



Baldwin County Planning & Zoning Department

Baldwin County Commission Staff Report

Agenda Item

Case No. Z-18039

Osburn Property

Rezone B-2, Neighborhood Business District to B-3, General Business District

September 18, 2018

Subject Property Information

Planning District: 16
General Location: East Side of US Highway 98, North of Parker Road
Physical Address: N/A
Parcel Number: 05-46-03-05-0-000-013.000
Existing Zoning: B-2, Neighborhood Business District
Proposed Zoning: B-3, General Business District
Existing Land Use: Undeveloped
Proposed Land Use: Commercial
Lot Area: Approximately 1.02 acres (44,552.7 square feet +/-)
Applicant: Mallory White
16201 Greeno Road
Fairhope, AL 36532
Owner: Charles Osburn
P.O. Box 791
Montrose, AL 36559
Lead Staff: Vince Jackson, Planning Director
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Commercial	B-2, Neighborhood Business
South	Commercial	B-2, Neighborhood Business
East	Planned Unit Development (Inactive)	City of Fairhope
West	Commercial	B-2, Neighborhood Business

Summary

The subject property is currently zoned B-2, Neighborhood Business District. The designation of B-3, General Business District, has been requested in order to have a designation which is more consistent with the uses of adjacent properties and more reflective of the activities taking place along U.S. Highway 98. According to the information provided, a number of potential sales have been lost due to the fact that the property is zoned B-2 instead of B-3. A letter from the applicant, detailing the reasons for the request is attached.

Section 5.2 B-2, Neighborhood Business District

5.2.1 Purpose and intent. The purpose and intent of the B-2 Neighborhood Business District is to provide a limited commercial convenience facility, servicing nearby residential neighborhoods, planned and developed as an integral unit.

5.2.2 Permitted uses. The following uses are permitted as of right, or as uses accessory to permitted uses in the B-2, Neighborhood Business District:

- | | |
|--|---------------------------|
| (a) All uses permitted by right under the B-1 zoning designation | (pp) Sign shop |
| (b) Antique store | (qq) Sporting goods store |
| (c) Apparel and accessory store | (rr) Tailor shop |
| (d) Appliance store including repair | (ss) Tobacco store |
| (e) Art gallery or museum | (tt) Toy store |
| (f) Art supplies | |
| (g) Bait store | |
| (h) Bakery retail | |
| (i) Bed and breakfast or tourist home | |
| (j) Bicycle sales and service | |
| (k) Boarding, rooming or lodging house, dormitory | |
| (l) Book store | |
| (m) Café | |
| (n) Camera and photo shop | |
| (o) Candy store | |
| (p) Car wash | |
| (q) Catering shop or service | |
| (r) Copy shop | |
| (s) Delicatessen | |
| (t) Discount/variety store (not to exceed 8,000 square feet) | |
| (u) Drug store (not to exceed 8,000 square feet) | |
| (v) Fixture sales | |
| (w) Floor covering sales or service | |
| (x) Florist | |
| (y) Fraternity or sorority house | |
| (z) Fruit and produce store | |
| (aa) Gift shop | |
| (bb) Hardware store, retail | |
| (cc) Ice cream parlor | |
| (dd) Interior decorating shop | |
| (ee) Laundry, self service | |
| (ff) Lawnmower sales and service | |
| (gg) Locksmith | |
| (hh) Music store | |
| (ii) Neighborhood convenience store | |
| (jj) News stand | |
| (kk) Paint and wallpaper store | |
| (ll) Picture framing and/or mirror silvering | |
| (mm) Restaurant | |
| (nn) Shoe repair shop | |
| (oo) Shoe store | |

5.2.3 *Conditional uses.* The following uses are permissible as conditional uses in the B-2, Neighborhood Business District, subject to the standards and procedures established in *Section 18.11: Conditional Uses*:

