed that back in the early '80s the
 13 gentlemen built -- they built a place in there called
 14 Point Courts that's down on 98. They pushed up some
 15 dirt mounds and stuff and went in, and they were selling
 16 these homes and stuff. I think the cheapest one was
 17 \$60,000. That was for the lot. Now, of course, this is
 18 80's prices. You had to build this and that, all that.
 19 But all they did was built a retaining wall to try to
 20 keep the water from coming into the place and flooding.
 21 There is not anything easy -- it's no easy fix for what
 22 he is trying to do, and he knew that going into this.
 23 And now he's trying to through it off on y'all and

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1 as it went on out into the Bay or whatever. Okay.
 2 Another thing right quickly -- gosh, time
 3 goes fast -- but listen, another thing right quickly is
 4 this right here. I'm going to tell -- my folks, we got
 5 roads. They used to put the barrels -- water barrels on
 6 the back of the horse and wagon, they'd go down to
 7 Sweetwater Branch. They would get -- load up the
 8 barrels, and they would take them up back to the top of
 9 the hill where the homestead was.
 10 So I'm going to tell you -- we've been here
 11 forever. And a lot folks that live down there knows
 12 that folks live there, the road was dirt. All the way
 13 down the front the gentleman that lived -- that got the
 14 house on the end of Nelson and right there at Scenic 98,
 15 those people built there. That was a nursery. The man
 16 had flowers and big nursery planting stuff in there and
 17 all. It's always been water. It's always going through
 18 here. And it's a problem that they jumped into and
 19 trying to push it off to somebody else. Okay.
 20 And I'm going to tell you. The man can go
 21 in there, and he can fill it as high as y'all desks
 22 right there, right? Talking about filling his property.
 23 It ain't going to stop it. The water coming off of that

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1 whoever else.
 2 As far as me, I mean, hey, I'd rather not
 3 see it because we losing so much already in the county
 4 especially when it comes to the Bay. People moved in,
 5 and they had accesses that they were just building over
 6 and all. They came back and finally made some of them
 7 tear them down and move out, you know, to give a
 8 right-of-way and stuff; but anyway, I'll stop. I
 9 digress. And again, y'all have my sympathy, and that's
 10 it.
 11 MS. HOPE: Thank you. Do we have anybody
 12 else speaking today or -- I don't have anyone left.
 13 SECRETARY: I don't have anyone.
 14 MS. HOPE: Okay. Then we're going to close
 15 the open forum meeting. Mr. Killion? I'm sorry.
 16 MR. KILLION: Can we do a show of hands to
 17 those opposed to Mr. Breland's petition, ma'am?
 18 MS. HOPE: I don't see why not. Sure. All
 19 those people Mr. Breland? For all that are in favor?
 20 Okay. Thank you.
 21 Close the meeting.
 22 MR. BUFORD: Madam Chairwoman, may I address
 23 the board?

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1 MS. HOPE: Please do.
 2 MR. BUFORD: Madam Chairwoman, thank you for
 3 allowing me to speak to the board once again. I just
 4 want to take a moment to reiterate why we're here today
 5 and the authority of this board.
 6 And first of all, we certainly appreciate
 7 the great deal of background information that we
 8 received today, and we thank everyone for attending and
 9 providing that background information. I want to
 10 clarify that a great deal of what we heard today is
 11 related to development activities that we are not
 12 considering today. We are not -- this board one, does
 13 not have the authority to consider or approve a
 14 development of any kind, not a subdivision, not a site
 15 plan, none whatsoever.
 16 Also, I want to clarify the City of
 17 Fairhope, they are not longer enforcing their permit and
 18 planning jurisdictions which is why this property is
 19 under the full consideration of county staff and county
 20 requirements. So I want to clarify that because in
 21 prior years, prior to state -- prior to public law
 22 21297, the City of Fairhope had more authority that they
 23 now have chosen not enforce. So we are strictly within

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1 drainage calculations and a drainage narrative. If the
 2 number of lots or units was 50 or more, it would
 3 automatically trigger a traffic study.
 4 Now, that drainage -- that drainage
 5 narrative would contemplate onsite and offsite flows; so
 6 many of the issues that we heard today would be
 7 contemplated by that drainage study. That is the
 8 subdivision process, and it is realm of planning
 9 commission.
 10 If the planning commission approved the
 11 subdivision preliminary plat, the applicant would then
 12 apply for a construction plan review, and we would go
 13 through a very detailed review where our county and
 14 staff, licensed professional engineers, would review the
 15 application prepared by the applicant's licensed
 16 professional engineers. And if that process carried out
 17 successfully, we would issue a subdivision permit. Only
 18 after that permit was issued could any improvements be
 19 installed on the property.
 20 So what we have today is a slight deviation
 21 from the normal process. We have an application for --
 22 we know there would be a pending application for a land
 23 disturbance permit in a zoned area which would require

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1 the realm of the county.
 2 I think one -- what I want to reiterate
 3 also, and I mentioned this very briefly in the initial
 4 presentation, is the typical development path that we
 5 would see on the property like this and many others like
 6 is, first of all, it appears it's very apparent that
 7 there's a desire to put a lot size on the property that
 8 will require rezoning. So that rezoning process would
 9 go through, it would be applied for to staff. It would
 10 be presented to the planning commission. The planning
 11 commission would have a public hearing much like we have
 12 today. The planning commission would make a
 13 recommendation of approval or denial to the county
 14 commission. We as staff would also have our own
 15 recommendation. Then that application would go to
 16 county commission for final consideration.
 17 If a rezoning was approved, the next step
 18 would be to apply for a subdivision or a site plan.
 19 Based upon the background information we've heard today
 20 and have been furnished, it appears the desire is for a
 21 subdivision of some type on subject property. That
 22 would require applying for a -- what we call a
 23 preliminary plat. But it would also require submitting

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1 crossing the 30-foot landscape buffer -- excuse me,
 2 pardon me -- the 30-foot non-disturbed wetland buffer.
 3 That is how a zoned land disturbance permit works, if
 4 there is a need to do that.
 5 Our analysis of the request is that the
 6 supporting information for the wetland filling does not
 7 align with what would be a hardship which justifies a
 8 variance on a piece of property zoned conservation
 9 resource. That is why we as staff have recommended
 10 denial -- that's why we as staff have recommended denial
 11 of the variance, the zoning variance to cross into the
 12 wetland buffer.
 13 Board members, we do have -- if it comes --
 14 if there is a motion for approval, we do have some
 15 conditions of approval that we'd like to put in that if
 16 there is a condition of -- condition of approval. If
 17 there is a recommendation of denial, then we ask that
 18 items one and two up there be included to memorialize
 19 the facts that we have placed before there. And, board
 20 members, I'm happy to answer any questions you may have.
 21 MS. HOPE: Does anyone have any questions
 22 for Buford? Can I get a motion?
 23 MR. STEJSKAL: You asked for a motion? Oh,

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1 I move that we follow staff's recommendation to deny the
2 request and follow Buford's -- number two, I think you
3 said, Buford.

4 MR. BUFORD: Yes. Yes. You'll include
5 items one and two. We are simply memorializing that
6 information.

7 MR. BRAGG: I'll second that.

8 MS. HOPE: Roll call.

9 SECRETARY: Ms. Hope?

10 MS. HOPE: Yes.

11 SECRETARY: Mr. Bragg?

12 MR. BRAGG: Yes.

13 SECRETARY: Ms. Coggin?

14 MS. COGGIN: Yes.

15 SECRETARY: Ms. Frost?

16 MS. FROST: Yes.

17 SECRETARY: Mr. Stejskal?

18 MR. STEJSKAL: Yes.

19 SECRETARY: Mr. Ward?

20 MR. WARD: Yes.

21 SECRETARY: Ms. Barnes?

22 MS. BARNES: Yes.

23 SECRETARY: Motion passed to go with staff's

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1 recommendation of denial on ZVA24-48.

2 MS. HOPE: Do we have any other
3 announcements that we need to go over?

4 MR. BUFORD: I do not, Madam Chairwoman.
5 I'll ask fellow staff if we have any official
6 announcements.

7 MS. HOPE: Crystal?

8 SECRETARY: No. I don't have anything.

9 MS. HOPE: Well, meeting's adjourned. Thank
10 y'all.

11 (Meeting was adjourned.)

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AUDIO TRANSCRIPTION FOR BALDWIN COUNTY PLANNING AND
ZONING COMISSION

Board of Adjustment Meeting

The following audio filed was transcribed by Lydia Egan
on the 6th day of September, 2024.

1 MS. HOPE: All right. It's time. We're
2 going to call the meeting to order. May we have a roll
3 call, please?

4 SECRETARY: Mr. Bragg?

5 MR. BRAGG: Here.

6 SECRETARY: Mr. Stejskal?

7 MR. STEJSKAL: Here.

8 SECRETARY: Ms. Hope?

9 MS. HOPE: Here.

10 SECRETARY: Ms. Frost?

11 MS. FROST: Here.

12 SECRETARY: Ms. Barnes?

13 MS. BARNES: Here.

14 SECRETARY: Ms. Coggin?

15 MS. COGGIN: Here.

16 SECRETARY: Mr. Ward?

17 MR. WARD: Here.

18 SECRETARY: Chairman, you have the court.

19 MS. HOPE: Can I have the minutes to approve
20 the previous minutes?

21 MR. STEJSKAL: Motion to approve.

22 MR. WARD: Second.

23 MS. HOPE: Approved.

1 Can we take a vote, please?

2 SECRETARY: Ms. Hope?

3 MS. HOPE: Yes.

4 SECRETARY: Mr. Bragg?

5 MR. BRAGG: Yes.

6 SECRETARY: Ms. Coggin?

7 MS. COGGIN: Yes.

8 SECRETARY: Ms. Frost?

9 MS. FROST: Yes.

10 SECRETARY: Mr. Stejskal?

11 MR. STEJSKAL: Yes.

12 SECRETARY: Mr. Ward?

13 MR. WARD: Yes.

14 SECRETARY: Ms. Barnes?

15 MS. BARNES: Yes.

16 SECRETARY: Minutes are passed.

17 MS. HOPE: All right. Mr. Buford, would you
18 like the floor, please?

19 MR. BUFORD: Madam Chairwoman, thank you.
20 We have a large crowd here today, and knowing that many
21 of our citizens may be unfamiliar with Board of
22 Adjustment or with the County Board of Adjustment, we
23 wanted to take just a moment to have a meeting preamble

1 to review procedures and the authority of this board.

2 And so first of all, the zoning authority of
3 the county is on the map as you see in yellow. So this
4 board's authority only applies in the yellow areas that
5 have zoning, the areas that have adopted zoning.

6 And so first of all, please silence or turn
7 off your phones or other devices. Know that this board
8 follows Robert's Rules of Order for parliamentary
9 procedure. The chair, Ms. Hope, is our chair today.
10 Please when you have the -- when you speak during the
11 public hearing, direct all your comments toward the
12 chair.

13 If you wish to speak during one of the
14 public hearings, please register at the information
15 booth in the lobby. So if you do wish to speak and have
16 not registered, there is an information booth in the
17 lobby of this building where you may fill out the form
18 to speak.

19 We will conduct a public hearing after staff
20 has presented each case. The Chair will invite the
21 applicant to speak after staff has addressed the board.
22 And then once that occurs, the Chair will open the
23 public hearing and that is where citizens are able to

1 speak.

2 We ask that citizens limit their comments to
3 approximately three minutes. We will operate a timer,
4 and we'll demonstrate that timer right here so you will
5 know what it sounds like when it -- when it -- when the
6 alarm goes off. Also, the timer will be up on your
7 screen -- up on the screens here in the auditorium.

8 (Timer goes off.)

9 So we ask you that you keep your comments to
10 about three minutes, and the Chair can interject if
11 necessary. Please do not attempt to address the board
12 outside of the public hearing.

13 Certainly, again, if you wish to please
14 register. Please do not try to speak aloud. Any
15 comments that are spoken aloud will not be heard -- may
16 not be heard on the recording of this meeting. So it's
17 very important for when you go to the podium to speak
18 that you speak directly into the microphone and, of
19 course, all board members, as well, speak into their
20 microphones so all of the comments can be heard on the
21 recording.

22 Understand that the BOA members, the Board
23 of Adjustment members, they are unpaid volunteers. They

1 are not elected officials. They are not sworn members.
2 They simply volunteer their time to serve the citizens
3 of Baldwin County.

4 Also, understand that the Board of
5 Adjustment is not the planning commission. This board
6 does not approve developments of any kind. This board
7 does not approve zoning changes. This board has no
8 authority or ability to repair roads or patch potholes
9 or that sort of thing. We hear lots of comments at
10 these types of meetings. Their focus and their
11 authority are very narrow.

12 Understand, that no subdivision or site plan
13 will be considered or approved today. Subdivisions and
14 site plan approval, that is the authority of the
15 planning commission. That approved variance is not a
16 building permit. It does not authorize construction or
17 land disturbance activities. If there are variances
18 approved, that does not relieve the applicant from
19 requirements from other agencies. And then finally, an
20 approved variance is not an approved site plan or an
21 approved subdivision.

22 Madam Chairwoman, thank you, and I will turn
23 it back over to the Chairwoman to begin the meeting.

1 MS. HOPE: Are there any other
2 announcements?

3 MR. BUFORD: No, ma'am.

4 MS. HOPE: Okay. Than we can proceed for
5 the first case, case No. ZVA24-35, Green Property.

6 STAFF SPEAKER 1: : This is ZVA24-35. Green
7 Property is located in planning district 14 in zone
8 based community zoning. It's in between Groves Road and
9 Margaret Drive. The physical address is 13040 Groves
10 Road and the applicant and the owner is Leeann Green.

11 The applicant is requesting a variance from
12 section 3.4.5(a) the area and dimensional regulations of
13 the Baldwin County Zoning Ordinance as it pertains to
14 the 30-foot building setback in order to build a single
15 family dwelling. The future residence will not be no
16 closer than 15 feet to the front property line. Staff
17 recommends that case ZVA24-35 be denied due to the lack
18 of hardship on the land as contemplated by the zoning
19 ordinance unless information to the contrary is revealed
20 at the public hearing.

21 Here is the locator map and the site map of
22 the property. The property to the north -- south -- to
23 the north is zoned base community zoning and is res --

1 the use is residential. And the property to the south
2 and to the east is base community zoning and vacant.
3 And the property to the west is also base community
4 zoning and occupied with a residence.

5 Here's the locator map and the site map, the
6 subject property, the property to the north, the
7 property to the south, the property to the west, and I
8 believe this is to the east.

9 Here is the site plan, and then the enlarged
10 site plan showing the home being 15 feet to the front
11 property line which is Groves Road, and then being 55
12 feet from the rear setback on Margaret Drive.

13 Here's the POA/HOA statement. There is no
14 active POA or HOA. Here's the zoning requirements for
15 the minimum front yard and rear yard setbacks for a
16 single family dwelling. The exceptional, narrowness,
17 shallowness, or shape of the specific piece of property
18 existing at the time of enactment of zoning regulations
19 per revenue commission records. The parcel dimensions
20 are 100 by 125 which is approximately 12,500 square
21 feet.

22 Zoning in planning district 14 came into
23 effect November the 21st of 2023. The required minimum

1 lot size for base community zoning for a parcel served
2 by public water and public sewer is 7500 square feet
3 with a minimum lot width at the street line of 60.

4 Based on the dimensions of the property, the buildable
5 area is 80 by 65 or 5200 square feet.

6 The required buildable area allows the
7 property to be used for a single family dwelling without
8 approval of the variance. Therefore, staff does not
9 believe there is an exceptional, narrowness,
10 shallowness, or shape of the subject property that would
11 require a variance.

12 Under the exceptional typographic conditions
13 or extraordinary situations, the subject property
14 doesn't appear to have any jurisdictional wetlands. And
15 the granting of the application is necessary for
16 preservation of property right and not merely to serve
17 as convenience to the applicant or based solely on loss.

18 The subject project is zoned base community
19 zoning which allows for residential use and single
20 family accessory uses. The request is allow for a
21 single family to be built. Staff perceives that
22 granting of this application is not necessary for the
23 preservation of property right, and it may be merely to

1 serve as a convenience to the applicant. And then we
2 didn't find anything -- staff does not believe that the
3 granting of the application would mess -- do anything
4 for No. 4. Sorry.

5 Number 5, other matters that may be
6 appropriate. The applicant may -- the applicant has
7 submitted documentation stating that there's no active
8 POA, and we have not received any opposition or in favor
9 at the time that the variance was written -- staff
10 report was written.

11 Again, the applicant is requesting a
12 variance from the aerial and dimensional regulations as
13 it pertains to the 30-foot building setback for a single
14 family dwelling, and staff recommends denial for
15 ZVA24-35. And I will go back to any slides or answer
16 any questions that you may have.

17 MR. WARD: Do you have any letters as of now
18 for or against it?

19 STAFF SPEAKER 1: No, sir. We didn't have
20 anything before the meeting.

21 MS. BARNES: Is this a paved road?

22 STAFF SPEAKER 1: : Yes, ma'am. Both roads
23 are paved. And I was told the 911 address is going to

1 be Groves Road.

