



Baldwin County Planning & Zoning Department

Baldwin County Commission Staff Report

Agenda Item

Case No. Z-18041

Dorgan Property

Rezone B-2, Neighborhood Business District to RSF-4, Single Family District

November 20, 2018

Subject Property Information

Planning District: 26
General Location: East Side of Scenic Highway 98, Approximately 350-feet South of County Road
Physical Address: N/A
Parcel Numbers: 05-56-03-31-0-000-020.000
05-56-03-31-0-000-020.001
Existing Zoning: B-2, Neighborhood Business District
Proposed Zoning: RSF-4, Single Family District
Existing Land Use: Vacant
Proposed Land Use: Residential
Lot Area: .95 acres +/-
Applicant: William J. Dorgan
Post Office Box 1255
Point Clear, AL 36564
Owner: Same
Lead Staff: Vince Jackson, Planning Director
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Commercial/Vacant	B-2, Neighborhood Business
South	Residential	RSF-1, Single Family
East	Undeveloped	RSF-1, Single Family
West	Residential	RSF-1, Single Family

Summary

The subject property is currently zoned B-2, Neighborhood Business District. The designation of RSF-4, Single Family District, has been requested in order to subdivide and create three (3) single family lots. As proposed, the largest lot would be approximately 15,596 square feet, and the smallest would be 12,533 square feet.

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 4.5 RSF-4, Single Family District

4.5.1 *Generally.* This zoning designation is provided to afford the opportunity for the choice of a moderate density residential development consisting of single family homes.

4.5.2 *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.

4.5.3 *Conditional uses.* 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 as conditional uses:

- (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.

4.5.4 *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:

The following local commercial use: bed and breakfast or tourist home (see *Section 13.11: Bed and Breakfast Establishments*).

4.5.5 *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 18.6 Variances*, and *Article 20: Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure in Feet	35
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	7,500 Square Feet
Minimum Lot Width at Building Line	60-Feet
Minimum Lot Width at Street Line	30-Feet
Maximum Ground Coverage Ratio	.35

Agency Comments

Permit/Subdivision Manager, Seth Peterson: Scenic Highway 98 is classified as a minor arterial. Please note, the Highway Construction Setback is 100-feet from the centerline of Scenic Highway 98.

Baldwin County Highway Department, Frank Lundy: No comments.

ADEM (J. Scott Brown):

Good morning DJ:

Based on a desktop review, these lots are located in the coastal area (ADEM Admin. Code r. 335-8-1-.02[k]) and contain coastal wetlands which are regulated coastal resources. Therefore, any activity impacting any portion of wetlands located on these lots is regulated under ADEM Admin. Code r. 335-8-2-.02. The applicant should be made aware that dredging or filling any areas on the parcels which are or could be delineated as wetlands (ADEM Admin. Code r. 335-8-1-.02[nnn]) requires prior review and approval by both the U.S. Army Corps of Engineers and the ADEM. Unauthorized impacts to any wetlands on these parcels would be subject to enforcement action by the ADEM.

v/r,

J. Scott Brown, Chief

Mobile Branch Office

Field Operations Division

ADEM

251.304.1176

Municipality (City of Fairhope): This application is within the City of Fairhope’s Planning Jurisdiction and will therefore require City approval.

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 vacant. The property adjoins Scenic Highway 98 to the west. The adjoining properties are residential, commercial and undeveloped.

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 26 was approved by the County Commission on September 1, 1993. The majority of residential lots throughout Planning District 26 are either zoned RSF-1 or RSF-2. With a few exceptions, this has remained relatively constant. It should be noted that the RSF-4 designation did not exist when the original zoning was approved. It was originally created in 2006 (then known as R-4(sf), Single Family District), with the nomenclature being changed to the current RSF-4 in 2009. It is possible that if RSF-4 had been available at an earlier date, it would have been applied in Planning District 26.

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. If the rezoning is approved, the Future Land Use Map will be amended to reflect a designation of Residential.

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?

The property is currently vacant. As a result, any new development, whether commercial or residential, will bring about an increase in traffic. With commercial development, the exact impact would be difficult to ascertain because it would be dependent upon the nature of the specific use, as well as other factors such as hours of operation. The impact with residential development would most likely be less than with commercial development.

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 properties are zoned B-2 and RSF-1. The nearest area with a different designation is located directly to the northeast of the subject property. This area, which consists of approximately one (1) acre is zoned RMF-6, Multiple Family District. It includes three (3) lots which were recently subdivided and recorded.

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?

The majority of the subject property is located within the Point Clear/Battles Wharf Historic District. As a result, any new construction will require the approval of the Baldwin County Architectural Review Board.

Please see Agency Comments, listed above, for wetland issues discussed by ADEM.

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.