- (a) Air conditioning sales and service
- (b) Amusement arcade
- (c) Animal clinic/kennels
- (d) Arboretum
- (e) Ball field
- (f) Business machine sales and service
- (g) Car wash
- (h) Country club
- (i) Discount/variety store (exceeding 8,000 square feet)
- (j) Drug store (exceeding 8,000 square feet)
- (k) Exterminator service office
- (l) Golf course
- (m) Liquor store
- (n) Mini-warehouse
- (o) Night club, bar, tavern
- (p) Office equipment and supplies sales
- (q) Park or playground
- (r) Pawn shop
- (s) Pet shop
- (t) Plumbing shop
- (u) Restaurant sales and supplies
- (v) Riding academy
- (w) Rug and/or drapery cleaning service
- (x) Seafood store
- (y) Swimming pool (outdoor)
- (z) Tennis court (outdoor)
- (aa) Water storage tank
- (bb) Wildlife sanctuary
- (cc) Wireless telecommunication facility
- (dd) Dwellings, in combination with commercial uses, subject to the standards listed under *Section 5.2.4: Mixed uses*

5.2.4 *Mixed uses.* Mixed residential and commercial uses may be permissible as conditional uses in the B-2 Neighborhood Business District, subject to the standards and procedures established in *Section 18.11: Conditional Uses*, and subject to the following criteria:

- (a) The commercial uses in the development may be limited in hours of operation, size of delivery trucks and type of equipment.
- (b) The residential uses shall be designed so that they are compatible with the commercial uses.
- (c) Residential and commercial uses shall not occupy the same floor of a building.
- (d) Residential and commercial uses shall not share the same entrances.
- (e) The number of residential dwelling units shall be controlled by the dimensional standards of the B-2 district. A dwelling unit density of .5 (1/2) dwelling units per 1,000 square feet of the gross floor area devoted to commercial uses, may be allowed (structures with less than 2,000 square feet devoted to commercial uses shall be allowed one dwelling unit). In no case, however, shall the overall dwelling unit density for a mixed use project exceed 4 dwelling units per acre.
- (f) Building height shall not exceed three stories.

(g) A minimum of 30 percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: areas used to satisfy water management requirements, landscaped areas, recreation areas, or setback areas not covered with impervious surface or used for parking (parking lot islands may not be used unless existing native vegetation is maintained).

(h) The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible.

(i) Off-street parking spaces for the mixed residential and commercial uses shall be the sum total of the residential and commercial uses computed separately (See *Article 15: Parking and Loading Requirements*).

Proposed Zoning Requirements

Section 5.3 B-3, General Business District

5.3.1 Purpose and intent. The purpose of this district is to provide for a variety of retail uses and services in free-standing parcels or shopping centers to serve the community's general commercial needs. This district shall only be applied at appropriate locations: to conveniently meet these needs; in conformance with the goals, objectives and policies and location criteria of the Comprehensive Plan; compatible with the surrounding land uses and zoning districts; where it will not adversely impact the facilities and services of the County; where it will not set a precedent for the introduction of inappropriate uses into an area; and so as not to encourage non-residential strip development along streets

5.3.2 Permitted uses. The following uses are permitted as of right, or as uses accessory to permitted uses in the B-3, General Business District:

(a)	All uses permitted by right under the B-2 zoning designation	(x)	Farmer's market/truck crops
(b)	Air conditioning sales and service	(y)	Firing range
(c)	Amusement arcade	(z)	Fitness center or gym
(d)	Animal clinic/kennel	(aa)	Florist
(e)	Arboretum	(bb)	Fraternity or sorority house
(f)	Auto convenience market	(cc)	Fruit and produce store
(g)	Automobile service station	(dd)	Funeral home
(h)	Bakery, wholesale	(ee)	Golf course
(i)	Ball field	(ff)	Golf driving range
(j)	Bicycle sales and service	(gg)	Grocery store
(k)	Boat sales and service	(hh)	Landscape sales
(l)	Bowling alley	(ii)	Marine store and supplies
(m)	Business machine sales and service	(jj)	Miniature golf
(n)	Business school or college	(kk)	Mini-warehouse
(o)	Butane gas sales	(ll)	Night club, bar, tavern
(p)	Cemetery	(mm)	Nursery
(q)	City hall or courthouse	(nn)	Office equipment and supplies sales
(r)	Country club	(oo)	Park or playground
(s)	Department store	(pp)	Pawn shop
(t)	Discount/variety store	(qq)	Pet shop
(u)	Drug store	(rr)	Plumbing shop
(v)	Elevator maintenance service	(ss)	Printing/publishing establishment
(w)	Exterminator service office	(tt)	Restaurant sales and supplies

(uu) Riding academy
 (vv) Rug and/or drapery cleaning service
 (ww) Seafood store
 (xx) Sign shop
 (yy) Skating rink
 (zz) Stone monument sales