2 MS. HOPE: Does anybody else have any
3 questions for staff?

4 Okay. Then we'll go ahead and open the
5 meeting. I have a Mr. Joe Pintavalle. Is that -- sorry
6 if I'm mispronouncing it. If you'd like to come up to
7 speak.

8 MR. PINTAVALLE: Do I need to press
9 anything?

10 MS. HOPE: If you'll just put the microphone
11 to your -- so we can hear you.

12 MR. PINTAVALLE: Okay. Can you hear me?
13 Okay.

14 Margaret Drive is actually unpaved, and
15 originally that's where this ordinance was. It's
16 supposed to be 35 off of Margaret Drive is what we
17 understood, but we really just want to be 15 feet off of
18 Groves Road to give us a bigger backyard, put a pool
19 back there, increase property value in the area.

20 It's actually two lots put together; so
21 we're going to really improve the area by having a house
22 in a better position for everybody in the area. I'm
23 sure we could get letters of people in the area that

1 approve of this if that would help because everybody's
2 stopped by and asked our dad what's going on, and
3 they're like Oh, we just want to build closer to the
4 road, and nobody has complained so. I'm not sure if
5 anybody has any questions.

6 MS. HOPE: Does anybody have any questions
7 for Mr. Pintavalle?

8 MS. FROST: I have one question. Is there a
9 way to reconfigure the home and the pool the way you
10 have it laid out to allow for the proper setback?

11 MR. BUFORD: Ms. Frost, can you speak into
12 your microphone?

13 MS. FROST: I was asking if it is possible
14 to reconfigure either the home or pool or both so they
15 would meet the setback requirements.

16 MR. PINTAVALLE: We wouldn't be able to put
17 in a pool. There just wouldn't be enough room to allow
18 for the other setbacks that you have as well.

19 MS. FROST: Thank you.

20 MS. HOPE: Thank you, Mr. Pintavalle.

21 MR. PINTAVALLE: Okay. Thanks.

22 MS. HOPE: Ms. Leann Green Pintavalle,
23 would you like to come up to speak? You do not? Okay.

1 Okay.

2 Is there anyone else who would like to speak
3 on behalf of this case? Then I'm going to close the
4 hearing.

5 Can I get a motion?

6 MR. STEJSKAL: I'm going follow the staff's
7 recommendation to deny.

8 MR. BRAGG: I'll second.

9 MS. HOPE: Can we have a roll call, please?

10 SECRETARY: Ms. Hope?

11 MS. HOPE: Yes.

12 SECRETARY: To go with staff's
13 recommendation to deny?

14 MS. HOPE: Yes.

15 SECRETARY: Okay. Mr. Bragg?

16 MR. BRAGG: Yes.

17 SECRETARY: Ms. Coggin?

18 MS. COGGIN: Yes.

19 SECRETARY: Ms. Frost?

20 MS. FROST: Yes.

21 SECRETARY: Mr. Stejskal?

22 MR. STEJSKAL: Yes.

23 SECRETARY: Mr. Ward?

1 MR. WARD: No.

2 SECRETARY: Ms. Barnes?

3 MS. BARNES: Yes.

4 SECRETARY: The motion passed to deny.

5 MS. HOPE: Okay. We're going to move on to
6 case No. ZVA24-42, Swindle property.

7 STAFF SPEAKER 2: All right. This is
8 ZVA24-42, the Swindle property. This property is
9 located in planning district 26 and is zoned RSF 2, and
10 as you can see, it's along county road 1. The applicant
11 is requesting a variance from section 2.3.26.3(b), the
12 local provisions at the planning District 26 ordinance
13 as it pertains to the minimum building separation. And
14 staff is recommending that ZVA24-42 be approved.

15 Here are the locator and site maps. As you
16 can see, the adjacent properties are all RSF 2, RA, and
17 they're being used for residential purposes.

18 Here is the subject property, property to
19 the north, property to the east, and the property to the
20 west. This property has been before this board before.
21 B2116 it was heard in August of 2021 and the previous
22 request was for a variance from the VE setback on the
23 front side and from the rear which is the road side.

1 And this board did recommend -- did approve the request.

2 And so what's going on here is that in
3 district 26 for homes that have existed -- for lots that
4 have existed before May 19th of 2020 and do not meet the
5 minimum lot size requirements for the zoning designation
6 there are reduced setbacks for only this district where
7 it's 10 on one side and 3 on the other as long as
8 there's a 13-foot separation between buildings. And as
9 you can see on this northwest side, they're requesting a
10 10, but the house to the northwest is only 1.7 feet from
11 that property line meaning there's not 13 feet of
12 separation.

13 And here are the zoning requirements which
14 list that from the local provisions. So the zoning and
15 planning district 26 came into effect in September of
16 1993. The lots were previously combined for tax
17 purposes. However, the owner intends to return them to
18 the lots of record. Once they do so, the property will
19 be approximately 50 by 88.

20 The minimum lot size requirement for RSF 2
21 zoning is 15,000 feet with a minimum lot width of 80
22 feet. And this property would not meet either of those
23 minimum lot requirements. So therefore staff does

1 believe there is exceptional narrowness, shallowness, or
2 shape of subject property for the topographic
3 conditions, staff cannot find any for this property.

4 Staff perceives that the granting of this
5 application may be a necessity for the preservation of
6 the property right as all the other lots in district 26
7 are allowed to have those 3-foot and 10-foot setbacks,
8 and we do not see this granting this application
9 impairing those factors. We had no documentation in
10 favor or opposition. And there's the HOA letter.

11 So once again, the applicant is requesting a
12 variance from the local provisions of planning district
13 26 so that pertains to the minimum building separation,
14 and staff is recommending that ZVA24-42 be approved with
15 the conditions below unless there's information to the
16 contrary revealed at the public hearing. And I can
17 answer any questions.

18 MR. BUFORD: Madam Chairwoman, if you would
19 please announce Mr. Ward's recused himself from this
20 particular case.

21 MS. HOPE: Mr. Ward has recused himself from
22 this particular case. He's over there. He's stepped
23 down. Thank you.

1 So this was one lot, and it's going to
2 become two now? No?

3 STAFF SPEAKER 2: Yes, ma'am. So these were
4 originally lots of record. It was lots 2 and 3, and
5 those are lots of record. And they are going to put
6 them back into the lots of record, which is allowed. So
7 it will be two lots eventually.

8 MR. STEJSKAL: They were two lots of record?

9 STAFF SPEAKER 2: Yes.

10 MR. STEJSKAL: They weren't one lot?

11 STAFF SPEAKER 2: They were never one lot.

12 MR. STEJSKAL: Okay. That -- just foggy
13 brain. Thank you.

14 MS. HOPE: Any other questions for staff?

15 Okay. Then we'll open up the forum for the
16 public. I have Mr. Corey Swindle signed up to talk.

17 MR. SWINDLE: So I'm the landowner, and I'll
18 be building the home there. We agree entirely with Ms.
19 Callie for approving this. It's the -- I spoke with
20 both my neighbors, and they have no qualms with this.
21 The one who owns the peach house in the drawing, he --
22 actually the house itself is not really inside of that 3
23 foot. It's kind of some little deck that's he's built

1 off of it up there. And you see that little -- and it's
2 really -- it's not any structure of any sort. It more
3 or less a harness. I feel like I'm in line with the 10,
4 3 setback so.

5 MS. HOPE: Does anybody have any questions
6 for Mr. Swindle? Okay. Thank you, Mr. Swindle.

7 MR. SWINDLE: Thank you.

8 MS. HOPE: Does anybody else want to have
9 any discussion on this particular case?

10 Then we're going to close the open forum.

11 Can I get a motion?

12 MR. BRAGG: I'll make a motion that the
13 variance be approved.

14 MR. STEJSKAL: Second.

15 MS. HOPE: Roll call, please. Do we need
16 the conditions added to it?

17 MR. BRAGG: I make a motion that the
18 variance be approved in accordance with the staff
19 recommendation.

20 MR. STEJSKAL: I'll second that.

21 SECRETARY: Okay. Ms. Hope?

22 MS. HOPE: Yes.

23 SECRETARY: Mr. Bragg?

1 MR. BRAGG: Yes.

2 SECRETARY: Ms. Coggin? Ms. Coggin?

3 MS. COGGIN: Yes.

4 SECRETARY: Ms. Frost?

5 MS. FROST: Yes.

6 SECRETARY: Mr. Stejskal?

7 MR. STEJSKAL: Yes.

8 SECRETARY: And Ms. Barnes?

9 MS. BARNES: Yes.

10 SECRETARY: The motion passed to approve
11 ZV24-42.

12 MS. HOPE: Okay. We're going to our next
13 case, case ZVA24-47, Brahana property.

14 STAFF SPEAKER 1: This property is located in
15 planning district 16, in zone RSF 2. The subject
16 property is located on the south side of North Winding
17 Brook Drive. The physical address is 6588 North Winding
18 Brook Drive, and the applicant and the owner is Daniel
19 and Bridgette Brahana.

20 The applicant is requesting a variance from
21 section 13.1.2(b), rural and residential district
22 requirements of the Baldwin County Zoning Ordinance as
23 it pertains to an accessory structure requirement in

1 order to allow for a garage to be located in the
2 required front yard. Staff recommends ZVA24-46[sic] to
3 be approved unless information to the contrary is
4 revealed at the public hearing.

5 Here is the locator map of the subject
6 property and the site map. The property to the north is
7 zoned residential single family 2 and is being occupied
8 with a residence, and the other lot is vacant. And then
9 to the south is zoned residential single family with a
10 residence. And then to the east is residential single
11 family vacant. And to the west is residential single
12 family and vacant.

13 Here is the subject property, the adjoining
14 property to the north, the adjoining property to the
15 south, the adjoining property to the east, and to the
16 west. Here's the site plan showing the house and the
17 detached garage. Here's the enlarged site plan showing
18 the proposed detached garage meeting the setbacks. It's
19 just in the required front. Here's the zoning
20 requirements.

21 Zoning in planning district 16 came to
22 effect on March 4, 1993. The subject property is an
23 irregular-shaped lot. The minimum lot size for RSF 2

1 zoning is 15,000 square feet with a minimum lot width at
2 80 and a minimum width at the street line of 40.

3 Although the lot square footage is roughly
4 26,000 square feet, the lot is an irregular shape with
5 two access points. And the northeast drive is the
6 access point that will be used as the primary access to
7 the lot. Therefore staff believes there is an
8 exceptional narrowness, shallowness, or shape of the
9 subject property that would require a variance due to
10 the implementation of the zoning after creation of the
11 lot of record.

12 And there -- staff perceives the wetlands
13 located on the subject property to be an exceptional
14 topographic condition or extraordinary situation and the
15 granting of application is necessary for preservation of
16 property right.

17 The subject property is zoned residential
18 single family which allows for residential uses and
19 accessory uses, and the lot is to allow for a garage to
20 be located in the required front. Staff perceives that
21 the granting of the application may be necessary to the
22 preservation of property right, not merely to serve as a
23 convenience but the applicant based on solely of

1 economic loss. And staff does not believe that any of
2 this applies for this variance.

3 The applicant submitted the written
4 documentation stating that there's no active association
5 for the subject property. We didn't receive any
6 opposition letters at the time the staff report was
7 written, and they've had ARB approval for the house and
8 the detached garage.

9 Again, the applicant is requesting a
10 variance from 13.1.2(b), rural and residential districts
11 as it pertains to the accessory structure being in the
12 required front yard, and staff recommends ZVA24-42 to be
13 approved. And I'll go back to any slides or answer any
14 questions that you may have.

15 MS. HOPE: Does anybody have any questions
16 for staff?

17 Okay. Then we'll go ahead and open the
18 meeting for the public. I have Mr. Chad Lippincott.

19 MR. LIPPINCOTT: I just did that in case I
20 needed to answer any questions, but I think she did a
21 great job.

22 MS. HOPE: Okay. Does anybody else have any
23 comments? Want to come up and share any thoughts,

1 concerns in this case?

2 Okay. Then we'll close the open forum. Can
3 I get a motion?

4 MS. COGGIN: I'll make a motion to approve
5 staff recommendations.

6 MR. WARD: I'll second.

7 MS. BARNES: I'll second.

8 SECRETARY: Who's second?

9 MS. BARNES: Doug.

10 SECRETARY: Ms. Hope?

11 MS. HOPE: Yes.

12 SECRETARY: Mr. Bragg?

13 MR. BRAGG: Yes.

14 SECRETARY: Ms. Coggin?

15 MS. COGGIN: Yes.

16 SECRETARY: Ms. Frost?

17 MS. FROST: Yes.

18 SECRETARY: Mr. Stejskal?

19 MR. STEJSKAL: Yes.

20 SECRETARY: Mr. Ward?

21 MR. WARD: Yes.

22 SECRETARY: Ms. Barnes?

23 MS. BARNES: Yes. Yes.

1 SECRETARY: Motion passed to approve case
2 ZVA24-47.

3 MS. HOPE: Okay. We're going to move on to
4 the next case, case No. ZVA24-48, the Breland property.

5 MR. BUFORD: Good afternoon again, board
6 members. So I have for you ZVA24-48. This is the
7 Breland property. This is in planning district 8. The
8 background information is here on screen.

9 One clarification I have for your board
10 members. So Mr. Blackburn was the applicant. Mr. Harry
11 Steel is also with us here today. He is also an
12 authorized agent and will be speaking on behalf of this
13 in terms of the applicant.

14 So the request is a request to cross or
15 disturb a 30-foot non-disturbed wetland buffer. That is
16 a requirement of the zoning ordinance. You see the
17 reference here on screen. Now, crossing that wetland
18 buffer is required to conduct 9.6 acres of wetland fill.
19 And so I'll just read from you the statement at the
20 bottom.

21 The wetland fill permit prepared by the U.S.
22 Army Corps of Engineers is included with this variance
23 application that it contemplates filling wetlands to

1 allow a future development which is current disallowed
2 by the zoning of this property. And so as a result
3 staff recommends denial of this case.

4 And so, board members, before we begin, I'm
5 going to go through a small graphic here. This was not
6 in your staff report because we need to represent it
7 with animations. But 10.4 of the zoning ordinance
8 describes this 30-foot wide non-disturbed buffer.

9 So if we assume a typical lot that contains
10 jurisdictional wetlands as governed by the Corps of
11 Engineers and then let's also assume that an applicant
12 has applied for and received their permit for Corps of
13 Engineers and also further assume the property's located
14 within the zoned area of the county.

15 So if we have just a typical rectangle lot
16 in a typical road frontage right of way, and then the
17 area in the northwest corner, that is our GIS. That is
18 their symbology they use for wetlands. Forgive the
19 non-clarity. Now, the zoning ordinance requires a
20 non-disturbed buffer around that wetland area. So you
21 see the jurisdictional wetlands, and then you have the
22 wetland buffer, that will be 30 feet wide.

23 And so if a jurisdictional wetland or stream

1 will be filled or altered, the applicant will submit the
2 copy of their Corps of Engineers permit. And unless
3 exempted in another part of the zoning ordinance, they
4 will also apply for a stream or wetland setback variance
5 that comes before this board for consideration.

6 And so that's where we find ourselves today
7 is before those wetland filling operations may commence,
8 then a variance must be obtained from this board in
9 order to cross the line which would disturb that
10 non-disturbed buffer.

11 And so going back to our case, you see your
12 zoning map on the left and the aerial map on the right.
13 What I call out to you here is you see the subject
14 property. The areas in the purple color are within the
15 City of Fairhope. All other areas are zoned by the
16 county and have the appropriate color coding.

17 Here is a zoomed in area showing the zoning
18 and also showing both the zoning and the City of
19 Fairhope, and then we have a zoom in of the aerial map.
20 We can go back to any of these to answer questions. We
21 also have some photos of the surrounding properties, and
22 the pin of each property so they can be found in the map
23 viewer.

1 So we have a -- this is a wetland
2 delineation, and so what we'll call your attention to
3 is, of course, the border of the property and then the
4 jurisdictional wetlands themselves. You see the graphic
5 here.

6 Let me pause and thank Crystal for her hard
7 work in preparing this. These graphics are very, very
8 time consuming to prepare so thank her very much for
9 doing that.

10 So -- some of the statistics from the
11 property. What I'd call out to you is that if you look
12 at both areas primary upland areas and small area of
13 upland areas plus or minus 10, possibly as many as 11
14 areas of upland exist right now. Now, this is
15 overlaying the requested wetland fill.

16 Now, a supporting document in that Corps of
17 Engineers permit shows a future subdivision that is
18 currently disallowed by the zoning of this property.
19 And so current -- the current zoning of the property is
20 conservation resource district CR which has a minimum
21 lot size of five acres.

22 Though we don't have data, I think it's a
23 safe assumption that the lot sizes shown on this

1 preliminary subdivision plat are much smaller than five
2 acres.