Requests for rezoning from commercial to residential designations are typically approved without controversy. The case at hand, however, has generated opposition from nearby property owners. The primary concerns appear to be based on the fact that RSF-4 would allow a minimum lot size of 7500 square feet and a potential density of five (5) lots for the subject property. The applicant has proposed three (3) single family lots. Lot 1 would exceed 15,000 square feet (exceeds RSF-2 minimum area), and Lots 2 and 3 would exceed 12,000 square feet (exceeds RSF-3 minimum area). While it is true that the proposed layout would not be binding upon the applicant, all area and dimensional requirements of RSF-4 must be met if the rezoning is approved. The controlling factor would then be minimum lot width at the building line which would be 60-feet for each lot. With the area requested for rezoning, the applicant only has enough square footage to create three lots which would meet the minimum lot width at the building line standard.

Staff Comments and Recommendation

As stated previously, the subject property is currently zoned B-2, Neighborhood Business District. The designation of RSF-4, Single Family District, has been requested in order to subdivide and create three (3) single family lots. As proposed, the largest lot would be approximately 15,596 square feet, and the smallest would be 12,533 square feet.

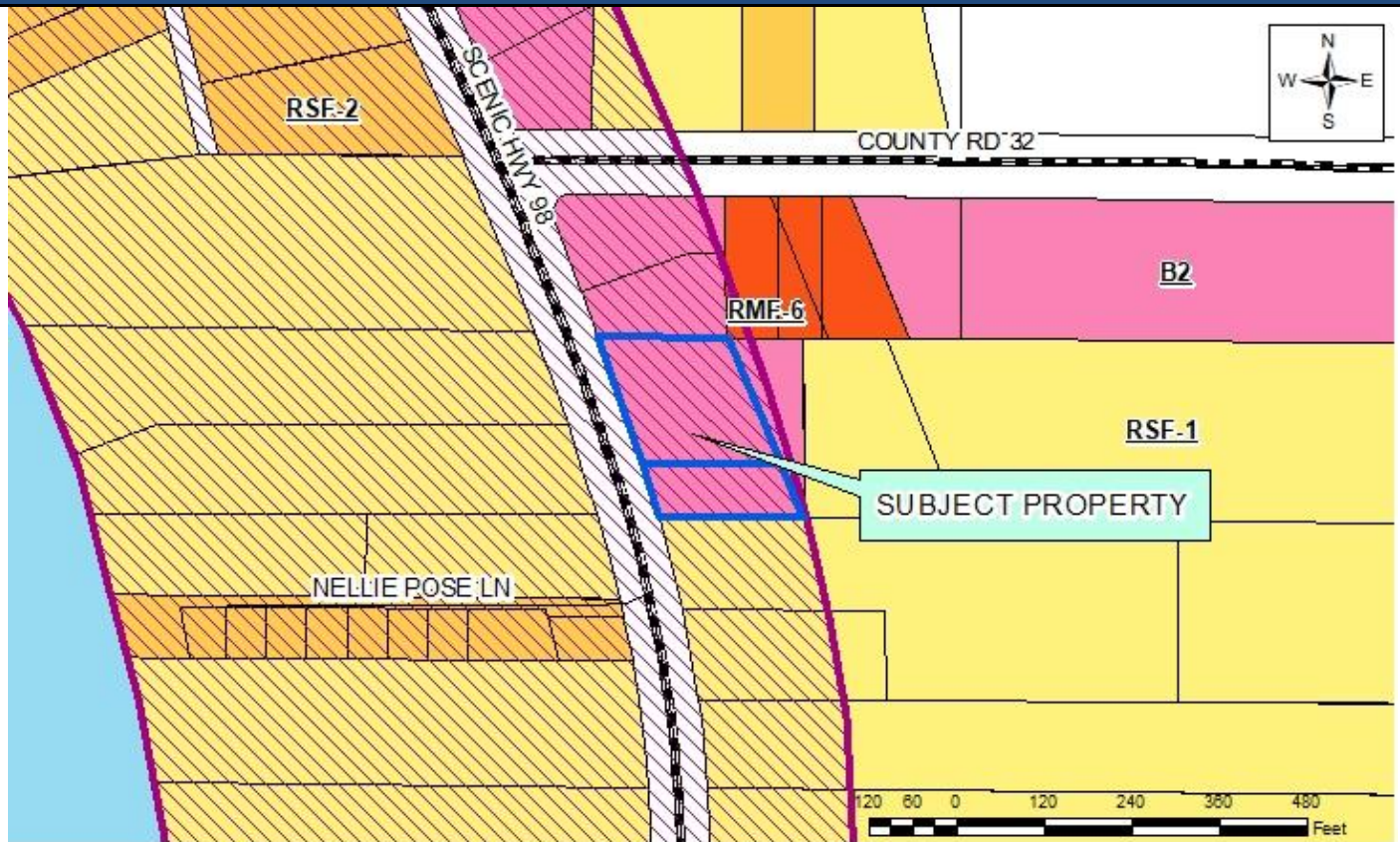
Staff believes that this is a reasonable request which should be **APPROVED**. *

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





Locator Map



Site Map







POINT CLEAR PROPERTY OWNERS ASSOCIATION, INC.