(aaa) Swimming pool (outdoor)
 (bbb) Taxidermy
 (ccc) Teen club or youth center
 (ddd) Tennis court (outdoor)
 (eee) Wildlife sanctuary
 (fff) YMCA, YWCA

5.3.3 *Conditional uses.* The following uses are permissible as conditional uses in the B-3: General Commercial District, subject to the standards and procedures established in *Section 18.11: Conditional Use*:

(a) Airport
 (b) Ambulance/EMS service
 (c) Amusement park
 (d) Armory
 (e) Auditorium, stadium, coliseum
 (f) Automobile parts sales
 (g) Automobile repair (mechanical and body)
 (h) Automobile storage (parking lot, parking garage)
 (i) Barge docking
 (j) Broadcasting station
 (k) Building materials
 (l) Bus and railroad terminal facility
 (m) College or university
 (n) Convalescent or nursing home
 (o) Correctional or penal institution
 (p) Dog pound
 (q) Electric power substations
 (r) Farm implements
 (s) Flea market
 (t) Freight depot, rail or truck
 (u) Home improvement center
 (v) Hotel or motel
 (w) Hospital
 (x) Landfill
 (y) Maintenance facility/storage yard for schools, government agencies, and telephone and cable companies
 (z) Manufactured housing sales, service and repair
 (aa) Marina
 (bb) Motorcycle sales service and repair
 (cc) Movie theatre
 (dd) Radio/television tower
 (ee) Railroad facility

(ff) Recreational vehicle park
 (gg) Recreational vehicle sales service, and repair
 (hh) Restaurant, drive-in
 (ii) Restaurant, fast-food
 (jj) Sewage treatment plant
 (kk) Taxi dispatching station
 (ll) Taxi terminal
 (mm) Telephone exchange
 (nn) Water or sewage pumping station
 (oo) Water storage tank
 (pp) Wireless telecommunication facility
 (qq) Zoo

5.3.4 Area and dimensional ordinances.

Maximum Height of Structure in Feet	40
Maximum Height of Structure in Habitable Stories	3
Minimum Front Yard	40-Feet
Minimum Rear Yard	25-Feet
Minimum Side Yards	15-Feet
Minimum Lot Area	20,000 Square Feet
Maximum Impervious Surface Ratio	.70
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	60-Feet

5.3.5 *Lighting standards.* The maximum height of exterior lights shall be 25-feet. The intensity, location, and design of lighting shall be such that not more than one foot candle of light is cast upon adjacent property or public rights-of-way. Light fixtures shall be designed to cast light downward. Where necessary, cut-off devices shall be used to minimize glare off premises. No light shall be aimed directly toward a property designated residential, which is located within 200-feet of the source of the light.

5.3.6 *Distance between structures.* If there is a separation between any two principal structures on the same parcel, said separation shall be a minimum of 15-feet or a distance equal to one-half the sum of their heights, whichever is the greater.

5.3.7 *Landscaping and buffering.* All B-3, General Business District, uses shall meet the requirements of *Article 17: Landscaping and Buffers*.

Agency Comments

Permit/Subdivision Manager, Seth Peterson: No comments.

Baldwin County Highway Department: No comments.

ADEM: No comments received.

ALDOT: No comments received.

Municipality (City of Fairhope):

From: Wayne Dyess [<mailto:wayne.dyess@fairhopeal.gov>]

Sent: Monday, July 23, 2018 11:19 AM

To: D Hart <DHart@baldwincountyal.gov>

Cc: Buford King <buford.king@fairhopeal.gov>; Emily Boyett <emily.boyett@cofairhope.com>

Subject: RE: Z-18039 Osburn Property

Hello D.J.

The subject property is adjacent to the Fairhope Corporate Limits. The east side of the subject property abuts a PUD (inactive) and B-2 General Business District to the west across U.S. 98. We have no objection to Case No. Z-18039: Osburn Property for a B-3 Zoning.

Please note that the subject property does fall within the City's permit jurisdiction. Therefore, the City's tree and landscape ordinance, sign ordinance, red clay ordinance etc. will apply.

Best Regards,
Wayne

From: D Hart [<mailto:DHart@baldwincountyal.gov>]
Sent: Wednesday, July 18, 2018 1:10 PM
To: Wayne Dyess <wayne.dyess@fairhopeal.gov>
Subject: Z-18039 Osburn Property

The attached case is scheduled for the August 2, 2018 Planning and Zoning Commission meeting. Let me know if you have any comments.