3 Now, let me be very clear. We, the county,
4 do not have a application for a subdivision on this
5 property. We have the original wetland fill permit
6 dating back to 2002 from the Corps of Engineers. We'll
7 just simply make some clarification here that this
8 permit has been updated and extended and altered over
9 the years and the amount of fill has decreased slightly
10 authorized by the permit. It originally was 10.4 acres.
11 Now it's 9.6.

12 There's also a slight conflict in the amount
13 of mitigation credits that have to be purchased in the
14 Corps of Engineers requirements versus the ADEM
15 requirements. We just simply include that as background
16 information at this time.

17 Here, we are showing where the Corps of
18 Engineers permit has been updated. And then on the
19 right, we just add the additional commentary that we
20 mentioned earlier, that the subdivision above has not
21 been approved by the planning commission and also a
22 zoning changed required to allow that subdivision to be
23 submitted has not been approved by the county

1 commission.

2 This is a clarification email from Corps of
3 Engineers staff. I have a summary toward the end that I
4 think will bring everything together. This lengthy
5 narrative was for your staff report purposes. Again, we
6 have a summary toward the end of our slides. Here are
7 some additional correspondence between ADEM to
8 summarize.

9 It appears if a project goes forward, there
10 would be additional mitigation credits that would have
11 to be purchased to satisfy ADEM's requirements because
12 this is a water quality certification area governed by
13 ADEM. And again, memorializing that as background
14 information.

15 This is some correspondence from the
16 wetlands mitigation bank. And again we would clarify
17 that a project would require actually 33 credits to be
18 purchased to satisfy ADEM. We have verification that
19 there is not a neighborhood association or a property
20 owner's association on the property. This is some
21 additional information that was in your staff report.

22 What I would like to do is summarize a
23 couple things. So first of all, the area did come under

1 the zoning authority of the county. That occurred --
2 the referendum for that zoning occurred on February 15th
3 of 2022. And had we received a subdivision application
4 or a similar application before that date and before
5 7 p.m., it could have been processed as if it was an
6 unzoned piece of property. We did not receive any kind
7 of complete application by that date and time.

8 Also, we're -- that there was -- we're aware
9 that there was some prior attempts to develop the
10 property circa 2008, that there was a land disturbance
11 permit of that era that was applied but has long since
12 expired in -- over the course of 16 years.

13 So in summary, the bulletpoint at the bottom
14 is that from our investigation is there is not a
15 nonconforming or grandfather situation on here that
16 predated zoning. So the CR conservation resource
17 applies to the property.

18 This is summarizing the zoning requirements
19 of CR zoning. What I call to your attention here is
20 that the minimum lot size should a subdivision occur be
21 five acres. This is clarifying section 10.4 of the
22 zoning ordinance so that you have the full text in your
23 staff report.

1 As you've seen in the prior cases, we have
2 five criteria. The first criteria is we just simply
3 summarize here is that we have a variance that the
4 supporting documents contemplates a development that has
5 not been applied for, has not been approved, and doesn't
6 have proper zoning. So it's difficult for us to
7 evaluate the application because there is a property
8 zoned CR that has uplands that can be developed without
9 a variance. So we do not perceive there to be a
10 hardship on criteria one.

11 In terms of exceptional topographical
12 conditions, again, you have over possibly more than ten
13 acres of uplands that could developed without a
14 variance. So we do not establish that as an exceptional
15 topographical hardship since CR zoning could be
16 implemented and land use for CR zoning could be used on
17 this property right now.

18 The preservation of the property right is
19 once again that it could be developed with CR zoning
20 with the uplands, and you have supporting documentation
21 for a 45-lot subdivision not permitted by the current
22 zoning. Item four, we put our standard disclaimer that
23 some of the items here cannot really be quantified at

1 this point.

2 So item five, other matters that might be
3 appropriate. Here we'll summarize the following: So
4 the development reflected in the Corps of Engineers
5 permit is disallowed by CR conservation resource zoning;
6 the variance is not supported by the development
7 contemplated in the Corps of Engineers permit; the
8 requested variance, therefore, is not alined with the
9 permit.

10 So there are options going forward. One,
11 the Corps of Engineers permit could be amended and
12 request a variance to allow buffer disturbance for
13 wetland fill to create a land use that is allowed in CR
14 zoning. There may very well be a need to develop the
15 property as is with CR zoning that might justify -- that
16 might justify a hardship for which a variance could be
17 contemplated, but that's not what we have before us.

18 The other option would be request rezoning
19 of the subject properties. If that rezoning is
20 successful, request a subdivision preliminary plat of
21 the subject properties which would include any
22 appropriate Corps of Engineers permits that contemplate
23 any type of wetland fill, also include any appropriate

1 ADEM permits since this falls in their area of
2 jurisdiction. And then once those processes have gone
3 through and a preliminary subdivision plat is approved
4 by the planning commission, obtain a subdivision permit
5 which is what allows the improvements to be installed.

6 We as a practice, if an applicant has a
7 subdivision permit and a preliminary plat approved, that
8 does not require that they come back for an additional
9 zoned land disturbance permit. There's an entire
10 development process for that if they're going through
11 the subdivision process and have all the necessary
12 documents.

13 We'll note here that staff is in receipt of
14 more than 20 pieces of correspondence in opposition to
15 this variance. All of that was placed in the public
16 folders where it can be viewed on the county website.
17 It's too numerous to try to place into slides and show
18 here today. So the staff's recommendation is denial.

19 We would also memorialize in our denial
20 recommendation that the applicant may still apply for a
21 rezoning and a subdivision of subject property is
22 contemplated by a future Corps of Engineers permit. If
23 the subdivision permit is successfully obtained, a zoned

1 land permit would not be required which would not
2 trigger the requirement to come back before this board
3 for a variance to cross a wetland buffer. And so with
4 that board members, I am happy to answer questions.

5 MS. HOPE: Any questions for staff? No
6 questions?

7 MR. WARD: Are they wanting to fill the
8 whole 9.6 acres or just cross it? Are they wanting a
9 wetland filling?

10 MR. BUFORD: So, Mr. Ward, this is the
11 document we were furnished. That is the requested
12 wetland fill area.

13 MR. WARD: So they're wanting to fill the
14 whole 9.6 acres.

15 MR. BUFORD: Yes, sir. They're wishing --
16 the desire is to fill 9.6 acres.

17 MR. WARD: Okay.

18 MS. HOPE: Any other questions for staff?

19 MS. FROST: Buford, you said that they can
20 develop part of the property now without a variance,
21 correct?

22 MR. BUFORD: Yes, ma'am so I've --

23 MS. FROST: Under the current zoning.

1 MR. BUFORD: Correct. So I put that slide
2 back on screen and I went through that very quickly,
3 board members, I apologize. The area in white on your
4 screen up here is upland that could be developed right
5 now.

6 MS. FROST: Just up here. Yeah. Okay.
7 Thank you.

8 MS. HOPE: Well, if there aren't any more
9 questions for staff, we're going to go ahead and open
10 the meeting to public.

11 My first speaker Jason Wats -- Watson?
12 Watson? I'm sorry. You're name?

13 MR. STEEL: Eric Steel. You have a letter
14 from me also.

15 MR. BUFORD: Chairwoman, Mr. Steel has --
16 Mr. Steel has a document here he'd like to present to
17 the board, and I may have to pause and zoom in or zoom
18 out for him and we'll work that out as we go. Mr. Steel
19 has the wireless -- wireless remote so he can advance
20 the slides. The upper button advances.

21 MR. STEEL: Interesting. Well, I'd like to
22 say thank you. I used to be staff for the City of
23 Alabaster for seven years. So I was staff to the board

1 of zoning adjustments and used to be a county manager
2 and all that good stuff before I decided to join the
3 other team.

4 I think it's interesting that no one has
5 pointed out -- I mean, it was announced in passing to
6 you -- but Mr. Breland, he made this permit to the Corps
7 of Engineers in 2002. That's the reason that the lot
8 layout that you see doesn't conform with your zoning
9 because you didn't have any in '02. So -- let's see if
10 I can flip through this. Okay. That's the wrong one.

11 MR. BUFORD: Mr. Steel -- there you go.
12 There you go.

13 MR. STEEL: There we go. And you guys -- I
14 guess y'all are going to have to look over there.

15 Uh, oh. I've messed it up.

16 MR. BUFORD: Top button.

17 MR. STEEL: If you look at the screen I'm
18 on, you see what I did?

19 MR. BUFORD: Okay.

20 MR. STEEL: Sorry.

21 MR. BUFORD: Let me do this. I'm going to
22 relaunch. All right. There you go. All right. So top
23 button to advance. Bottom to go back.

1 MR. STEEL: So would everybody in the
2 audience agree that is not the top button? That would
3 be the middle button.

4 MR. BUFORD: The large button.

5 MR. STEEL: The large button. So -- so
6 anyway, Mr. Breland ends up in a lawsuit with the City
7 of Fairhope for guess how long. Let's just see if we
8 can find it. Okay. So this map here shows you the
9 floodway, right, and you see the yellow outline there is
10 approximately Mr. Breland's property.

11 So here's the land disturbance application
12 that we made that was denied because we were in this
13 lawsuit with Fairhope until the state law changed and
14 did away with the extra territory of planning
15 jurisdiction. So in the meantime, you guys institute a
16 CR district, and, you know, it's illegal under -- where
17 it wasn't before, it's now -- we would be violating your
18 ordinance if we went in there and disturbed this 30-foot
19 buffer.

20 I would point out this is the Corps of
21 Engineers permit along with ADEM. And again you see
22 here the wetlands that were -- that were -- that we
23 would like to disturb. And here again this is "The High

1 Court Rules Against Fairhope in Development Suit," and I
2 don't know if we can zoom in on it, but you'll see that
3 the City of Fairhope spent \$800,000 stopping this
4 development. And then, of course, 841,273 to be exact
5 came over, and that's been since 2013. So you can
6 understand how when we say this is a bit of a surprise
7 to us that after having been issued two permits to
8 disturb this, that the county now has opposition to it.

9 I want to walk you through a couple of
10 photographs here, and I want -- I want to describe to
11 you what's going on here. This ten acres -- and maybe I
12 can just advance through some of this stuff to get to
13 the good ones. So this ten acres here, you have a
14 problem -- and I'm going to walk over here so I can show
15 you guys.

16 So this is the fish house, and this is
17 approximately the property that we're talking about
18 filling right here. For some -- and -- and also when
19 Mr. Breland bought this property, he gave the county
20 this right-of-way. This road was -- this road here was
21 built on a right-of-way, donated by Mr. Breland. The
22 road was installed by the county. And to add insult to
23 injury, they didn't put any drainage wells on the side

1 of the road. All of this drains right across.

2 I would also point out to you -- we can't
3 see it real well right here -- but all of this property
4 and this is your county GIS data. This is your lidar --
5 14 feet, 13 feet, 13 feet, 14 feet. Councilman Jay
6 Robertson's house, which has been built since 2002, he's
7 at 11 feet. He's also in the flood way. So you have to
8 ask yourself, is there some favoritism going on here?
9 Certainly looks like it.

10 So off of Nelson Road here, you've got a
11 relief ditch that is cut, that's bringing water here.
12 So all this water has to make it from Nelson down to
13 here, Molokai, and all that water's coming this way.
14 Right here in particular is the -- is the choke point
15 for all your drainage problems.

16 So if you see the yellow mark, that's where
17 the person would be standing, and the arrow indicates
18 the direction that my camera is pointing when I took
19 this picture. So here's old 98 right here where the
20 property meets the road. We seem to have some drainage
21 problems guys. Do y'all think so?

22 Here's another one. So about where that
23 truck is in the picture to the right is where the city

1 limits ends now, and the water is topping the road.
2 Now, of course, this is kind of strange because the Bay
3 is this way. Right? All the water wants to go to the
4 Bay, but it can't because the county put a road here and
5 created an impervious surface.

6 And then -- and I'll show you here in a
7 second. Oh, here we go. The same spot looking up the
8 ditch that's next to the Supper Club. Right? So it
9 would follow that the water is falling from
10 Mr. Breland's property down here to this point. Right?
11 But it's not. It can't. Well, why can't it? Well,
12 because the drainage structure there is completely
13 inadequate. Let's see if I can find this thing.

14 So this is just the other day, Friday,
15 August 17th, we had a rain event at 6:15 in the evening.
16 Okay? And this shows the intensity, and you can see
17 right there it was 0.88 inches. And it was a fairly
18 intense rain event. So standing right there at the
19 corner of the Supper Club again, this problem junction
20 where the water's coming down old 98, it's coming into
21 an open space.

22 There -- there's a pipe running to the west
23 that should go under the road and carry that water down

1 to the Bay, except that pipe's completely inadequate and
2 clogged. The pipe to the south that's supposed to carry
3 it to the part at the Supper Club is also -- and I'll
4 show you so right here. You'll see the red arrow going
5 that way, that's going under the road. The one heading
6 towards the south there with the smaller red arrow is
7 supposed to go under the road there. So now watch this.

8 So now we're standing there looking the
9 other way. Right? This hole is full of water, and it's
10 trying to go somewhere. So where it's going? Well,
11 it's not going this way because there's that dry ditch.
12 So if you turn and look to the south and you'd expect
13 all this water to be coming out of that pipe, that's how
14 much water's coming out of the pipe. It's a joke. It's
15 totally inadequate. And that's what's creating
16 Mr. Breland's problem here.

17 AUDIENCE MEMBER: I guess the three minute
18 rule doesn't apply.

19 MR. STEEL: It doesn't with the applicant.

20 In addition, down on this south part of the
21 property here, Mr. Breland's going to put in a boardwalk
22 for the public along the creek. Are y'all -- I don't
23 guess staff mentioned there's a creek on the property --

1 and that's where all this water is trying to get so that
2 it can get to the Bay. But because of the county's
3 inadequate drainage structures, none of that's
4 happening. The only way for Mr. Breland to fix the
5 problem that was created by the county is for him to go
6 in there and fix this drainage problem.

7 Now, here's another thing I want y'all -- so
8 I live up off of 225. I live on Burns Lake, so I know
9 what a quality wetland is. Okay? I walked out here,
10 and I kept waiting to see the wetlands. So this is what
11 you call Savannah Pine wetlands. It's a bunch of pine
12 trees. It's maybe some ferns growing here and there.
13 And I kept look for a cyprus knees or a big pond, some
14 bulrushes or some cattails. That's not what this is.
15 There's not a wood duck out there. There's not any
16 standing water on the property except what's in these
17 ditches.

18 Now, I would point you to this ditch right
19 here. Now, this is behind the Supper Club. So the
20 water can come -- can make the corner and come down.
21 Instead of it going down 98, they've cut this release
22 ditch where it goes, it backfills, it goes behind this
23 property onto Mr. Breland and it sheet drains across his

1 property trying to get to the south because of all of
2 the county drainage structures are completely
3 inadequate.

4 These are pictures of the -- of some ditches
5 that were cut on Mr. Breland's property, not by
6 Mr. Breland, and you can see here the scour where this
7 occurs. See how high -- pine trees don't grow this high
8 off the ground. See it's a difference of this and that.
9 That's how much scour has occurred because of the water
10 running back, contra flowing up the ditches, inundating
11 this property with water. And there's no way for him to
12 do anything about this and fix the county's impoundment.

13 You got to understand there's a watershed,
14 and all this water's got to go somewhere. So where are
15 we putting it? On Mr. Breland's property, and you're
16 damaging his property. And all we're trying to do is
17 fix the problem and move on with -- well, I don't know
18 if you saw the name of the application, but this is the
19 Villas. This is no longer going to be single lot
20 subdivisions. But like staff said, we're not required
21 -- we're not asking for a use variance or any of that
22 kind of stuff. We're asking for a variance to cross the
23 30-foot buffer to fill some low quality wetlands.

1 And there was something else that you stated
2 that I wanted to speak to, and I can't think of what it
3 is right now. Give me one second with my notes, please.

4 So I guess I would just open it for any --
5 if anybody has any questions for me.

6 MR. WARD: So you think by filling the
7 property, then that's going to prevent the water from
8 coming onto your property. So then where's it going to
9 go after that?

10 MR. STEEL: That would be why we met with
11 your county planner, your county environmental planner,
12 and you're county engineer out there on the property to
13 say, Hey guys, we thought -- we thought that we were on
14 the same page, that we were going to fix your problem
15 for you. But apparent not.

16 MR. WARD: But how are you fixing the
17 problem?

18 MR. STEEL: I don't understand. By keeping
19 their water on their property and off of ours.

20 -MR. WARD: Okay. But you were saying you
21 were going to fix the problem.

22 MR. BRAGG: Goes to somebody else, right?

23 -MR. WARD: That's -- yeah. Filling it's

1 not going --

2 MR. STEEL: Let me -- let me explain it to
3 you. So I wish the county attorney was here because we
4 could get into a legal discussion about how water is
5 treated as a common enemy. And, you know, if
6 Mr. Breland were to go out there and put a weir dam up
7 and flood the Supper Club, I assure you they would be
8 suing him.

9 I mean, he could go out there and put berms
10 up assuming that he wouldn't get in trouble for crossing
11 the 30-foot buffer. And you got to remember, he had a
12 guy out there on a Bush Hog in 2004, and the City of
13 Fairhope came down and arrested that man. And this is
14 when he had all his permits in hand.

