

1 approve and a second. All in favor, say aye.

2 (All Commission Members say aye in unison.)

3 CHAIRMAN SAM DAVIS: All opposed?

4 (No response.)

5 CHAIRMAN SAM DAVIS: It carries unanimously.

6

7 8-G - CASE Z-18039 - OSBURN PROPERTY

8 CHAIRMAN SAM DAVIS: Next case is Z-18039, the
9 Osburn property.

10 MR. VINCE JACKSON: The applicant is requesting
11 to re-zone a parcel. It's around an acre, give or take,
12 from B-2, which is the Neighborhood Business designation,
13 to B-3, which is General Business. And the primary
14 purpose is to be more consistent with the uses of the
15 adjacent properties.

16 The subject property is located on the east side of
17 US Highway 98, north of Parker Road, in Planning District
18 16. As you can see looking at the locator map, there a
19 number of parcels here that are zoned B-2.

20 If you go back to the beginning of zoning in Baldwin
21 County, Planning District 16, I believe, was the first
22 Planning District to actually adopt zoning.

23 The B-2 that was adopted in 1993 is different than
24 the B-2 that exists today. There have been a number of
25 changes. In the beginning, each Planning District had
26 its own ordinance. Those were consolidated in 1999.

27 And -- and changes came about as a result.

28 Also, in 2004, there was some changes to our current

1 commercial regulations. That was the point where we
2 created the B-4 designation.

3 And so with the creation of B-4, the other
4 commercial designations, except for B-1, were all
5 adjusted. And so the way B-3 is now is actually the way
6 B-2 used to be prior to 2004, if this makes sense.

7 More importantly, if you look at the uses that are
8 out there, a number of them were in place prior to the
9 adoption of zoning. And the property directly to the
10 south is a convenience store or Auto Convenience Market,
11 as we call it.

12 Then, as you go to the north, there are -- there are
13 automotive-related businesses. Those are all B-3 uses.
14 You've got this undeveloped parcel in the middle of all
15 that zoned B-2.

16 And I think they've lost a lot of potential tenants
17 because of the B-2 zoning. They're looking for, you
18 know, uses that are more in line with B-3, more in line
19 with the surrounding uses. And that's why they're here
20 tonight.

21 Here is a survey of the property. And then here's
22 some pictures. You can see, you know, the pictures of
23 some of the adjacent uses, the type of things that are
24 out there.

25 And this is some information that was provided by
26 the applicant where they actually labeled some of the
27 adjacent uses. And then some of this nearby property is
28 in the city limits of Fairhope, that if you're familiar

1 with the area, as you're headed south, if you're headed
2 south on Highway 98, on your left would be the Publix
3 shopping center.

4 So most of the uses out there are really either B-3
5 or B-4 uses. And so it just -- to us, it make sense for
6 this property to be re-zoned B-3. This would be a
7 recommendation to County Commission, and staff does
8 recommend approval.

9 CHAIRMAN SAM DAVIS: Any questions for Vince?

10 COMMISSION MEMBER BONNIE LOWRY: Vince, I
11 noticed on the -- I guess, the summary, it says that it
12 would be more consistent with the uses of the adjacent
13 properties, but you just said the adjacent properties are
14 actually zoned B-2.

15 MR. VINCE JACKSON: They are, but it's an
16 incorrect destination. They should be B-3 and B-4.

17 COMMISSION MEMBER BONNIE LOWRY: But they are
18 not.

19 MR. VINCE JACKSON: But they are not. But the
20 original B-2 placed on this property is different now
21 than it used to be.

22 And what -- what we did, because of changes that
23 were made to the zoning ordinance, we created that issue.
24 We made those issues inconsistent.

25 And it was one of those things where when we created
26 B-4, it was all done with the best intentions, but you
27 don't always realize what the -- some of the results of
28 your changes are.

1 So by creating B-4 and making changes to the other
2 commercial designations, there was created an
3 inconsistency. If you go back and look at this, the
4 service station there on the corner of Parker Road and 98
5 is zoned B-2. It should be B-3, at least.

6 Go to the north where you've got the Auto Care, the
7 Auto Marine Interiors, those are B-3's. They're zoned
8 B-2. So you're not creating a problem zoning this B-3 or
9 recommending that it be re-zoned to B-3. You're actually
10 getting this area more in line with what it should be.