Board of Directors/Officers

Emilee O. Lyons, Secretary
Allan R. Chason, At Large
Burton Craige, President

James F. Currie, Treasurer
H. R. Key, Vice President
Frank Feagin, At Large

P. O. Box 114
Point Clear, Alabama 36564
pointclearpropertyownersassoc@gmail.com

September 26, 2018

Baldwin County Planning Commission
22251 Palmer Street
Robertsedale, Alabama 36567

Gentlemen:

Re: Case Z-18041 (Dorgan)

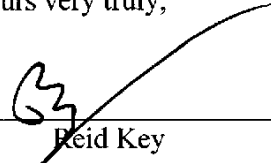
Please accept this as the opposition of Point Clear Property Owners Association to the re-zoning application at issue in the above styled case. After careful consideration of all of the issues, including those set forth in Section 19.6 of the County Zoning Ordinance, our Board of Directors in a special called meeting has voted to oppose the application, including for the following reasons:

1. The change from District B-2 to RSF-4 is not compatible with the existing development pattern or zoning of nearby properties. As is apparent from the attached excerpt of the Planning District 26 Zoning Map, the nearby properties, and in fact, the overwhelming majority of the parcels in Point Clear, are zoned either RSF-1 (30,000 square foot minimum lot size) or RSF-2 (15,000 square foot minimum lot size). We are aware of no property along Scenic Highway 98 in Point Clear which is zoned RSF-4 (7,500 square foot minimum lot size). That is, the existing development pattern and zoning of nearby residential properties is of low density single family residential.
2. The existing zoning in District 26 has remained largely unchanged since its adoption more than 20 years ago. There has been no significant change of conditions from that upon which the original zoning plan was adopted. In fact, the development of Point Clear has remained consistently low density single family residential since the adoption of the zoning ordinance, and for many years prior to that date.
3. The proposed zoning does not conform to the Master Plan. The County Master Plan is for Point Clear to remain predominantly low density single family residential and re-zoning the subject property to RSF-4 would be inconsistent with that Plan.
4. The proposed zoning is not a logical expansion of adjacent zoning districts. Districts to the east, south and west of the subject are currently zoned RSF-1.

Our organization does not oppose a re-zoning of this parcel from B-2 to RSF-2. That change would be consistent with the neighborhood and would allow the subdivision of the subject property into two parcels, instead of the three parcels which would be allowed under RSF-4 zoning.

In opposing this Application, we are confident that we are expressing the wishes of the overwhelming majority of the members of our Association, all of whom are property owners at Point Clear. Thank you for your consideration of our opposition. We encourage you to deny this Application.

Yours very truly,


Reid Key

September 25, 2018

Attention: Baldwin County Planning and Zoning Commission

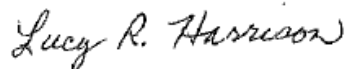
Re: Case No.1804

Dorgan Property

Planning District 26 to rezone

I live at 16935 Scenic Hwy 98 Point Clear, Alabama, directly across from the subject property. I strongly oppose the request to change the zoning to RSF4. This rezoning would be the smallest lots in Pt Clear. Almost all of Pt Clear is zoned R1(30,000 sq.ft) and R2(15,000 sq ft.). These lots would be in R4, which allows lots which are 7500 sq. ft and 60ft in width. This change in zoning would increase the density of the area, which means more traffic; not to mention, additional load on the sewage and added storm management problems. This is not in keeping with the area, and I am asking you to vote NO. Point Clear is a unique area and very desirable. We need to keep it this way! Both residents and tourist love to come here.

Sincerely,

A handwritten signature in cursive script that reads "Lucy R. Harrison".

Lucy R. Harrison (formerly Lucy R. Lyons) which my property is still in this name.

D Hart

From: Daniel Reimer, Sr <dan.e.reimer@gmail.com>
Sent: Tuesday, September 25, 2018 4:42 PM
To: D Hart; Vince Jackson
Subject: Opposition to the Dorgan rezoning request on Scenic Hwy 98

Dear Mr Jackson and Ms Hart,

As nearby property owners at 17215 Scenic Hwy 98, I strongly oppose any change of zoning to allow higher density residential construction in this area. As you are aware there was a huge outcry against the attempted commercialization of another parcel of nearby residential property recently, and that rezoning was eventually defeated. Similarly we do not want houses on 7,500 sq ft property allowed. That is totally inconsistent with the Point Clear area and the approved Master Plan which is clearly low density. See the letter from the PCPOA Board for further specific details.

I oppose the request and hope you will agree it is inappropriate for this community.

Daniel E. Reimer, MD