15 I understand that y'all don't care but this
16 is -- but to say that he's showing up today asking for
17 some variance about something that we're totally shocked
18 about, from the staff perspective must be because their
19 new staff members because they've been issuing new
20 permits to this man for years and years and years and,
21 Oh, if we'd only known between the time the police
22 jurisdiction changed and this new law came into effect,
23 we wouldn't be here at all. We would be allowed to do

1 it because number one, the United States government is
2 in charge of wetlands in this country, not the Baldwin
3 County commission.

4 Anyway, thank you for your time, and if you
5 have any questions I'll be glad to answer.

6 MR. WARD: So you're saying if the county
7 will fix the drainage problem, then you won't -- that
8 will dry up your wetlands, and then you won't have a
9 wetland problem.

10 MR. STEEL: Well, potentially, but what I'm
11 saying is the hardship here has nothing to do with how
12 we're going to use the property. Okay? And, oh, and by
13 the way, here's what I wanted to tell you about this
14 30-foot buffer.

15 So we're going to fill this 10 acres right
16 here, and the entirety of the other portion of the 52
17 acres is all under a conservation easement. It'll never
18 be -- it'll be protected 'til the end of time. So what
19 else -- what else would you like for the man to trade
20 off here? I mean -- and to speak to the fact that we
21 don't have enough mitigation credits -- believe me, if
22 we didn't have enough mitigation credits, we would have
23 never gotten that permit from the Corps of Engineers or

1 ADEM, and they've renewed it twice.

2 If you turn us down today, this permit has
3 been in place since 2002, and it will be renewed again.
4 It runs out in December. We got -- we got to cut bait.
5 It's time. And, you know, the fact that the county has
6 thrown some new development hurdle on us, I think it's
7 -- I think -- I think we've more than shown that we
8 don't have a self-imposed hardship of any kind. We
9 didn't -- we didn't impose this on ourselves. The
10 county did it. The city did it over years and years of
11 impounding this property with water. And anyway, we've
12 got our engineer here if y'all want to talk to him.

13 That's who you called on to begin with,
14 Ms. Hope.

15 MS. HOPE: Anybody else have any questions
16 for him?

17 MS. BARNES: I guess what I would like to
18 understand is that once you fill this in, if this was
19 created by runoff, how do you intend to stop it from
20 happening again?

21 MR. STEEL: Because we're going put adequate
22 drainage structures in place to make sure there's not an
23 impoundment of water. And we'll also, on the northern

1 property line, we'll have to create some kind of
2 drainage structure there either on our property or in
3 conjunction with the country on the right-of-way.

4 MS. BARNES: Where will it drain?

5 MR. STEEL: It will go down to the corner,
6 and it will it -- will come to the same problem junction
7 spot. They're going to have improve the drainage on the
8 road.

9 And I don't know where you folks are from,
10 but if you're from Fairhope, you'll know we spend
11 \$3,000.00 a year on tulips and we don't have any water.
12 We -- I'll tell you this. On both of old 98 right
13 there, there should be a ditch as wide as these two
14 tables and four feet deep. When Fairhope had it under
15 their jurisdiction, anybody that came in and wanted to
16 cover that drainage easement with a million dollars
17 worth of landscaping, then that's exactly what happened.
18 So there is zero drainage on the side of 98 that should
19 be carrying the water, and on our side it's totally
20 inadequate. So over all these years by government
21 action, this problem has been exacerbated and
22 exacerbated and exacerbated.

23 MR. WARD: Well, is there any, you know, big

1 ditches from Scenic 98 to the Bay in that area that they
2 can channel it too?

3 MR. STEEL: That's what I'm saying. They're
4 going to have improve these existing ditches. And I
5 guess they're going to have to dig up that ditch under
6 the Supper Club parking lot.

7 And I'll just say this. While we've been
8 out there looking at this, on the other side of Jay's
9 house -- I don't know, I guess on the other side of
10 Molokai -- there's a big gravel parking lot, and there's
11 an intake in the corner there for storm water. And they
12 went all the way back to Gambino's and cleaned all that
13 out. So before, where all of it was kind of trickling,
14 now Fairhope's getting their water down there down, and
15 there's nowhere for it to go. So it's topping the road
16 on Molokai, it's going over here, it's flooding Supper
17 Club, all these things that you saw.

18 And quite frankly, when you only have two
19 feet of elevation difference, you know, when that two
20 feet gets up here, it just starts contra flowing all
21 back on Mr. Breland's property. And it's caused all
22 this scour that you see here with pine trees three feet
23 off the ground inexplicably.

1 MS. HOPE: Does anybody else have anything
2 they would like to ask? Thank you.

3 MR. STEEL: Thank you.

4 MS. HOPE: Okay. Is there a Mr. Jason
5 Watson that would like to come up to speak?

6 MR. WOOTEN: Good afternoon. Jason Wooten.

7 MS. HOPE: Sorry. I apologize.

8 MR. WOOTEN: Probably my handwriting. I'm a
9 civil engineer, practice in the county. I looked at
10 this and made a visual observations based on
11 Mr. Breland's complaints. There's some maintenance
12 issues going on with the county drainage, and in my
13 report to him, I stated that hydraulic -- H & H study,
14 hydrology and hydraulic study would be required to find
15 the magnitude of that impact.

16 But in effect, there is water coming across
17 Molokai. That culvert was found to be stopped up.
18 Looks like it's coming across the road toward the Supper
19 Club. And there's a large drainage passing under 98 at
20 the Supper Club. I don't know if it's undersized. My
21 gut instinct is it's probably undersized. It's also
22 draining to a ditch back toward the Bay that is choked
23 with weeds.

1 So there are some drainage issues that need to be
2 addressed based on my visual observation. And again it
3 would take an H&H study to determine the impact or
4 magnitude of impact. I'll answer any questions you
5 have.

6 MR. WARD: You say there's a few drainage
7 ditches going to the Bay. Are they county easements, or
8 are they on individual's property?

9 MR. WOOTEN: I can't find an easement. Of
10 course, we haven't employed a surveyor or an title
11 company to see if there is an easement for that ditch,
12 but that ditch does go toward the Bay. On the tax maps,
13 I don't see an easement or any kind of common area or
14 county property that defines that path. It just kind of
15 runs into a backyard and dies out. That could be
16 channelized, cleaned out, and improve the drainage for
17 the entire area. And then the next major drainage way
18 is the creek. That is south of there.

19 MR. WARD: I know there's a lot of places
20 where the county didn't take over the drainage, and it's
21 public, you know, it's individual property. And they
22 plugged a bunch of them.

23 MR. WOOTEN: That is what it looks like,

1 yes, sir. So with some county improvements or
2 maintenance, the whole area could be improved in
3 drainage. There does appear to be a backwater
4 condition. What storm causes that, I can't tell what
5 design storm or level storm causes that, I can't tell
6 you, but there does appear to be a backwater condition.
7 When it fills up around the Supper Club, it backs into
8 Mr. Breland's property.

9 MS. HOPE: Any other questions? Thank you,
10 Mr. Wooten.

11 MR. WOOTEN: Thank you.

12 MS. HOPE: Mr. Steve Delamore, would you
13 like to come up to speak?

14 MR. DELAMORE: Thank you, Chairman Hope, for
15 the opportunity to address the group this afternoon. I
16 know there's others here that are a lot of more
17 knowledgeable to this situation than I am, so I'm just
18 going to keep it real brief.

19 I will say that there were a tremendous
20 amount of inaccuracies by the first gentleman, too many
21 for me to really address one on one, and that's really
22 not why I wanted to speak.

23 We own a house on Nelson Drive, and we built

1 that house in 2018. And prior to getting the building
2 permit, the City of Fairhope required a wetland
3 delineation. And we had Gena Todia do that, and it was
4 determined that our property had a very small percentage
5 of it had wetlands. And that's when I learned a lot
6 more about wetlands than I ever cared to know. What we
7 learned about wetlands was that we could not interfere
8 with that buffer zone. We had to rework some house
9 plans, we had to gerrymander the house around that, and
10 everything worked out great.

11 Upon completion of the home, when we were
12 having our landscaper put landscaping in the backyard,
13 the City of Fairhope shut us down. And they said, said
14 not only can you not do anything to a wetland, which we
15 knew, they said you could not do anything in the buffer
16 zone of the wetland. We were just planting grass. And
17 the City of Fairhope came out and said you cannot plant
18 grass in that buffer zone.

19 So I cannot imagine disturbing, you know,
20 that, you know, buffer zone to fill 10 acres of wetland.
21 I think that once we do that as a community, once we do
22 that, you know, as a jurisdiction, it's going to be
23 Katie, bar the door, and everybody is going to be here

1 trying to fill wetlands, I'm afraid.

2 What I learned about wetlands is that they
3 serve an invaluable purpose for absorbing water. That
4 small percentage of our backyard that is wetlands, when
5 we get that rain that Mr. Steel showed the other day,
6 we'll have water in our backyard, and in 72 hours it's
7 pretty much gone.

8 Wetlands are, you know, designed -- not
9 designed -- but wetlands exist for a reason. And I'm
10 just here in opposition to the program, and here to say
11 let's let these wetlands do what they do, and let's not
12 disturb that buffer zone. Because once we do that, you
13 know, we're going -- you're going to be faced with how
14 many other countless people wanting to do the same. You
15 do one, you're going to have to do a dozen. You do a
16 dozen, it's going to have to be two or three dozen. So,
17 thank you for my time, Chairman Hope.

18 MS. HOPE: Is there a Mr. Lonnie Wilson,
19 Dr. Lonnie Wilson here wanting to speak?

20 DR. WILSON: I'm not a speaker so please
21 forgive me if you don't understand some of the things I
22 say. I am a surgeon. I spent 30 years doing heart
23 surgery in Mobile. I have a house on the Bay, and it's

1 across the street from the Supper Club.

2 Water's a problem. I don't understand
3 water. I won't speak about water. But I've seen it on
4 a lot next to me in heavy rains. And I think I would
5 support the last gentleman by saying, you know, when we
6 mess with wetlands, they're there for a purpose. So I
7 think we need to do our designing around what we do with
8 the water when it comes floods frequently like it does
9 in Mobile and Fairhope. So I think to disturb them from
10 what they were designed to be is a mistake.

11 And I certainly wouldn't speak for some of
12 our home owners across the street from the wetlands,
13 that we really don't know what it's going to do if we do
14 more damage than what we've already done to it. So
15 thank you for letting me speak.

16 MS. HOPE: Thank you, Dr. Wilson.

17 Ms. Elizabeth Earl? You do not? Okay.

18 Mr. David Dyson.

19 MR. DYSON: Good afternoon. Appreciate the
20 opportunity to speak. My family owns property adjacent
21 to the subject property, and I grew up on that property
22 so I'm well familiar with the area, have seen it wet and
23 dry in the area. But I know with the increased amount

1 of development in that watershed, it has become wetter;
2 so I think filling additional wetlands is going to make
3 the problem worse. And I think pushing the water off on
4 the rest of the neighbors is not the correct approach to
5 the issue.

6 I think there's a lot of people in this room
7 more equipped to speak to the matter than I am, but I
8 would encourage you to go with county staff's opinion on
9 this one. Thank you.

10 MR. STEJSKAL: David, doesn't Moccasin Creek
11 come across your property?

12 MR. DYSON: It does. I wasn't 100 percent
13 sure of the applicant's discussion of it. I kind of got
14 confused there. But I think he showed pictures of
15 Moccasin Creek. They're next to the Max's Cafe.

16 MR. STEJSKAL: And Sweetwater Branch is a
17 little further down.

18 MR. DYSON: Sweetwater Branch is to the
19 south yes, sir.

20 MS. HOPE: Darien Pennington.

21 MR. PENNINGTON: Good afternoon, board. I
22 spent ten years in the air force and civil engineer. We
23 own, my wife and I, the property next to Fish River

1 Grill. Now, there are large, very deep drainage ditches
2 right there. They do fill up, but that property does
3 not flood right there. I know it floods up at the
4 Supper Club, and maybe they can do what they've done
5 down there at Fish River Grill and on past Fish River
6 Grill.

7 On our property, there's a nice drain there
8 that gets the water out of there. That water's out of
9 there, within 24 hours it can be gone. I've never seen
10 Fish River Grill itself flood from a drain problem; so
11 there may be a drain problem right up there. But it
12 didn't start yesterday. It's been this way for a long
13 time, and I'm pretty sure it was that way when
14 Mr. Breland purchased that property. And when he agreed
15 to give an ordinance for a road to be put in, he did it
16 probably so he could eventually build because he knew
17 water was running on that property.

18 Everybody there knows water runs on that
19 property. And if we really wanted to fix it, and he
20 really wanted to fix it, then he could go in there and
21 fix it. But the real reason he wants to fix it is
22 because he wants to build a housing community right
23 there.

1 Now, what do we do with the water? It's a
2 problem, and it's going to get to be a bigger problem.
3 You know, it was a problem up there when -- when the --
4 I can't think of the restaurant that paved the back,
5 flooded all of their neighbors out, and they had to go
6 in there and tear the asphalt out -- Wintzell's, you
7 think that ain't gonna happen again. Each one of y'all
8 know and everybody in this building knows it's going to
9 do it again.

10 If we were really concerned about our
11 property, then we would go in there and we would fix
12 that drainage problem and then we would see if we could
13 put homes there. But that's not what's going on. We're
14 -- they're building a home development and then just
15 hoping and that by every good measure that Mr. Breland
16 supposedly gave to everybody, that they're going to show
17 him some favor now. So he can get richer. And that's
18 what it's really about. It's not about tax dollars to
19 me and you or anybody else. It's so the Breland family
20 can get richer than they already are because if it was
21 really about conserving the property and the community
22 and the neighbors around there, it would have already
23 been done. Thank you.

1 MS. HOPE: Mr. Fred Killion.

2 FRED KILLION: Excuse me. I'm Fred Killion,
3 and I live 19313 Scenic Highway 98. That's immediately
4 across from Highway 98 where Mr. Breland is trying to
5 build his subdivision.

6 Let me start with saying that I'm 98 years
7 old. I have been fortunate to come and be on Mobile Bay
8 in the summertime and enjoy Mobile Bay. I moved my
9 house permanently there probably in 1992. When I grew
10 up and enjoyed the Bay, it was clear, it was nice
11 fishing was good, you had grass beds. And over my
12 lifetime, I've seen the degradation of Mobile Bay go
13 down.

14 I now have got a nice house on the Bay with
15 a wharf. My great grandchildren don't want to go
16 swimming because of the problems of Mobile Bay, the
17 pollution. And to me, something has just got to be done
18 to make sure that we don't allow any additional
19 pollution in Mobile Bay. One of the ways to avoid that
20 is the wetlands.

21 I had come prepared to make a presentation.
22 I'm kind of changing it. I am representing myself and
23 I'm representing the Battle's Wharf Point Clear

1 Association, and that was an association that got
2 together in that neighborhood to join with Fairhope in
3 defeating Mr. Breland and his lawsuit against Fairhope.
4 And we tried that case for four days. That's where he
5 wanted to fill 14 -- 10.4 acres of land, and he wanted
6 to fill it for development of a subdivision.

7 I think a little history of that might help.
8 He bought the property in 1999, and he bought
9 approximately 60 some odd acres. Most of it was
10 wetlands and he knew it was wetlands and he was told
11 that he couldn't build on those -- on that land unless
12 he got the approval of the appropriate authorities. So
13 he paid a good price to get 64 acres but making sure
14 that most of it was -- some of it was uplands.

15 He's got about 11 acres of uplands that he
16 can develop without any fill of any wetlands. Okay?
17 But he petitioned the Corps back in '01, 2001, to allow
18 him to fill 14 some odd acres of the wetlands for the
19 development of a 35- or 36-lot subdivision. When the
20 Corps --

21 (Timer goes off.)

22 Is my time up? Can I go on a little bit?

23 At any -- well, the Corps sent Mr. Breland -- the Corps

1 asked for objections from anybody. One of the
2 objections that came in -- came from the county, Baldwin
3 County, and it said wait a minute. What you're
4 proposing violates the county subdivision regulations.
5 You can't fill wetlands to create a buildable lot.

6 So here it is before ever starts, the Corps
7 says to Mr. Breland, What's your response to that? I
8 have his response. His response was that I acknowledge
9 that the authorities --

10 (Timer goes off.)

11 -- have the -- you have to go to the
12 authorities to get permission, and unless you get their
13 permission you can't build it. And he said if you can't
14 get their permission I can't build it.

15 I got to finish. Let me say this about the
16 flooding. He tried to fill twice.

17 MS. BARNES: Madam Chairman, can I request
18 more minutes?

19 FRED KILLION: Excuse me?

20 MS. HOPE: I'm sorry.

21 MS. BARNES: Could I request more minutes
22 for him?

23 MR. BUFORD: Madam chairwoman, that is

1 strictly up to you.