Thanks,
DJ

DJ Hart, Planning Technician
Baldwin County Planning and Zoning Department
22070 Hwy 59
Robertsdale, Al. 36567
251-580-1655 ext. 7230
dhart@baldwincountyal.gov

Staff Analysis and Findings

The following factors for reviewing zoning amendments are found in Section 19.6 of the *Baldwin County Zoning Ordinance*. These factors are to be considered when an application is being reviewed for rezoning.

1.) Is the requested change compatible with the existing development pattern and the zoning of nearby properties?

The subject property is currently undeveloped. The property adjoins U.S. Highway 98 to the west. The adjoining properties to the north, south and west are commercial. An inactive Planned Unit Development (PUD), within the City of Fairhope, is located to the east.

2.) Has there been a change in the conditions upon which the original zoning designation was based? Have land uses or conditions changed since the zoning was established?

The zoning for Planning District 16 was approved by the County Commission on March 3, 1993. Due to amendments to the text of the zoning ordinance, the B-2 which existed at the time of zoning adoption, is different from the B-2 of today. Many of the uses currently found along Highway 98 would be more appropriately zoned B-3 or B-4.

This area has seen significant development since the adoption of zoning.

3.) Does the proposed zoning better conform to the Master Plan?

The Baldwin County Master Plan, 2013, provides a future land use designation of Commercial for the subject property. This is consistent with the current and proposed zoning designations.

4.) Will the proposed change conflict with existing or planned public improvements?

No conflicts.

5.) Will the proposed change adversely affect traffic patterns or congestion?

Development of this property will serve the traffic which is already traveling along U.S. Highway 98. There should be no significant impact to traffic patterns or congestion.

6.) Is the proposed amendment consistent with the development patterns in the area and appropriate for orderly development of the community? The cost of land or other economic considerations pertaining to the applicant shall not be a consideration in reviewing the request.

See response to Standard Number 1.

7.) Is the proposed amendment the logical expansion of adjacent zoning districts?

Adjacent property to the north and south is zoned B-2. However, the adjacent property to the north is the location for Lott's Auto Care (a B-4 use), and the adjacent property to the south is the location for a CEFCO auto convenience market (a B-3 use).

8.) Is the timing of the request appropriate given the development trends in the area?

Timing is not a factor.

9.) Will the proposed change adversely impact the environmental conditions of the vicinity or the historic resources of the County?

There are no environmental conditions or historic resources which would be impacted by this request.

10.) Will the proposed change adversely affect the health, safety and welfare of the County and the vicinity?

Staff anticipates no adverse impacts.

11.) Other matters which may be appropriate.

See comments from the City of Fairhope listed above.

Staff Comments and Recommendation

As stated previously, the subject property is currently zoned B-2, Neighborhood Business District. The designation of B-3, General Business District, has been requested in order to have a designation which is more consistent with the uses of adjacent properties and more reflective of the activities taking place along U.S. Highway 98. According to the information provided, a number of potential sales have been lost due to the fact that the property is zoned B-2 instead of B-3.