11 COMMISSION MEMBER KEVIN MURPHY: Vince, so
12 those would be considered nonconforming businesses in our
13 world; right?

14 MR. VINCE JACKSON: Yes, yes. I mean, they're
15 grandfathered, and they can continue from here on out,
16 but they are nonconforming.

17 COMMISSION MEMBER KEVIN MURPHY: Would it be in
18 our best interest to fix our problem now while we're
19 right here and re-zone all of them to B-3?

20 MR. VINCE JACKSON: I don't think this is the
21 appropriate time to do that. I mean, it's something, you
22 know, the -- The County Commission can make a motion to
23 initiate a change. And it's a discussion that we could
24 have with them at some point, but we want the property
25 owners to be part of that discussion.

26 But I think if you recommend the re-zoning of this
27 parcel, that is a good first step.

28 COMMISSION MEMBER BONNIE LOWRY: I have a big

1 problem for the simple fact that all the others are B-2.
2 And this property is not telling exactly what it's going
3 to be, just that she lost future potential sales. And I
4 know before in this Commission, we have not granted a
5 property zoning change because of the loss of a potential
6 sale.

7 MR. VINCE JACKSON: I think Mr. Conner might
8 have a comment.

9 ATTORNEY DAVID CONNER: What -- what I think --
10 I think the appropriate review would be, again, is
11 whether or not B-3 is appropriate for this site. Because
12 even if someone came in and told us what they propose to
13 do, that could change at anytime.

14 What I hear Vince saying is that -- Am I
15 understanding you to say that today, if we were to zone
16 it properly, it would qualify or more likely be in a B-3
17 category?

18 MR. VINCE JACKSON: Yes.

19 ATTORNEY DAVID CONNER: And so all of the uses
20 there, while they're in B-2, are actually grandfathered
21 B-3 uses.

22 MR. VINCE JACKSON: Right.

23 ATTORNEY DAVID CONNER: And so what I think you
24 need to look at in this -- in this question is -- is --
25 are we going to begin to re-zone these properties as that
26 issue comes to us to get them in a classification that
27 corresponds with their actual use, or are you going to
28 try to continue to manage this as a B-2 and do away with

1 those uses over time, either through changes in
2 ownership, abandonment, or just destruction of property?

3 And so this is -- this decision I really think the
4 Planning Commission is making with this recommendation is
5 do we see this more likely being B-3 across all these
6 properties in the future, or do we see it holding at B-2
7 and us holding the line saying, sorry your business
8 burned down; we're not going to let you rebuild it back?

9 MR. VINCE JACKSON: Right.

10 ATTORNEY DAVID CONNER: So the question is
11 whether or not this property -- this property, in my
12 mind, whether or not it is properly zoned, based on the
13 uses in the area; and, two, are we trying to manage it to
14 a more restrictive use of B-2, or do we really need to
15 come in and correct that over time as people come in?

16 Is that fair?

17 MR. VINCE JACKSON: Yes. Yeah. And -- and
18 I -- and I want to go back and -- and just point out the
19 one specific business. This is the convenience store to
20 the south. And for those of you who are familiar with
21 that area, it's a very viable business, very busy.

22 At the time it was built, it was zoned B-2, still
23 zoned B-2. But when it was built, this was allowed by
24 right under B-2.

25 The subsequent changes made it so not only -- this
26 isn't even allowed under B-2 anymore, you know. So
27 several years ago, it was permitted. It's not permitted
28 now. But these are the types of uses that you see along

1 this area.

2 ATTORNEY DAVID CONNER: Vince, I'm not trying
3 to put words in your mouth. And if I say this wrong,
4 correct me. But I think what's probably happened over
5 time, the LB district that was here earlier --

6 MR. VINCE JACKSON: Uh-huh. (Indicates
7 affirmatively.)

8 ATTORNEY DAVID CONNER: -- was created because
9 in certain instances, the property owners were suggesting
10 a use that the surrounding property owners really didn't
11 oppose --

12 MR. VINCE JACKSON: Right.

13 ATTORNEY DAVID CONNER: -- but they were afraid
14 of the other uses that could be allowed with, say, a B-3,
15 B-4, or B-5. And so that allows you to do this Limited
16 Business --

17 MR. VINCE JACKSON: Uh-huh. (Indicates
18 affirmatively.)

19 ATTORNEY DAVID CONNER: -- limit those uses,
20 and -- and kind of give us a tool there.

21 I think what may have happened -- And, again, I'm
22 just shooting from the hip, but it seems like, from what
23 you're saying, that there was some B-2 uses that have
24 been ultimately moved to B-3, again, B-4, and other
25 classifications to give more restriction in uses in those
26 areas.