2 FRED KILLION: I'll be short.

3 MS. HOPE: If you'll be short and please
4 wrap it up.

5 FRED KILLION: He --

6 MS. HOPE: We've got one more person.

7 FRED KILLION: He tried to fill in 2008 in
8 the stop because he hasn't tried with the regulations.
9 He then tried to fill again in 2011. And I've got for
10 you two letters that he received from Baldwin County
11 about why he was stopped working. He hadn't complied
12 with anything. And in 2011, when he was stopped, he
13 then decided maybe I should see what needs to be done.

14 I have a letter that Rowe Engineering gave
15 Mr. Breland -- since we're in the flooding -- and it
16 said, "Before you can proceed, you need to have a better
17 plan to present to the County about how the water
18 situation is going to be because what you have presented
19 is based on a 25-year rain, and it's now required that
20 you make arrangements on a 100-year rain."

21 Did he listen to that? Didn't listen. He
22 filed a lawsuit against Baldwin County -- against
23 Fairhope which we had to defend. So I've got for you,

1 if you will, there are two letters that are important in
2 2008 and 2011 about recently stopped the fill.

3 And if you're talking about flooding, what
4 happens if you fill 10 and a half or 9.6 acres of
5 wetlands. Isn't that going to create some problem? I
6 mean -- I listened to what the gentleman on drainage,
7 but he -- Breland has not pretend -- and don't think
8 Breland is going to do any favors for anybody because
9 he's after just himself -- in getting what he can on the
10 development of those lots.

11 We oppose it. We don't want any sediment,
12 any further improprieties going into the Bay. It all
13 goes through either Sweetwater Branch or Rattlesnake
14 Creek, I think it's called, but the mainly Sweetwater
15 Branch. And you're experts have said to you -- told
16 you, that this needs to be preserved.

17 I have for you, the Audubon society when all
18 this came up made a study of this for Fairhope and said
19 that this is one of the main preservatives for the
20 Mobile Bay to purify water before it gets into Mobile
21 Bay. The sediment will settle while in the wetlands,
22 and the vegetation in there will remove the impact
23 proprieties.

1 I've got now 63 signatures of individuals
2 also that I presented to you that oppose it. My group
3 of 120 on our association opposes it and our --

4 MR. BUFORD: Madam Chairwoman, we need to
5 move on.

6 MS. HOPE: Thank you, Mr. Killion.
7 Mr. Frances Paul Ripp.

8 SECRETARY: Chairman, I did want to note
9 that we have signatures for 55.

10 MS. HOPE: I'm sorry. We couldn't hear you.

11 SECRETARY: He gave me a petition for
12 signatures for 55; so we do have that on record, as
13 well.

14 MR. RIPP: Hey. Good afternoon. My name is
15 Frances Ripp. I'm with the Ripp Report. It's a not for
16 profit consumer association. No one's paying me. I am
17 not a lawyer, thank God. And what I'm going to tell you
18 is what I witnessed in Fairhope.

19 I was very, very active, still am, in
20 Fairhope publics at the time around 2010 is when it
21 really began to start. And there were -- our concern,
22 my concern, was the amount of money that they were
23 spending on lawsuits, Fairhope.

1 They had the Triangle lawsuit. That ended
2 up costing a total of \$11.25 million, \$8.25 they had to
3 pay for the property and \$3 million they had to pay for
4 lawyer fees which they financed through the utility
5 board.

6 Then you had the Publix lawsuit, same time.
7 I was involved in two of those lawsuits when there were
8 two other lawsuits. The two lawsuits I was involved in
9 was trying to get them to correct a wrong. I wasn't
10 suing them for damages or money or anything else. I was
11 trying to get them to do what they were supposed to do.

12 Then you ended up with the apartments behind
13 Publix. They were never going to be sold. They were
14 signature apartments. All the drainage was okay. And
15 they built it on a creek. That's flooded twice.
16 They've sold the apartments. They've had water
17 problems, they've had sewer problems, transfer problems
18 across the Creek at 98 all because of that.

19 The Breland lawsuit that was going on at the
20 same time. I did not know Mr. Breland at the time. I
21 was just trying to address the lawsuit. That series of
22 lawsuits was about 800,000. I was involved in several
23 different consumer issues with the water at Molokai

1 intersecting Nelson. First it was the people in Molokai
2 that had a problem. Then it was discovered that the
3 problem on that corner has been there since 1989.

4 I have stood in the center of the road at
5 Molokai and had water come over the top of my shoe
6 flowing down right into the property around some of
7 these people's property that live there. I agree with
8 two of them. One, it drains off real quick. How can it
9 drain off that quick? It's draining off quick because
10 your shoving water is all up in there. It doesn't have
11 anywhere to go but back out.

12 I agree with the other gentleman that said
13 fix the drainage problem. Have the county fix all the
14 drainage problem down there on that corner, and then
15 he'll come back there and reapply. You won't have a
16 drainage problem. There's no ditches.

17 (Timer goes off.)

18 In the last two weeks -- if I can get one
19 minute -- in the last two weeks, they dug -- put in a
20 culvert, dug out 186 feet of pipe, cleaned it out, and
21 so now the water's not going to go over the road. Now
22 the water's going to go through the pipe.

23 On the property, I don't see how you can

1 make a decision on that property without having a field
2 inspection and have somebody walk back there and look.
3 I've been back there four or five times.

4 MS. HOPE: Mr. Ripp, I'm sorry you're going
5 to have to --

6 MR. RIPP: Whoever cut those ditches on his
7 private property should be liable, but the water problem
8 is the county's fault and the City of Fairhope started
9 every bit of this. Thank you.

10 MS. HOPE: Thank you Mr. Ripp. Do we have
11 anyone else? Crystal, we've got two that they need to
12 check in.

13 SECRETARY: Yeah. I have a Carson
14 Nickelson.

15 MS. HOPE: Ms. Nickelson. We'll just have
16 Ms. Nickelson come up first to the podium.

17 SECRETARY: Are you Carson? Okay.

18 MS. NICKELSON: Somebody left glasses.

19 My name is Carson Nickelson, and I am a
20 lawyer and I promise to try and keep this brief.

21 I don't think this is a referendum on what
22 Fairhope has done and done incorrectly. The permit is
23 to fill 9.6 acres of wetland. Whether the developer

1 believes that it's good wetland or bad wetland, it's
2 wetland. I live there. I live a half a mile away from
3 Nelson Road to the south. I live four driveways to the
4 south from Sweetwater Branch. I've been in my home 30
5 years. We are on the Bay. Yes, we have standing water
6 every single hurricane and tropical storm. Mr. Steel
7 did not state when his pictures were taken, but frankly
8 it looked to me like it was Sally because the roads do
9 not look like that on a regular rainstorm.

10 The ditches on the east side of the road do
11 fill up. They need to be cleaned out. However, the
12 people where they say they have filled those ditches,
13 there's a -- there's an actual pipe that runs underneath
14 that fill where the water drains. It drains down to
15 Sweetwater Branch. It drains down to, I think it's
16 Moccasin Creek. I think there's an actual creek by the
17 Supper Club as opposed to a drainage ditch. And then it
18 continues on to drain.

19 There are drainage areas going from the
20 hotel all the way down, and they have been there my
21 entire lifetime which is 63 years. As a child, Max's,
22 which is the restaurant where the current Supper Club is
23 located, flooded every single rainstorm. It began to be

1 a community joke. Everybody went down and helped
2 Ms. Max sweep out of the water, and she got open the
3 next week.

4 Mr. Steel is incorrect, which is one thing I
5 wanted to bring up. The City of Fairhope won the
6 lawsuit at the county level, and the Alabama Supreme
7 Court, I believe, affirmed that judgment. And I pulled
8 that up while I was sitting here. Some of the other
9 statements, I know were incorrect. We have one member
10 of the audience who has seen wood ducks. Ma'am?

11 OFF CAMERA SPEAKER: They're woodland ducks.

12 MS. NICKELSON: They're woodland ducks in
13 the area. Thank you.

14 MS. HOPE: Thank you. And who's -- there's
15 one other person who would like to speak I understand?

16 SECRETARY: Toodles Dorgan.

17 MS. HOPE: Ms. Dorgan you want to come up to
18 speak? Dorgan?

19 MS. DORGAN: I just wanted to say that I
20 have lived on Nelson Drive since -- for 62 years.
21 There's a brief period for eight years I was not there.
22 But since I was a little girl, I lived there. My
23 parents had a home there. I now live there again on the

1 corner of Nelson and Heard Road; so I know exactly where
2 Mr. Breland's property is. And as a child growing up,
3 we have watched and seen -- it was just part of that.

4 There's a lot of houses built on that
5 neighborhood in our -- on our street since then and also
6 down on the bottom street, you know, down on Scenic 98.
7 When we were small, there were -- there were no houses
8 down there hardly at all. There was the Supper Club,
9 which was Max's, and there was a Jehovah's Witness
10 church which is where now where our bistro is. And
11 that's all there was.

12 So yes, there has been a lot of building
13 going on and yes, there is water down there. But that's
14 because the wetlands, the water that would come off of
15 that to rush down toward -- actually Nelson is on a hill
16 too if you don't know that. There is a hill that goes
17 down -- but that water that comes off the wetlands
18 rushes down toward 98, we've had all that building
19 that's gone on there now. So that might be where your
20 problem is. The water's coming from wetlands. That's
21 where the water's coming from back there, you know,
22 because that's -- and it does what it's supposed to do,
23 to filter, to go down into the Bay.

1 You know, Sweetwater branch, that branch
2 runs. If you have not ever been down there, you can see
3 the flow of that water, running down there. In fact, I
4 probably have a video on my phone of it because I go
5 down there quite often and watch it.

6 But I just want to say that we've seen the
7 water and the wetlands on that property since we were
8 little girls, my sister and I, so there's wetlands
9 there.

10 MS. HOPE: Thank you. Did we have anyone
11 else?

12 SECRETARY: Anthony Wilson?

13 MS. HOPE: Anthony Wilson? Mr. Wilson, you
14 want to come up to speak?

15 MR. WILSON: Good evening. My name is
16 Anthony Wilson. I'm born and raised. My folks was here
17 when Fairhope didn't even exist. I normally don't speak
18 this fast, but I can speak, and I'm going to try to rush
19 as much as information I can out here as fast as I can.

20 First, I'd like to commend you all because
21 the way this county has grown, it's amazing that you can
22 even much stay abreast of it. Okay. I've heard so much
23 here this evening, you know, it kind of boggles the

1 mind; but not these folks. You know, we live here. We
2 know what this is all about, some new, some not. Okay.
3 It's a problem that's being thrown saying, Oh, the
4 county, you know, they didn't do this and they didn't do
5 that and this right here.

6 Listen, the man come through and asked --
7 and I'm just going to use a random, you know, just, I
8 guess, you know, descriptions of people -- but anyway
9 they came through and said, Listen, if y'all will give
10 up just, you know, a foot or two or whatever of land
11 this right here, heck, we'll pave the road this right
12 here. Well, I told my sister who lives out here, my
13 relatives, I say, we ain't got a dog in the fight. I
14 mean, heck, if you're going to pave the road, pave it.
15 You know, do it. So -- and that's what he did. Of
16 course, he had you know, nefarious intent when he was
17 doing that. Because once it went in, the road got
18 paved -- okay -- it was, I'll buy the materials, the
19 county do the work. That's what happened. He bought
20 the materials. The county did the work. Hence, that's
21 what the plan was. See that's all a part of the plan.

22 We went to the city and we got, gosh, four,
23 five plans. Every time it was something new every time.

1 It was going to 150 houses. It was going to be one with
2 a six-story building. He was going to dredge out
3 Sweetwater Branch and sell waterfront homes on there.

4 I mean, hey it ain't -- this is not nothing
5 new, but this gentleman, they've -- they've put it on
6 there -- when they finally went to the city, was joining
7 other property owners on there. We went to a meeting
8 some similar like this, and the City of Fairhope was
9 there. And they told him, they said, Listen, you got to
10 somebody in Bay Minette to give you sign a field permit.
11 Who it is we're not going to investigate, but, you know,
12 you got to -- when the man bought the property, they
13 told him he should have never been able to develop it
14 because it's a designated wetland. Okay? So he knew
15 that.

16 After much deliberation and this right here,
17 the City told him, they said, We can't tell you that
18 you'll never be able to develop it because you can get
19 some funding from someplace else or wherever. But the
20 thing is this. It was going to cost him back then
21 somewhere in the neighborhood of \$2 or \$3 million to
22 build a catch basin at the bottom of Twin Beach Hill to
23 catch the run off because it would have to be filtrated

1 as it went on out into the Bay or whatever. Okay.

2 Another thing right quickly -- gosh, time
3 goes fast -- but listen, another thing right quickly is
4 this right here. I'm going to tell -- my folks, we got
5 roads. They used to put the barrels -- water barrels on
6 the back of the horse and wagon, they'd go down to
7 Sweetwater Branch. They would get -- load up the
8 barrels, and they would take them up back to the top of
9 the hill where the homestead was.

10 So I'm going to tell you -- we've been here
11 forever. And a lot folks that live down there knows
12 that folks live there, the road was dirt. All the way
13 down the front the gentleman that lived -- that got the
14 house on the end of Nelson and right there at Scenic 98,
15 those people built there. That was a nursery. The man
16 had flowers and big nursery planting stuff in there and
17 all. It's always been water. It's always going through
18 here. And it's a problem that they jumped into and
19 trying to push it off to somebody else. Okay.

20 And I'm going to tell you. The man can go
21 in there, and he can fill it as high as y'all desks
22 right there, right? Talking about filling his property.
23 It ain't going to stop it. The water coming off of that

1 hill and period -- now, that's just the paved road. All
2 the people live on the property goes that way. And what
3 you've heard most everybody here say it, it drains. It
4 goes out, and it will. It does that.

5 You think that's bad? Y'all talk about
6 Molokai and Nelson Road. Why don't you go right down to
7 the other end there where 98 -- Twin Beach 98 -- runs
8 into Scenic 98 right down there in Battle's Wharf when
9 it gets right, the water there crosses the road coming
10 out of those swamps. It is a designated wetland. It's
11 always going to be there.

12 I was amazed that back in the early '80s the
13 gentlemen built -- they built a place in there called
14 Point Courts that's down on 98. They pushed up some
15 dirt mounds and stuff and went in, and they were selling
16 these homes and stuff. I think the cheapest one was
17 \$60,000. That was for the lot. Now, of course, this is
18 80's prices. You had to build this and that, all that.
19 But all they did was built a retaining wall to try to
20 keep the water from coming into the place and flooding.
21 There is not anything easy -- it's no easy fix for what
22 he is trying to do, and he knew that going into this.
23 And now he's trying to through it off on y'all and

1 whoever else.

2 As far as me, I mean, hey, I'd rather not
3 see it because we losing so much already in the county
4 especially when it comes to the Bay. People moved in,
5 and they had accesses that they were just building over
6 and all. They came back and finally made some of them
7 tear them down and move out, you know, to give a
8 right-of-way and stuff; but anyway, I'll stop. I
9 digress. And again, y'all have my sympathy, and that's
10 it.

11 MS. HOPE: Thank you. Do we have anybody
12 else speaking today or -- I don't have anyone left.

13 SECRETARY: I don't have anyone.

14 MS. HOPE: Okay. Then we're going to close
15 the open forum meeting. Mr. Killion? I'm sorry.

16 MR. KILLION: Can we do a show of hands to
17 those opposed to Mr. Breland's petition, ma'am?

18 MS. HOPE: I don't see why not. Sure. All
19 those people Mr. Breland? For all that are in favor?

20 Okay. Thank you.

21 Close the meeting.

22 MR. BUFORD: Madam Chairwoman, may I address
23 the board?

1 MS. HOPE: Please do.

2 MR. BUFORD: Madam Chairwoman, thank you for
3 allowing me to speak to the board once again. I just
4 want to take a moment to reiterate why we're here today
5 and the authority of this board.

6 And first of all, we certainly appreciate
7 the great deal of background information that we
8 received today, and we thank everyone for attending and
9 providing that background information. I want to
10 clarify that a great deal of what we heard today is
11 related to development activities that we are not
12 considering today. We are not -- this board one, does
13 not have the authority to consider or approve a
14 development of any kind, not a subdivision, not a site
15 plan, none whatsoever.

16 Also, I want to clarify the City of
17 Fairhope, they are not longer enforcing their permit and
18 planning jurisdictions which is why this property is
19 under the full consideration of county staff and county
20 requirements. So I want to clarify that because in
21 prior years, prior to state -- prior to public law
22 21297, the City of Fairhope had more authority that they
23 now have chosen not enforce. So we are strictly within

1 the realm of the county.

2 I think one -- what I want to reiterate
3 also, and I mentioned this very briefly in the initial
4 presentation, is the typical development path that we
5 would see on the property like this and many others like
6 is, first of all, it appears it's very apparent that
7 there's a desire to put a lot size on the property that
8 will require rezoning. So that rezoning process would
9 go through, it would be applied for to staff. It would
10 be presented to the planning commission. The planning
11 commission would have a public hearing much like we have
12 today. The planning commission would make a
13 recommendation of approval or denial to the county
14 commission. We as staff would also have our own
15 recommendation. Then that application would go to
16 county commission for final consideration.