Staff believes that this is a reasonable request which should be **APPROVED**. *

**On rezoning applications, the County Commission will have the final vote.*



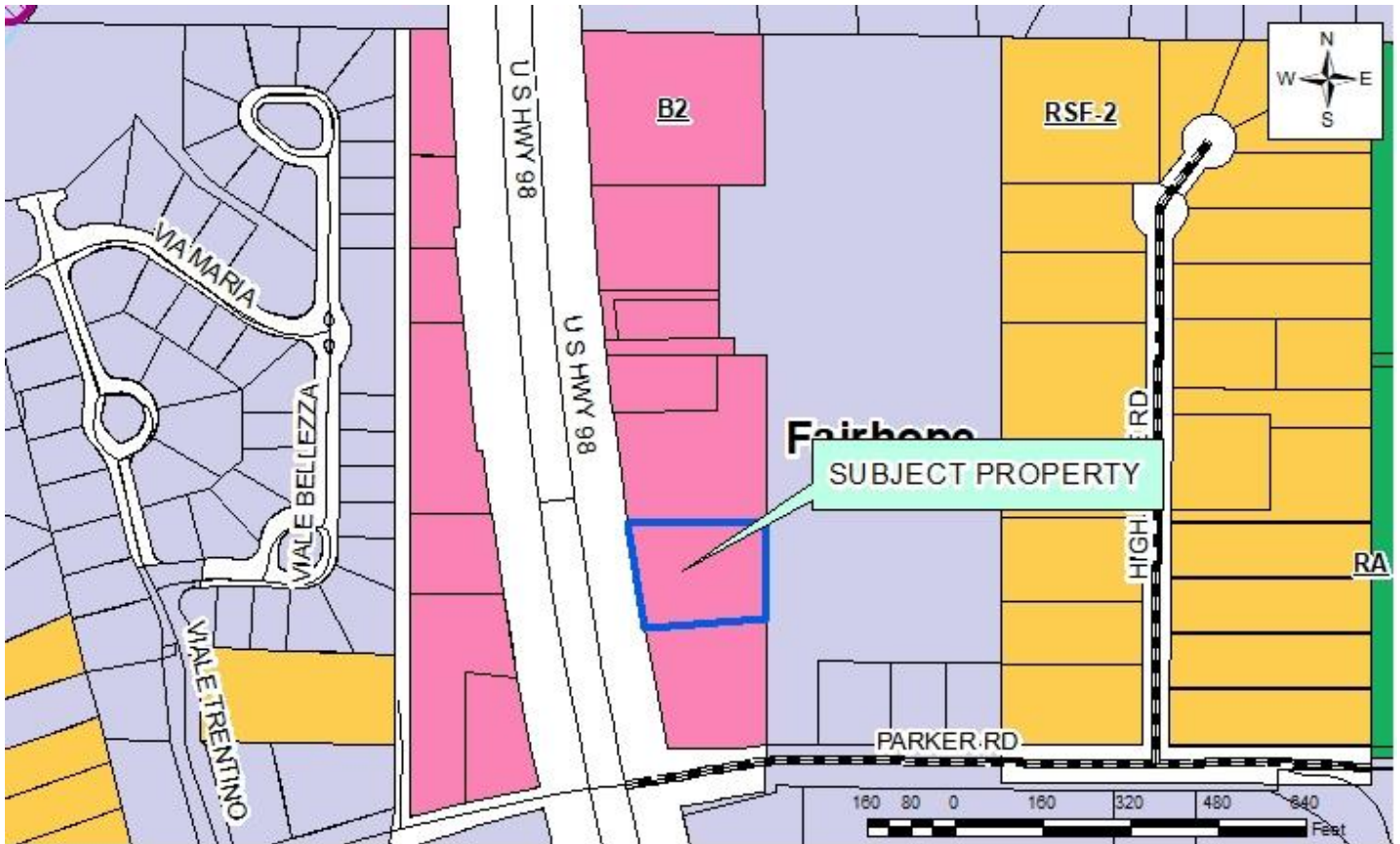




ADJOINING PROPERTIES
TO THE NORTH

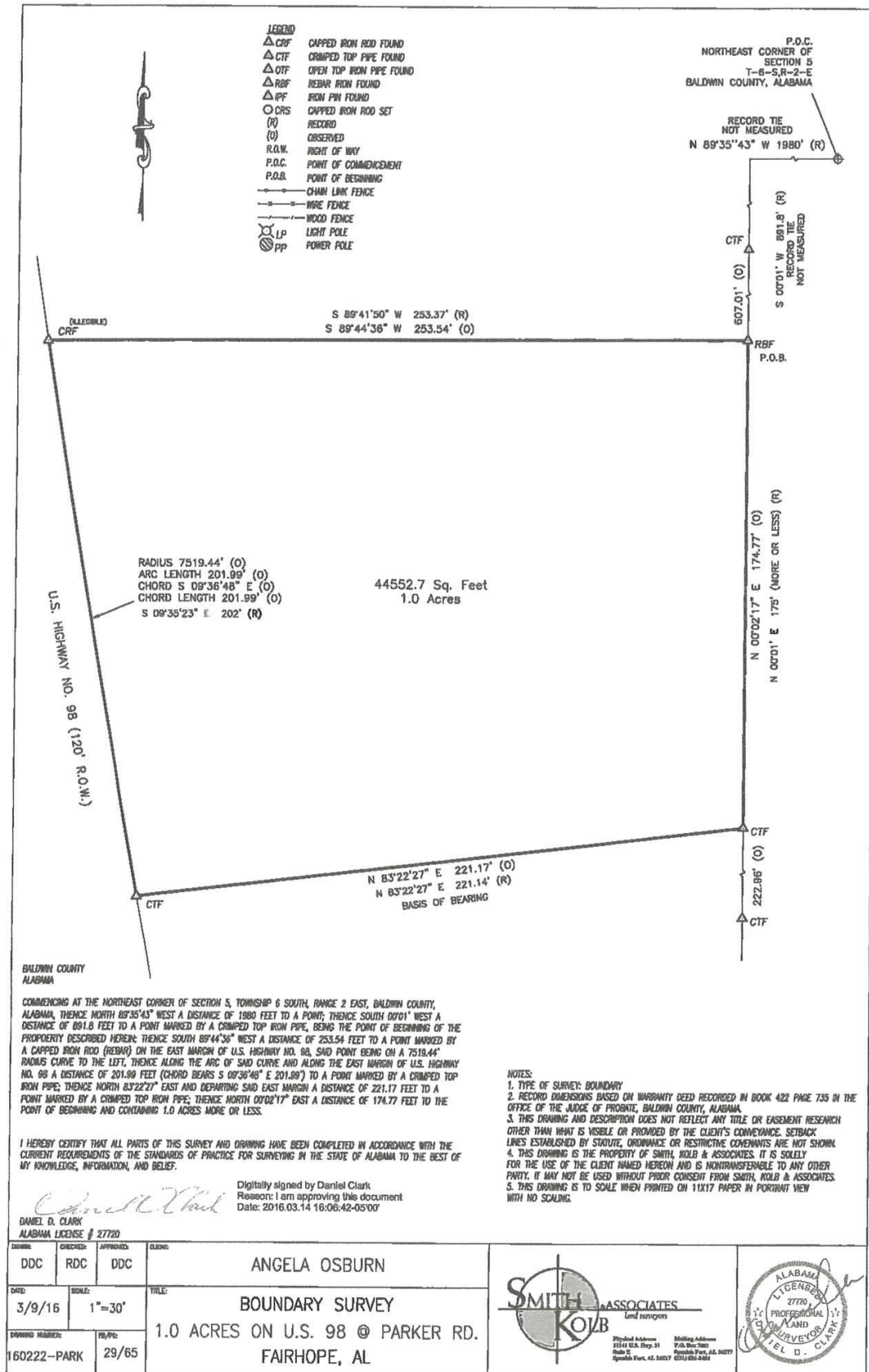
07/11/2018

Locator Map



Site Map





160222-HWY 98 @ PARKER-OSBURN.dwg

July 2nd, 2018

Dear Baldwin County Commission,

Thank you for taking the time to review and strongly consider this application and related documents to re-zone vacant land located at 0 US HIGHWAY 98 FAIRHOPE, AL TAX PPIN 68657 from B-2 to B-3. I am the realtor and the authorized agent for this property and I think rezoning is in the best interest of the surrounding businesses and future business owners and I will explain why.

There are two very important factors I hope you will take into consideration to re-zone. The first being that the surrounding businesses are all zoned B-3: gas station, auto repair businesses (2), grocery store, animal shelter/humane society and many more. Secondly, I have had very interested buyers call me from seeing my sign, and once they find out the property is zoned B-2, they walk away: 2 oil change businesses, an auto detailing business and an automobile parts sales business inquired heavily about this property. I explained that the offer would be contingent on the ability to re-zone to B-3, but they "didn't want to go through the headache of trying to re-zone and possibly being declined in the end, and the time waiting could have been spent on looking for another property to suit their business needs." We also had an offer fall through as well: car detailing and mechanical service station.