27 MR. VINCE JACKSON: Right.

28 ATTORNEY DAVID CONNER: And this is an area

1 that probably just got caught in the gap --

2 MR. VINCE JACKSON: Right.

3 ATTORNEY DAVID CONNER: -- where the use --
4 They didn't change the area, the uses didn't change, but
5 the district just lost those uses to a higher
6 designation.

7 MR. VINCE JACKSON: Right. And -- and like I
8 said, going back to the beginning of zoning, the B-2 that
9 was originally adopted back 1993 was much more like a
10 B-3. When the consolidated ordinance was adopted in '92,
11 B-2 was much more like B-3 is now.

12 It was when we created -- When we created B-4, we --
13 we made adjustments to B-3 and B-2. And so B-3 became
14 more like B-2 had been, and B-2 just became less. That's
15 the only way I can describe it.

16 It all seemed like a good idea at the time to
17 accommodate B-4 being added. But, like I said, sometimes
18 you make changes and you -- you realize years later, in
19 this case fourteen (14) years later, that there are
20 consequences that you have to go back and address.
21 That's what we're trying to do with this property.

22 ATTORNEY DAVID CONNER: I think those -- I
23 think the theory behind the changes, what y'all did, I
24 think is right. Just in this case, the application to
25 these little strip of properties --

26 MR. VINCE JACKSON: Yes.

27 ATTORNEY DAVID CONNER: -- seems to be
28 something that needs to be addressed.

1 MR. VINCE JACKSON: Yes.

2 CHAIRMAN SAM DAVIS: Any other questions for
3 Vince?

4 (No response.)

5 CHAIRMAN SAM DAVIS: Thank you, Vince.

6 We'll open the public hearing at this point. There
7 is no opposition to this application. Mallory White is
8 here to represent.

9 Is that you?

10 MS. MALLORY WHITE: Yes, sir.

11 CHAIRMAN SAM DAVIS: Do you have anything you'd
12 like for this Commission to know?

13 MS. MALLORY WHITE: I do.

14 CHAIRMAN SAM DAVIS: Okay.

15 MS. MALLORY WHITE: Hi. I'm Mallory White.
16 We -- we have had a few offers on this property with, you
17 know, the buyers seeing, you know, the surrounding
18 properties and automatically assuming that even though
19 it's B-2, that it falls under B-3. And they ended up
20 pulling their offer once found out it wasn't B-3.

21 Right now we do have an offer, and it is contingent
22 on this being re-zoned B-3. I don't know the full
23 details of what the buyer is wanting to do, stated
24 something about it being a medical facility, which is
25 B-1.

26 And they're going to actually put a gym facility in
27 there. So they're going to have a partnership. I think
28 it'd great right there. But it is contingent on this

1 being re-zoned.

2 CHAIRMAN SAM DAVIS: Any questions for
3 Ms. White?

4 (No response.)

5 CHAIRMAN SAM DAVIS: All right. Thank you.

6 MS. MALLORY WHITE: Thank you.

7 CHAIRMAN SAM DAVIS: We'll close the public
8 hearing at this point. Staff has recommended approval of
9 this application. Is there a motion to do so?

10 COMMISSION MEMBER ARTHUR OKEN: So moved,
11 Mr. Chairman.

12 CHAIRMAN SAM DAVIS: All right. There is a
13 motion on the table to approve -- recommend approval. Is
14 there a second?

15 COMMISSION MEMBER KEVIN MURPHY: I'll second
16 it.

17 CHAIRMAN SAM DAVIS: Okay. There is a second.
18 All in favor, say aye.

19 (Some Commission Members say "aye" in unison.)

20 CHAIRMAN SAM DAVIS: All opposed?

21 COMMISSION MEMBER BONNIE LOWRY: No.

22 CHAIRMAN SAM DAVIS: All right. Let the record
23 show there was one opposed, but the motion carried.

24

25 8-G - CASE Z-18040 - GEORGE C. MEYER FOUNDATION PROPERTY

26 CHAIRMAN SAM DAVIS: Okay. The last case of
27 the night is Z-18040, George C. Meyer Foundation
28 property.