17 If a rezoning was approved, the next step
18 would be to apply for a subdivision or a site plan.
19 Based upon the background information we've heard today
20 and have been furnished, it appears the desire is for a
21 subdivision of some type on subject property. That
22 would require applying for a -- what we call a
23 preliminary plat. But it would also require submitting

1 drainage calculations and a drainage narrative. If the
2 number of lots or units was 50 or more, it would
3 automatically trigger a traffic study.

4 Now, that drainage -- that drainage
5 narrative would contemplate onsite and offsite flows; so
6 many of the issues that we heard today would be
7 contemplated by that drainage study. That is the
8 subdivision process, and it is realm of planning
9 commission.

10 If the planning commission approved the
11 subdivision preliminary plat, the applicant would then
12 apply for a construction plan review, and we would go
13 through a very detailed review where our county and
14 staff, licensed professional engineers, would review the
15 application prepared by the applicant's licensed
16 professional engineers. And if that process carried out
17 successfully, we would issue a subdivision permit. Only
18 after that permit was issued could any improvements be
19 installed on the property.

20 So what we have today is a slight deviation
21 from the normal process. We have an application for --
22 we know there would be a pending application for a land
23 disturbance permit in a zoned area which would require

1 crossing the 30-foot landscape buffer -- excuse me,
2 pardon me -- the 30-foot non-disturbed wetland buffer.
3 That is how a zoned land disturbance permit works, if
4 there is a need to do that.

5 Our analysis of the request is that the
6 supporting information for the wetland filling does not
7 align with what would be a hardship which justifies a
8 variance on a piece of property zoned conservation
9 resource. That is why we as staff have recommended
10 denial -- that's why we as staff have recommended denial
11 of the variance, the zoning variance to cross into the
12 wetland buffer.

13 Board members, we do have -- if it comes --
14 if there is a motion for approval, we do have some
15 conditions of approval that we'd like to put in that if
16 there is a condition of -- condition of approval. If
17 there is a recommendation of denial, then we ask that
18 items one and two up there be included to memorialize
19 the facts that we have placed before there. And, board
20 members, I'm happy to answer any questions you may have.

21 MS. HOPE: Does anyone have any questions
22 for Buford? Can I get a motion?

23 MR. STEJSKAL: You asked for a motion? Oh,

1 I move that we follow staff's recommendation to deny the
2 request and follow Buford's -- number two, I think you
3 said, Buford.

4 MR. BUFORD: Yes. Yes. You'll include
5 items one and two. We are simply memorializing that
6 information.

7 MR. BRAGG: I'll second that.

8 MS. HOPE: Roll call.

9 SECRETARY: Ms. Hope?

10 MS. HOPE: Yes.

11 SECRETARY: Mr. Bragg?

12 MR. BRAGG: Yes.

13 SECRETARY: Ms. Coggin?

14 MS. COGGIN: Yes.

15 SECRETARY: Ms. Frost?

16 MS. FROST: Yes.

17 SECRETARY: Mr. Stejskal?

18 MR. STEJSKAL: Yes.

19 SECRETARY: Mr. Ward?

20 MR. WARD: Yes.

21 SECRETARY: Ms. Barnes?

22 MS. BARNES: Yes.

23 SECRETARY: Motion passed to go with staff's

1 recommendation of denial on ZVA24-48.

2 MS. HOPE: Do we have any other
3 announcements that we need to go over?

4 MR. BUFORD: I do not, Madam Chairwoman.
5 I'll ask fellow staff if we have any official
6 announcements.

7 MS. HOPE: Crystal?

8 SECRETARY: No. I don't have anything.

9 MS. HOPE: Well, meeting's adjourned. Thank
10 y'all.

11 (Meeting was adjourned.)

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**Baldwin County Planning and Zoning
Board of Adjustment Number 1
Regular Meeting Minutes
Tuesday, September 17, 2024**

I. Call To Order

The Board of Adjustment Number One met in a regular session on September 17, 2024, at 4:00 p.m., in the Baldwin County Central Annex Auditorium.

II. Roll Call

The meeting was called to order by Brandon Bias the appointed Chair for the meeting. Members present included: Brandon Bias, Doug Ward, Norman Bragg, Charmein Moser, Angela Cooper, Leslie Stejskal, Haley Moore Gregorious, and Thomas Kiel. Staff members present were Crystal Bates, Planning Technician II, Calla McKenzie, Planning Technician II.

III. Approval of Minutes

IV. Consideration of Applications and Request

a.) ZVA24-52 Maye Property, 9816 Milton Jones Rd

Mrs. Crystal Bates presented the applicant's request for variance ZVA24-52 from Section 2.3.15.3 (f) of the Baldwin County Zoning Ordinance as it pertains to the accessory dwellings and the size in order to allow for a Single-family dwelling.

The board asked the staff questions, and acting chair called the applicant Brittany Franas to the podium to speak on the project. She explained why the variance was needed. Acting Chair Brandon Bias called Nathan Oieda-Pesa to the podium to speak on the project and delivery of the new mobile home. Chair called Shirley Maye to the podium, and she spoke on the process and what all she went through to get it to the point it was currently at. Chair asked if anyone else was present who wanted to speak.

Board member Thomas Kiel made a motion to approve the variance with the following site plan submitted for ZVA24-52 seconded by Haley Moore Gregorious. The motion passed to approve the variance with a 6 to 2 vote.

b.) ZVA24-55 Loftin Property, 12201 County Road 1

Ms. Calla McKenzie presented the applicant’s request for variance ZVA24-55 from Section 4.3.4 Area and dimensional ordinance as it pertains to the front yard requirement to allow for a covered porch.

The acting Chair called Michael Loftin to the podium to speak. He stated why they would like the variance. Chair asked if anyone else was present who wanted to speak.

Board member Leslie Stejskal made a motion to follow staff recommendation to Deny the variance case ZVA24-55 and seconded, by Thomas Kiel. The motion to Deny was passed with a 5-3 vote.

c.) ZVA24-56 D & D Mini Storage LLC Property, 25895-B Friendship Rd

Mrs. Crystal Bates presented the applicant’s request for variance ZVA24-56 from Section 5.3.4 Area and dimensional ordinance as it pertains to the Minimum width at the street line in order to allow for further division of the property.

The acting Chair called Patsy Defilippi to the podium to speak. She stated Hunter Smith was there to represent the family. Huner Smith came to the podium and spoke on the project what needed to happen and why they needed the variance to further divide the property. Chair asked if anyone else was present who wanted to speak.

Board member Doug Ward made a motion to Approve the variance case ZVA24-56 and seconded by Norman Bragg. The motion to Approve was passed with a 8-0 vote.

V. Old Business

VI. New Business

VII. Adjournment

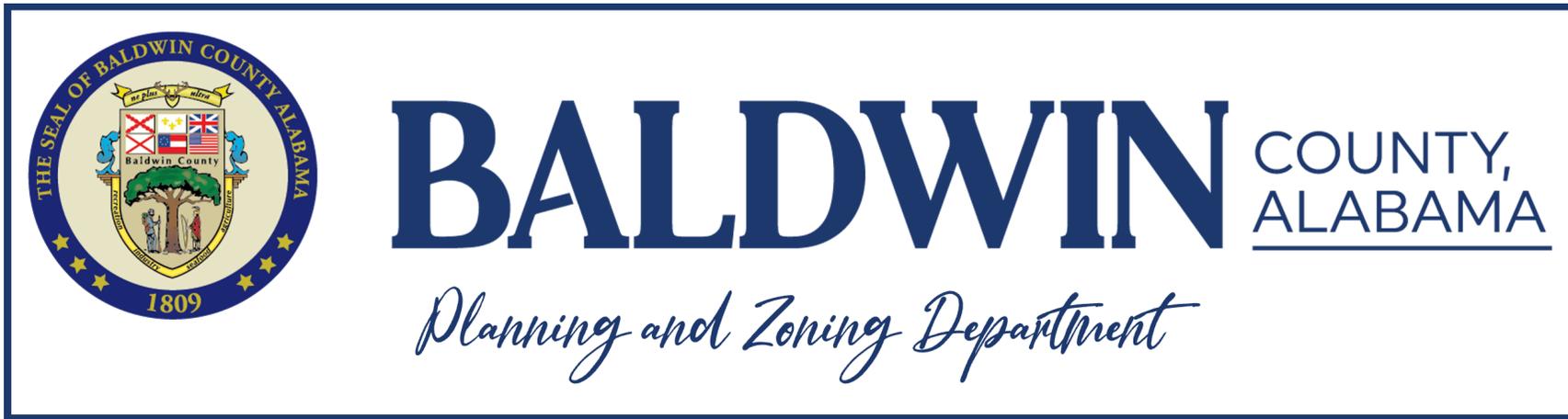
The meeting adjourned at 4:51 p.m.

Respectfully Submitted,

Crystal Bates, Planning Technician

I hereby certify that the above minutes are true, correct, and approved this _____ day of _____, 2024.

Brandon Bias, Acting Chairman



BALDWIN COUNTY BOARD OF ADJUSTMENT #1

REGULAR MEETING

OCTOBER 15, 2024

BALDWIN COUNTY CENTRAL ANNEX

ROBERTSDALE, AL

ZVA24-60 SPEIR PROPERTY

VARIANCE REQUEST

Lead Staff: Crystal Bates, Planning Technician II

- **Planning District:** 16
- **Zoned:** RSF-2, Residential Single Family
- **Location:** The subject property is located west side of 3rd
- **PID:** 05-43-09-32-0-000-051.001
- **PPIN:** 222456
- **Acreage:** .43 ac +/-
- **Physical Address:** 3rd Street
- **Applicant:** John Speir
- **Owner:** John Speir



ZVA24-60 SPEIR PROPERTY

VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Crystal Bates, Planning Technician II

The applicant is requesting a variance from Section 4.3.4 Area and Dimensional ordinance as it pertains to the minimum building setback to allow for a single-family dwelling.

The applicant requests a 20' front building setback in lieu of the required 30' front building setback.

Staff recommends ZVA24-60 be **Approved** unless information to the contrary is revealed at the public hearing.



Locator Map



Site Map



	Adjacent Zoning	Adjacent Land Use
North	RSF-2, Residential Single Family	Vacant
South	RSF-2, Residential Single Family	Residential
East	RSF-2, Residential Single Family	Cemetery
West	RSF-2, Residential-Single	Residential



Subject Property
PIN: 222456



**PUBLIC HEARING
PROPOSED
FOR THIS PROPERTY**
Case Number
ZVA24-000060
Baldwin County Planning
and Zoning Department
For more information,
please call the ZPD
office, visit our website,
(251) 580-1635





Property to
The East
PIN: 30191





Adjoining Property
to The North
PIN: 250517





Adjoining Property
to The South
PIN: 27086

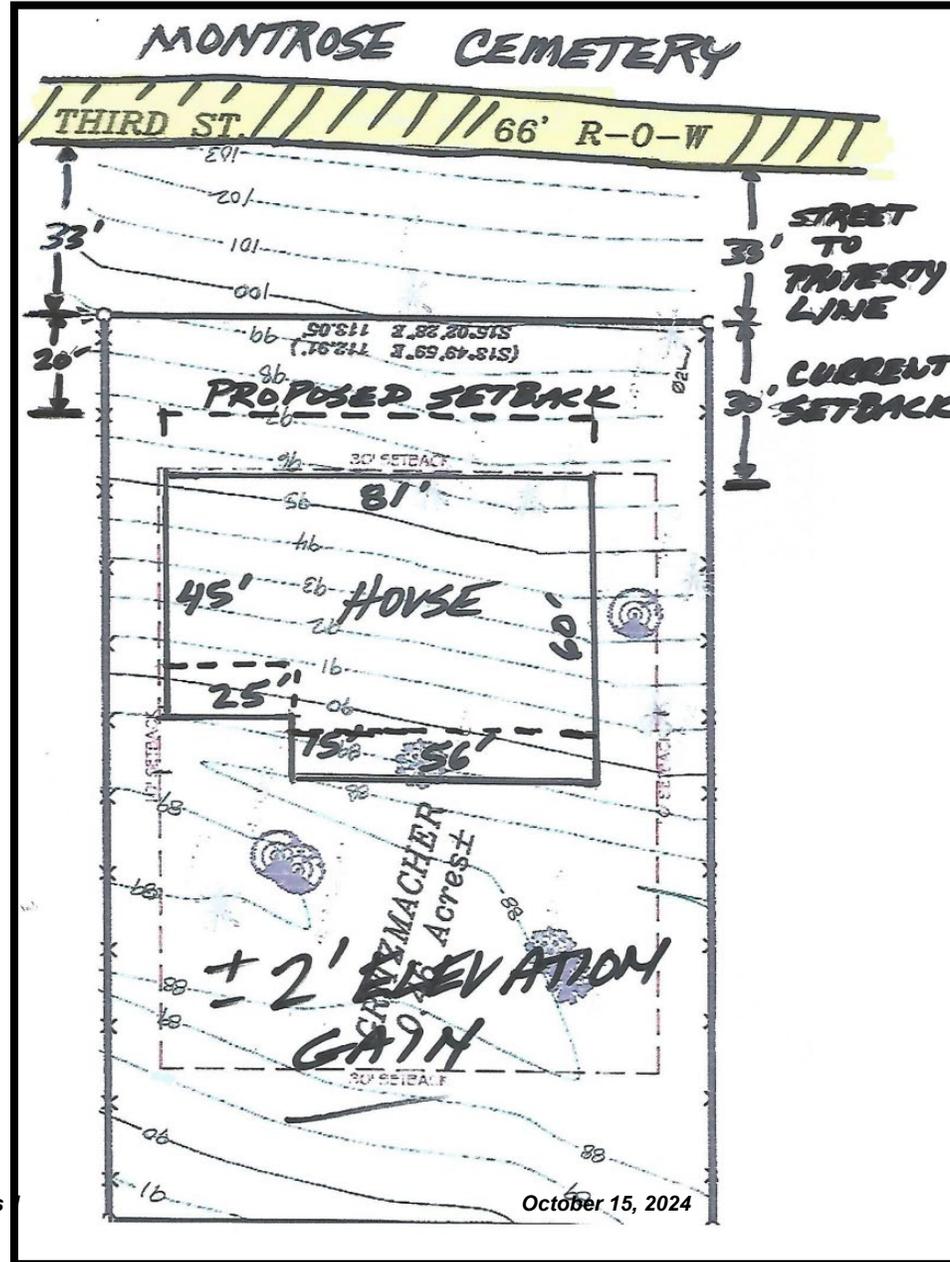




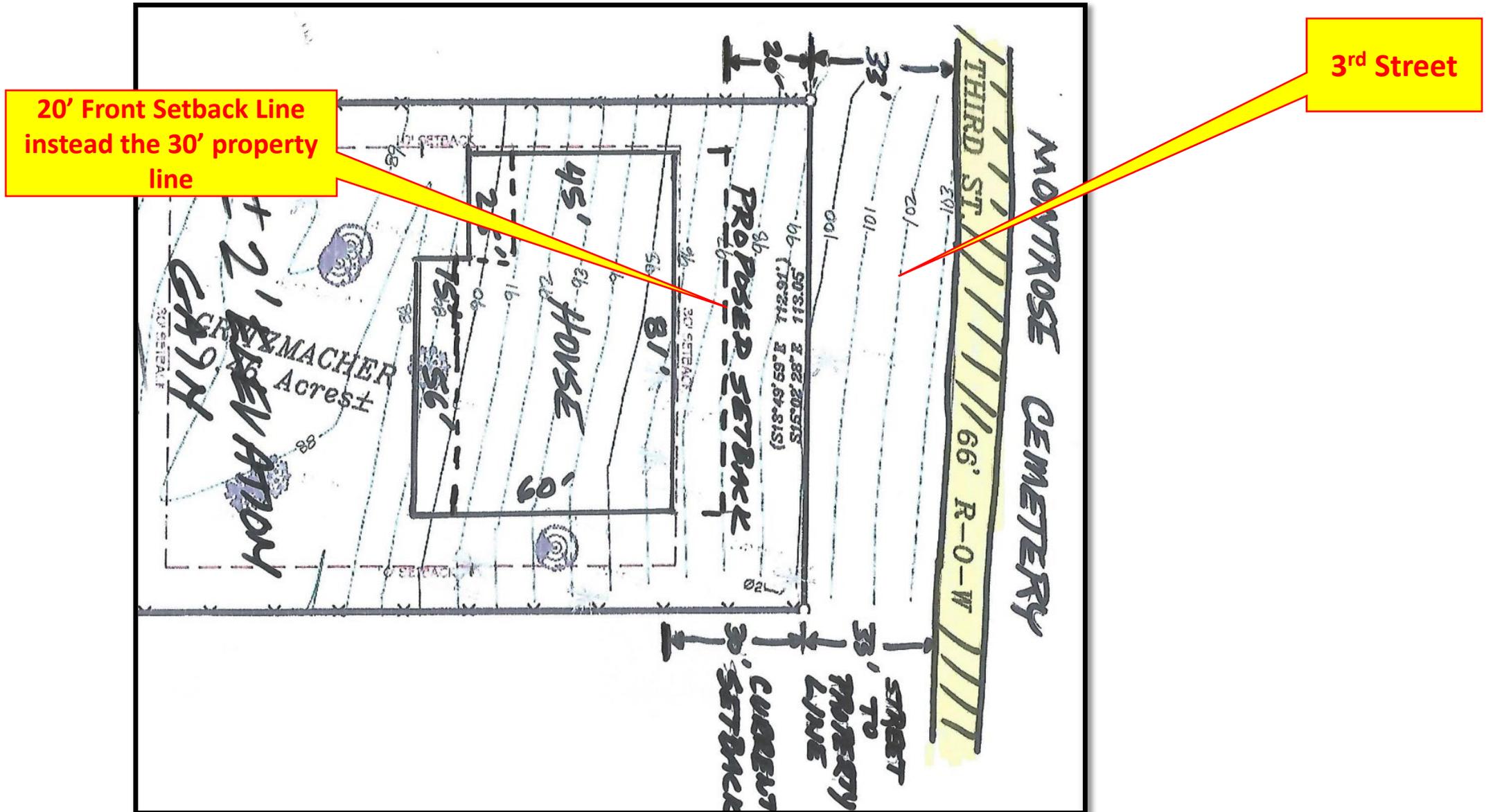
Adjoining Property
to The West
PIN: 30191



Site Plan



Enlarge Site Plan



Zoning Requirements

Section 4.3 RSF-2, Single Family District

4.3.1 *Generally.* This zoning district is provided to afford the opportunity for the choice of a moderate density residential environment consisting of single family homes.