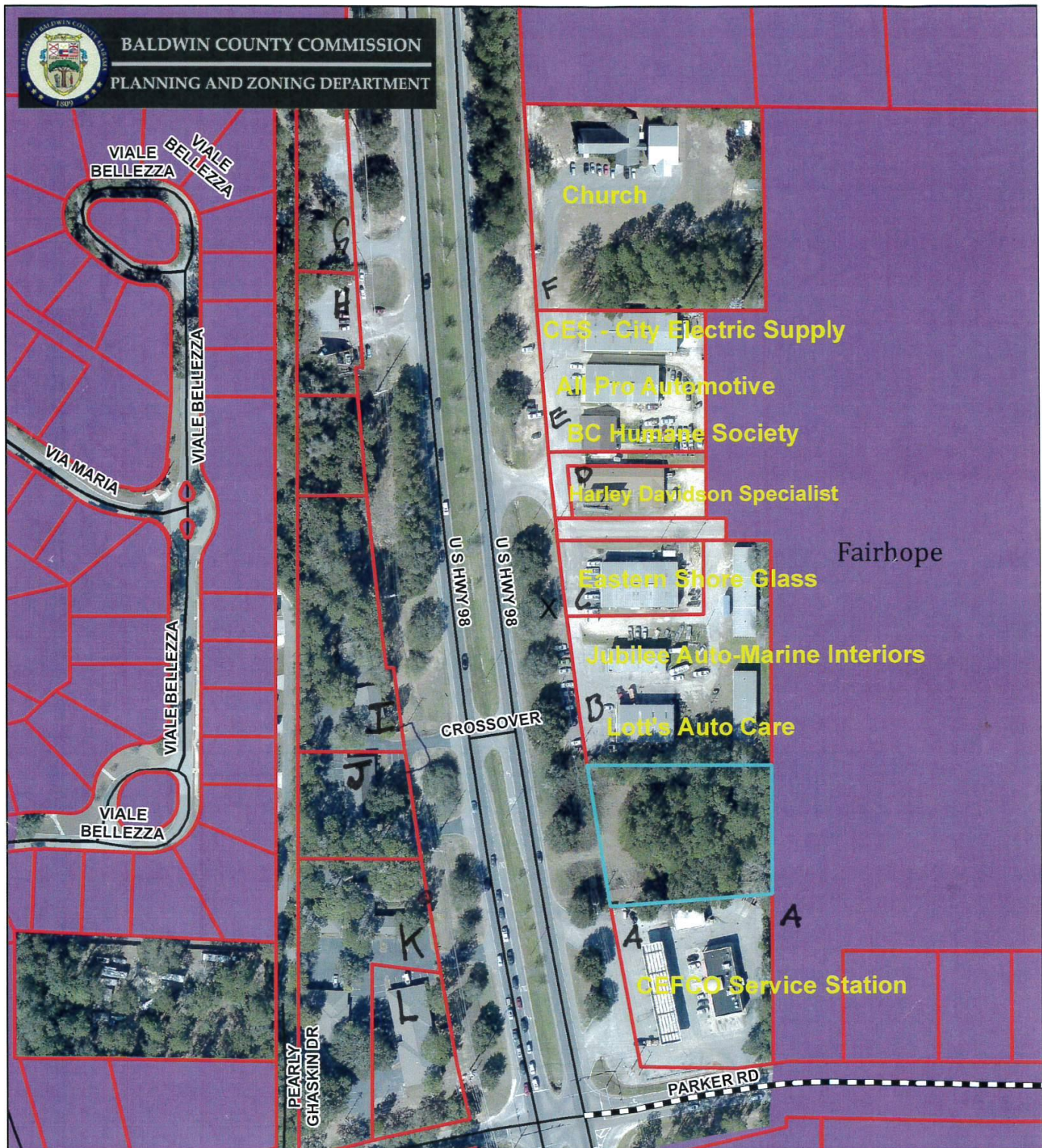
I rarely get phone calls from the MLS and I think the reason why all the calls are coming from seeing my listing sign is because they see the surrounding businesses and assume their business would fit perfectly where they and the surrounding businesses would benefit from their services. I would personally love to see an oil change station right there. I could fill up with gas, go through the car wash, drop my car off at the oil change station then walk over to the Shoppes at Fairhope Village and eat at the Shanghai Cottage or do a little grocery shopping at Publix all while my 9 and 10 year old daughters are at the Little Gym Gymnastics class or Sheffield Dance studio.

Please consider heavily why re-zoning this property to B-3 is in the best interest of the current and future business owners and the Fairhope community. Again, thank you for your time and I look forward to telling my clients the application was approved. Thank you.

Respectfully,



Mallory White, Realtor
Jason Will Real Estate
251-424-4953
mallory@mallorywhitehomes.com



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Bank,
publix grocery store
restaurants

0 45 90 180 270 360 Feet