4.3.2 *Permitted uses.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses shall be permitted:

- (a) The following general industrial uses: extraction or removal of natural resources on or under land.
- (b) The following transportation, communication, and utility uses: water well (public or private).
- (c) The following agricultural uses: Silviculture.
- (d) Single family dwellings including manufactured housing and mobile homes.
- (e) Accessory structures and uses.
- (f) The following institutional use: church or similar religious facility.
- (g) Agricultural uses, on RSF-2 zoned parcels that otherwise meet the minimum area and dimension requirements for Rural Agricultural District under Section 3.2.5 herein, agricultural uses shall be permitted uses, except that the minimum front yard for barns and other agricultural structures shall be 100 feet when constructed on an RSF-2 zoned parcel where no primary dwelling currently exists.

4.3.2 *Conditional Use Commission Site Plan Approval.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses may be allowed by the site plan approval process:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

- (d) The following local commercial use: bed and breakfast or tourist home (see *Section 13.10: Bed and Breakfast Establishments*).

4.3.3 *Special exception.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following use and structures designed for such use may be allowed as a special exception: Not Applicable

4.3.4 *Area and dimensional ordinances.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, *Section 12.4: Height Modifications*, *Section 12.5: Yard Requirements*, *Section 12.6: Coastal Areas*, *Section 12.8: Highway Construction Setbacks*, *Section 18.4 Variances*, and *Article 20: Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure	35-Feet
Maximum Height in Habitable Stories	2 ½
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	15,000 Square Feet
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	40-Feet
Maximum Ground Coverage Ratio	.35

Staff Analysis and Findings

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

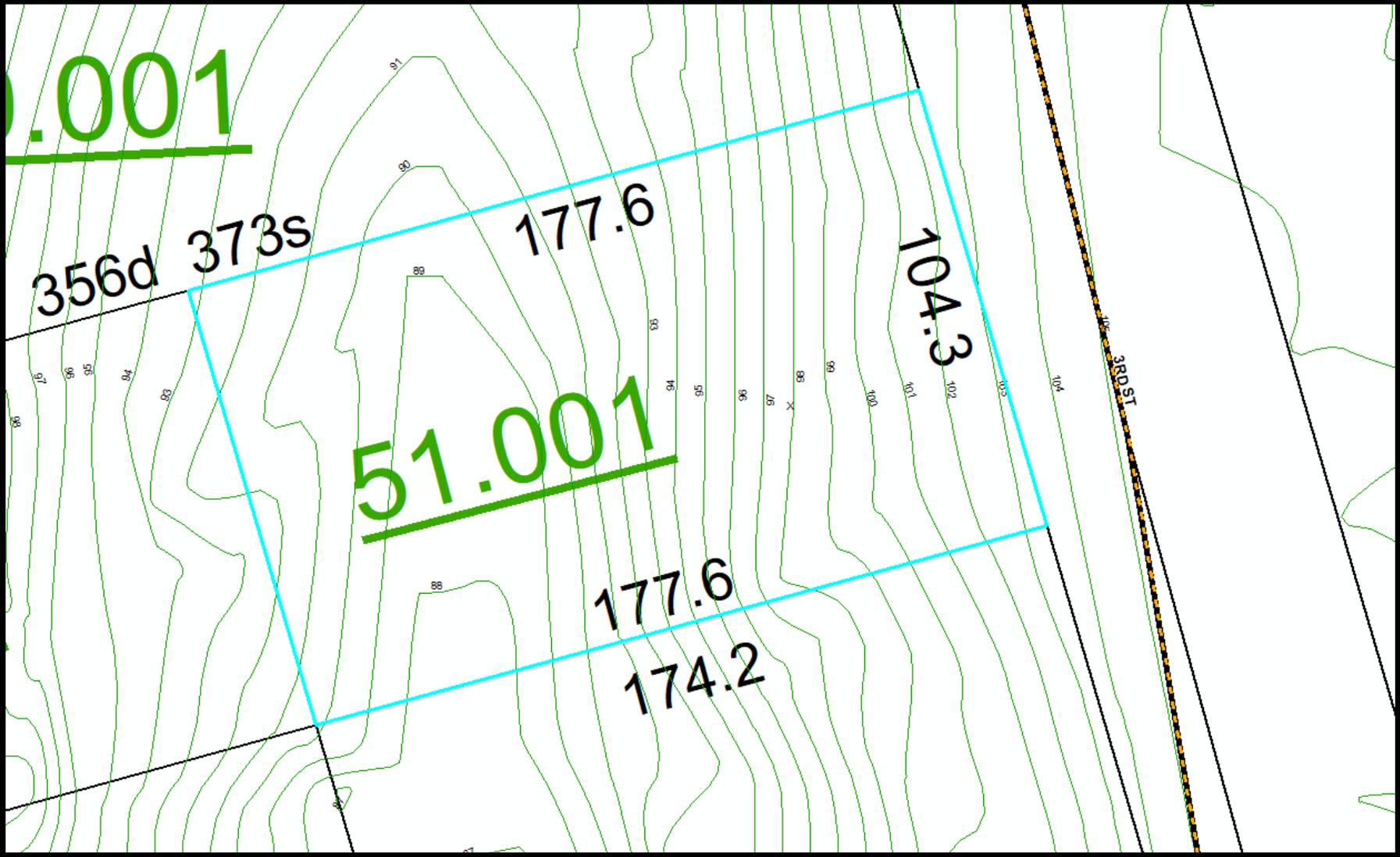
Zoning in Planning District 16 came into effect on June 9, 1992. The minimum lot size requirement for RSF-2, Residential Single-Family district is 15, 000 sf with a Minimum Lot Width at the Building Line of 80' and a Minimum Lot Width at the Street Line of 40'. Per Revenue Commission records the parcel is 104.3 x 177.6 18, 823 sq ft and consists of .43 acres. Staff does not perceive this is a factor in the request at hand.

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

The subject property doesn't contain jurisdiction wetlands on the property or any other exceptional topographic conditions. The lot shows a deviation in contours on the parcel and slopes to the rear of the property. Therefore, with a slight change in elevations, staff could establish exceptional topographical conditions or other extraordinary situations, or conditions contained on the property which would require a variance.

See contours on next page.

Contours



Staff Analysis and Findings

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

The subject property is zoned RSF-2, Residential Single Family. The request is allowed for the front yard setback requirement in order to construct a Single-Family dwelling. The property is located in the Historic District so all structures including the Single-family dwelling will require Architectural Review Board Approval. Staff perceives that the granting of the application may be necessary for the preservation of a property right and is merely to serve as a convenience to the applicant or based solely upon economic loss.

4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

Staff does not believe the granting of this application, **in general**, will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County. However, staff cannot specifically assure and makes no warranty or guarantee that if granted the resultant variance will or will not diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County because the effect of the variance cannot be quantified at the time of consideration.

Staff Analysis and Findings

5.) Other matters which may be appropriate.

- The applicant has submitted a written document stating there is no active homeowner association for the subject property.
- No documentation in favor of or opposition to this variance request has been received at the time this staff report was written.

ZVA24-60 SPEIR PROPERTY

VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Crystal Bates, Planning Technician II

The applicant is requesting a variance from Section 4.3.4 Area and Dimensional ordinance as it pertains to the minimum building setback to allow for a single-family dwelling.

The applicant would like to have a 20' front building setback instead of the required 30'.

Staff recommends ZVA24-60 be **Approved** unless information to the contrary is revealed at the public hearing.

1. If approved, the variance is limited to the request as shown on the site plan provided herein.
 - a. Any deviations within the ZSP from site plan included in the approved zoning variance may require additional variance requests.
2. If approved, The dwelling will have to be approved by ARB.
3. Staff memorializes that the site plan provided is not stamped by a licensed professional engineer, surveyor and has not been presented as nor approved by engineering or survey data.
4. Staff reserves the right to require corrective action in lieu of allowing additional variance requests should a blatant disregard for the provisions of the approved zoning variance or ZSP occur when the structure is constructed.
5. This variance relieves subject property of no other requirements of the Baldwin County Zoning Ordinance, Baldwin County Subdivision Regulations, Baldwin County Building Department (building permit), Baldwin County Highway Department (driveway permit, turnout permit, or licensing agreement), or requirements of other agencies.

ZVA24-60 SPEIR PROPERTY

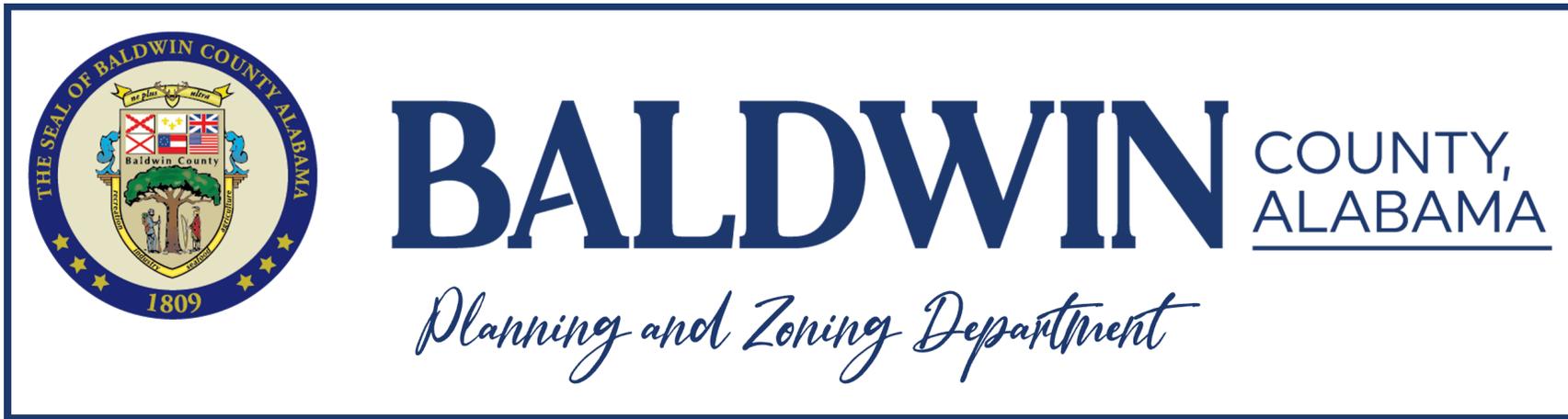
VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Crystal Bates, Planning Technician II

GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board of Adjustment may within fifteen (15) days thereafter, appeal the final judgment to the Circuit Court of Baldwin County, Alabama, by filing with the Circuit Court and the Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board of Adjustment shall cause a transcript of the proceedings and the action to be certified to the Court where the appeal is taken.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.



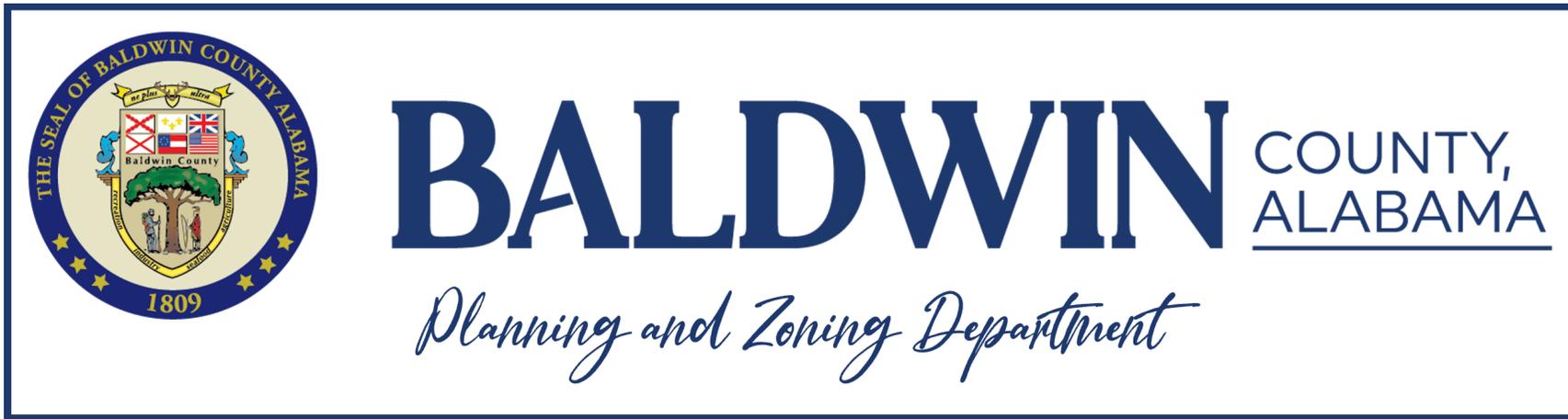
BALDWIN COUNTY BOARD OF ADJUSTMENT #1

NEXT REGULAR MEETING

NOVEMBER 19, 2024 @ 4:00PM

BALDWIN COUNTY CENTRAL ANNEX

ROBERTSDALE, AL



BALDWIN COUNTY BOARD OF ADJUSTMENT #1

REGULAR MEETING

OCTOBER 15, 2024

BALDWIN COUNTY CENTRAL ANNEX

ROBERTSDALE, AL

ZVA24-61 COUMANIS PROPERTY

VARIANCE REQUEST

Lead Staff: Crystal Bates, Planning Technician II

- **Planning District:** 26
- **Zoned:** RSF-2, Residential Single Family
- **Location:** The subject property is located west side of County Road 1
- **PID:** 05-56-08-33-0-000-047.000
- **PPIN:** 47725
- **Acreage:** .30 acre +/-
- **Physical Address:** 11541 County Road 1
- **Applicant:** Claremont Property Company Diana Espinoza
- **Owner:** Michael Coumanis



ZVA24-61 COUMANIS PROPERTY

VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Crystal Bates, Planning Technician II

The applicant is requesting a variance from Section 4.3.4 *Area and Dimensional* ordinance as it pertains to the minimum building setback and Section 12.5.2 (f) *Yard* requirements as it pertains to coastal hazard area "V" zone setbacks to allow for construction of a single-family dwelling.

The applicant desires to build a new single-family dwelling on lot 60 as well as lot 61.

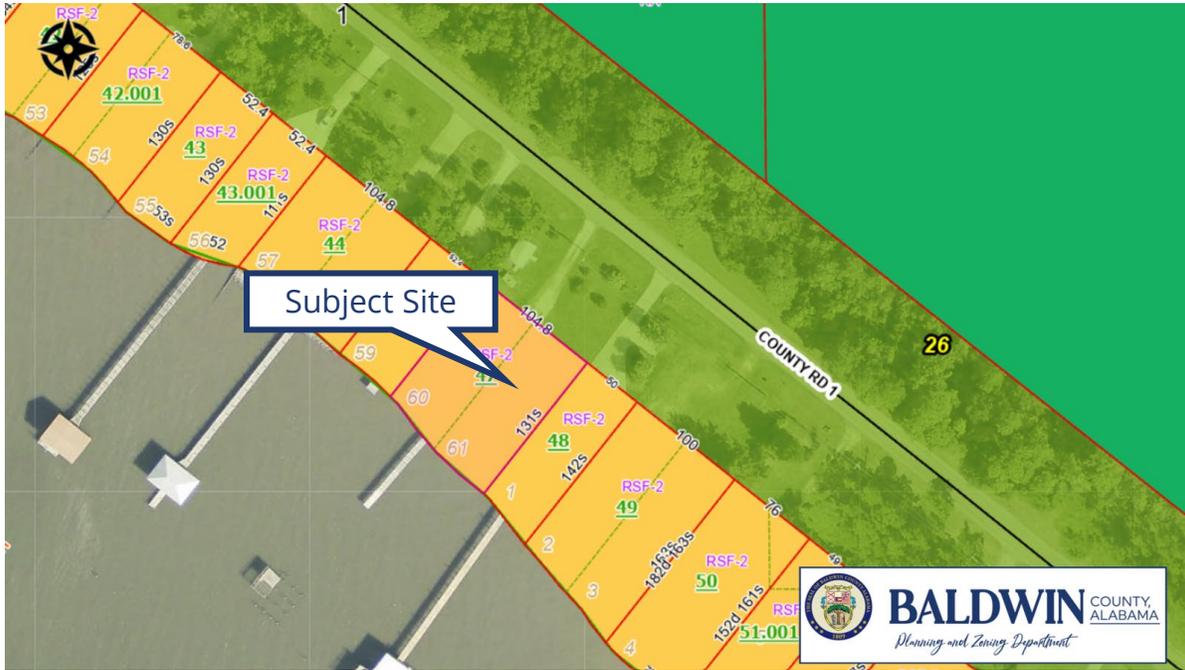
Staff recommends ZVA24-61 be **Approved** unless information to the contrary is revealed at the public hearing.



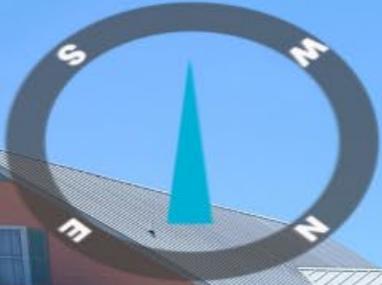
Existing home to be demolished
Permit Number ZSP24-1037
Issued 9/17/2024

Locator Map

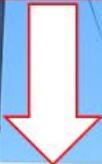
Site Map



	Adjacent Zoning	Adjacent Land Use
North	RSF-2, Residential Single Family	Residential
South	RSF-2, Residential Single Family	Residential
East	RS, Rural Agriculture	Vacant
West	Water Body	Mobile Bay



Subject Property
PIN: 47725

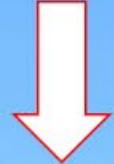


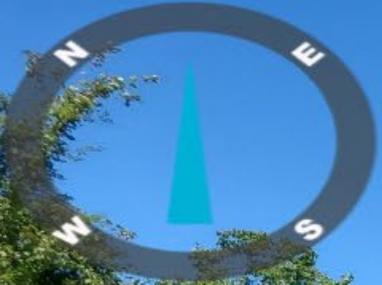
Existing home to be
demolished
Permit Number ZSP24-1037
Issued 9/17/2024

PUBLIC HEARING
PROPOSED
FOR THIS PROPERTY
Case Number:
ZVA24-000061
Baldwin County Planning
and Zoning Department
For more information,
please visit our City
website, or call
678-582-7855



Adjoining Property
to The East
PIN: 17432





Property to
The North
PIN: 7815





Adjoining Property
to The West
PIN: 6508





Adjoining Property
to The West
PIN: 6508



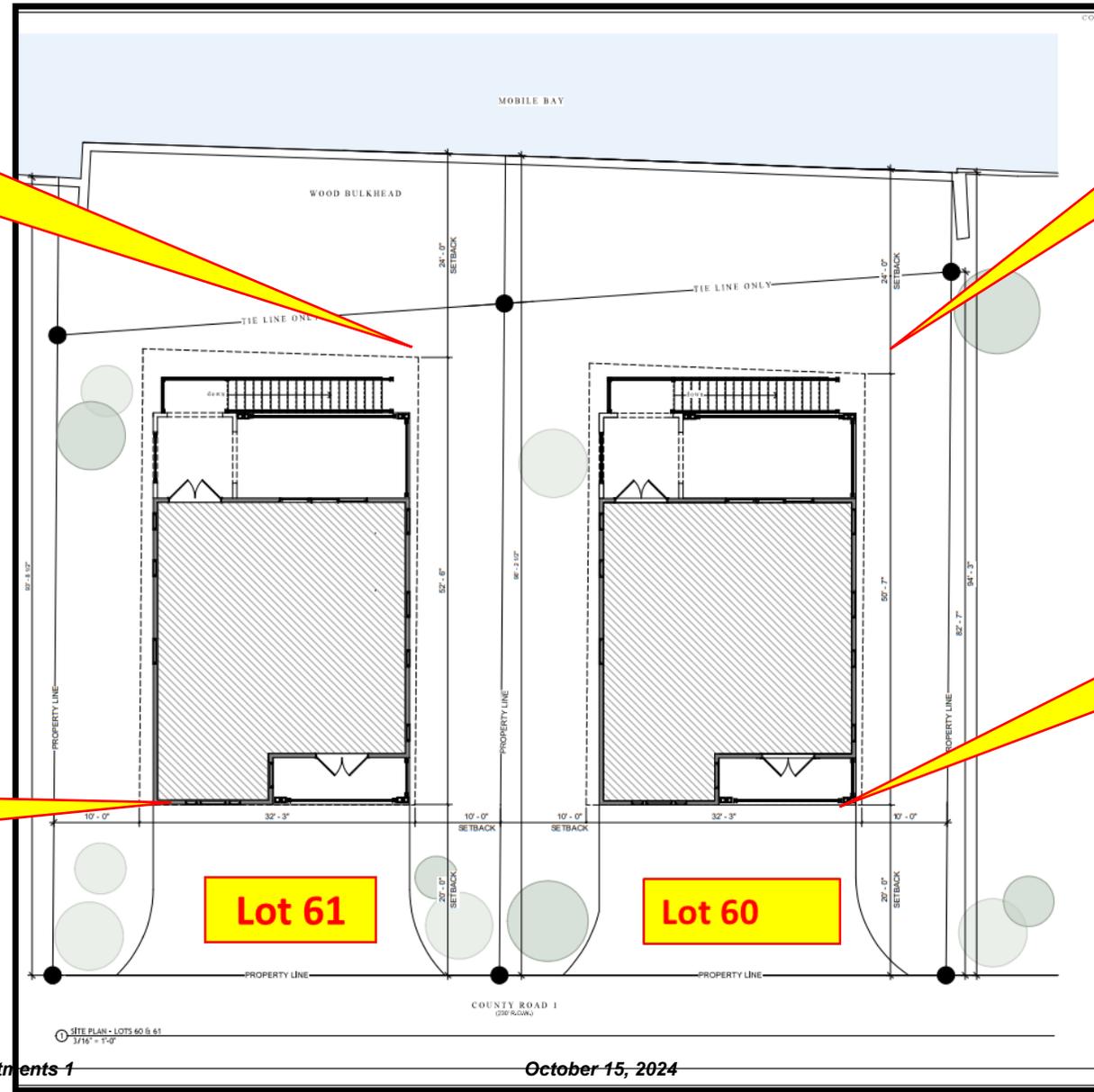
Enlarged Site Plan

Both homes are requested to be placed 24' landward from the front bulkhead reach of the high tide line in lieu of the required 50'

Both homes are requested to be placed 24' landward from the front bulkhead reach of the high tide line in lieu of the required 50'

Both homes are requested to be placed 20' from the rear building setback line in lieu of the required 30'

Both homes are requested to be placed 20' from the rear building setback line in lieu of the required 30'



Zoning Requirements

Section 4.3 RSF-2, Single Family District

4.3.1 *Generally.* This zoning district is provided to afford the opportunity for the choice of a moderate density residential environment consisting of single family homes.

4.3.2 *Permitted uses.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses shall be permitted:

- (a) The following general industrial uses: extraction or removal of natural resources on or under land.
- (b) The following transportation, communication, and utility uses: water well (public or private).
- (c) The following agricultural uses: Silviculture.
- (d) Single family dwellings including manufactured housing and mobile homes.
- (e) Accessory structures and uses.
- (f) The following institutional use: church or similar religious facility.
- (g) Agricultural uses, on RSF-2 zoned parcels that otherwise meet the minimum area and dimension requirements for Rural Agricultural District under Section 3.2.5 herein, agricultural uses shall be permitted uses, except that the minimum front yard for barns and other agricultural structures shall be 100 feet when constructed on an RSF-2 zoned parcel where no primary dwelling currently exists.

4.3.2 *Conditional Use Commission Site Plan Approval.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses may be allowed by the site plan approval process:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

- (d) The following local commercial use: bed and breakfast or tourist home (see *Section 13.10: Bed and Breakfast Establishments*).

4.3.3 *Special exception.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following use and structures designed for such use may be allowed as a special exception: Not Applicable

4.3.4 *Area and dimensional ordinances.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, *Section 12.4: Height Modifications*, *Section 12.5: Yard Requirements*, *Section 12.6: Coastal Areas*, *Section 12.8: Highway Construction Setbacks*, *Section 18.4 Variances*, and *Article 20: Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure	35-Feet
Maximum Height in Habitable Stories	2 ½
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	15,000 Square Feet
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	40-Feet
Maximum Ground Coverage Ratio	.35

Staff Analysis and Findings

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

Zoning in Planning District 26 came into effect on September 21, 1993. The two lots of record are taxed as a single tax parcel but remain lots of record that may be separated and sold individually if the existing structure is demolished and all encroachments are cleared. The applicant has obtained a permit to demolish the existing home that was constructed across the common lot line between the two lots of record. Once returned to the original lots of recorded the property will be approximately 50 x 116 +/- roughly under 10,000 sq. ft. lots and the minimum lot size requirement for RSF-2, Residential Single Family District zoning is 15,000 sf with a Minimum Lot Width at the Building Line of 80' and a Minimum Lot Width at the Street Line of 40'. Therefore, staff believes there is an expectational narrowness, shallowness, or shape of the subject property that would require a variance.

RSF-2 Minimum lot size: **15,000 sf** Actual lot size : **5,800 sf +/-** Hardship: **YES**

RSF-2 Minimum Lot width: **80'** Actual Lot Width: **50'** Hardship: **YES**

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

The subject property doesn't contain jurisdiction wetlands on the property or any other exceptional topographic conditions. Therefore, staff could not establish exceptional topographical conditions or other extraordinary situations, or conditions contained on the property which would require a variance.

Staff Analysis and Findings

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

The subject property is zoned RSF-2, Residential Single-Family District which allows for residential uses . The request is allowed for construction of single- family dwelling. Staff perceives that the granting of the application may be necessary for the preservation of a property right and is not merely to serve as a convenience to the applicant or based solely upon economic loss.

4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

Staff does not believe the granting of this application, **in general**, will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County. However, staff cannot specifically assure and makes no warranty or guarantee that if granted the resultant variance will or will not diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County because the effect of the variance cannot be quantified at the time of consideration.

Staff Analysis and Findings

5.) Other matters which may be appropriate.

- The applicant has submitted a written document stating there is no active homeowner association for the subject property.
- No documentation in favor of or opposition to this variance request has been received at the time this staff report was written.

ZVA24-61 COUMANIS PROPERTY

VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Crystal Bates, Planning Technician II

The applicant is requesting a variance from Section 4.3.4 *Area and Dimensional Ordinance* as it pertains to the minimum required building setbacks; as well as a variance from Section 12.5.2 (f) *Yard Requirements* as it pertains to coastal hazard area “V” flood zone setbacks. The applicant desires to construct a new single-family dwelling on lot 60 as well as on lot 61. Staff recommends ZVA24-61 be **APPROVED** unless information to the contrary is revealed at the public hearing.

1. If approved, the variance is limited to the request as shown on the site plan provided by McCollough Architecture, Inc., provided herein.
 - a. The site plan provided by McCollough Architecture, Inc. shall be incorporated into the Zoning Site Plan (ZSP) as well as incorporated into the building plans so that all “for construction” drawings are properly-coordinated with the approved zoning variance.
 - b. Any deviations within the ZSP from the site plan included in the approved zoning variance may require additional variance requests.
 - i. Staff memorializes that the site plan provided by McCollough Architecture, Inc. is not stamped by a licensed professional engineer or surveyor and has not been presented as, nor is approved as engineering or survey data.
 - c. Staff reserves the right to require corrective action in lieu of allowing additional variance requests should a blatant disregard for the provisions of the approved zoning variance or ZSP occur when the structure is constructed.
 - d. Staff reserves the right to allow up to 24” of encroachment tolerance for steps, stairs, HVAC equipment, ADA accessories, and architectural details that may not be reflected or fully-dimensioned on the site plan provided by McCollough Architecture, Inc.

ZVA24-61 COUMANIS PROPERTY

VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Crystal Bates, Planning Technician II

The applicant is requesting a variance from Section 4.3.4 Area and Dimensional ordinance as it pertains to the minimum building setback and Section 12.5.2 (f) Yard requirements as it pertains to coastal hazard areas V zones setbacks to allow for a Single-family dwelling.

The applicant desires to construct a new single-family dwelling on lot 60 as well as on lot 61. Staff recommends ZVA24-61 be **Approved** unless information to the contrary is revealed at the public hearing (**continued**).

1. If it is the pleasure of the Board of Adjustment to approve the variance, the demolition of the existing structure shall be fully accomplished before the issuance of the zoning site plan (ZSP) occurs as well as both lots to be divided out before issuance of the zoning site plan (ZSP).
2. This variance relieves subject property of no other requirements of the Baldwin County Zoning Ordinance, Baldwin County Subdivision Regulations, Baldwin County Building Department (building permit), Baldwin County Highway Department (driveway permit, turnout permit, or licensing agreement), or requirements of other agencies.

ZVA24-61 COUMANIS PROPERTY

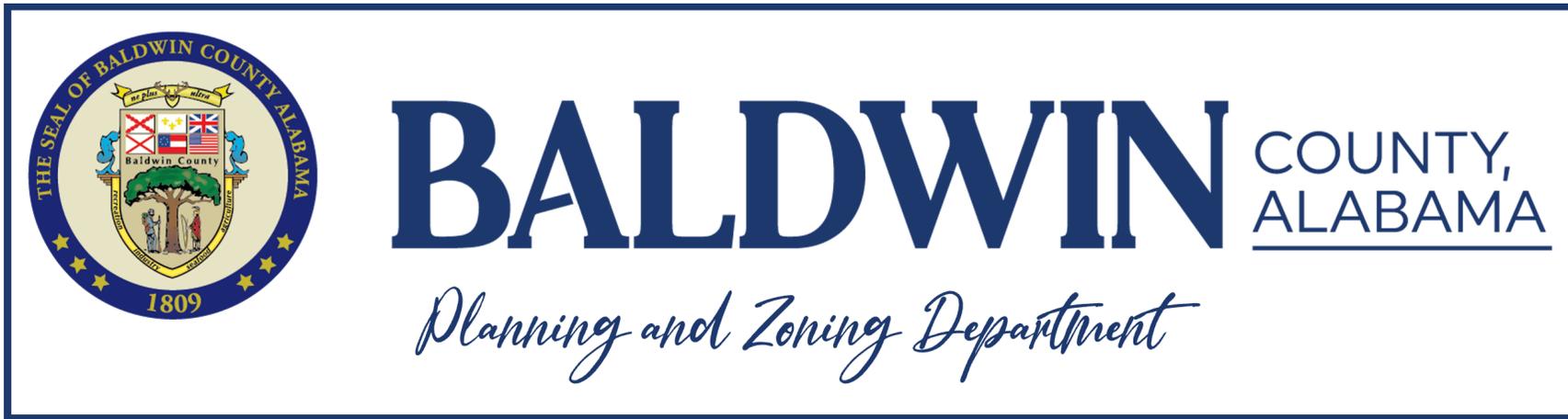
VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Crystal Bates, Planning Technician II

GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board of Adjustment may within fifteen (15) days thereafter, appeal the final judgment to the Circuit Court of Baldwin County, Alabama, by filing with the Circuit Court and the Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board of Adjustment shall cause a transcript of the proceedings and the action to be certified to the Court where the appeal is taken.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.



BALDWIN COUNTY BOARD OF ADJUSTMENT #1

NEXT REGULAR MEETING

NOVEMBER 19, 2024 @ 4:00PM

BALDWIN COUNTY CENTRAL ANNEX

ROBERTSDALE, AL

**BALDWIN COUNTY PLANNING AND ZONING
BOARD OF ADJUSTMENT NUMBER 1**

**2025
MEETING DATES
&
APPLICATION DEADLINE DATES**

Meeting time: 4:00 p.m.
Meeting location: Baldwin County Central Annex Auditorium

All applications to be considered by the Baldwin County Planning and Zoning Board of Adjustment Number 1 shall be submitted no later than 4:30p.m. on the deadline date listed below. *There will be no exceptions.*

MEETING DATE	APPLICATION DEADLINE DATE
January 21, 2025	December 27, 2024
February 18, 2025	January 27, 2025
March 18, 2025	February 24, 2025
April 15, 2025	March 25, 2025
May 20, 2025	April 29, 2025
June 17, 2025	May 27, 2025
July 15, 2025	June 23, 2025
August 19, 2025	July 29, 2025
September 16, 2025	August 25, 2025
October 21, 2025	September 30, 2025
November 18, 2025	October 27, 2025
December 16, 2025	November 21, 2025