

BALDWIN COUNTY PLANNING AND ZONING COMMISSION REGULAR MEETING 10/04/2018

1 COMMISSION MEMBER ARTHUR OKEN: So moved,
2 Mr. Chairman.

3 CHAIRMAN SAM DAVIS: There's a motion on the
4 table to recommend this. Is there a second?

5 COMMISSION MEMBER BRANDON BIAS: Second.

6 CHAIRMAN SAM DAVIS: Can I have a rollcall
7 vote?

8 MR. VINCE JACKSON: Mr. Oken?

9 COMMISSION MEMBER ARTHUR OKEN: Yes.

10 MR. VINCE JACKSON: Mr. Monroe?

11 COMMISSION MEMBER SPENCE MONROE: Yes.

12 MR. VINCE JACKSON: Mr. Nance?

13 COMMISSION MEMBER DANIEL NANCE: Yes.

14 MR. VINCE JACKSON: And Mr. Bias?

15 COMMISSION MEMBER BRANDON BIAS: Yes.

16 MR. VINCE JACKSON: Motion carries. And we
17 will take that recommendation to the County Commission.

18 CHAIRMAN SAM DAVIS: Thank you, Vince.

19

20 **8C - CASE Z-18044, DCF, LLC PROPERTY**

21 MR. VINCE JACKSON: Okay. Our next case is --
22 This one is also in Planning District 26 -- Z-18044, DCF,
23 LLC Property. This is a re-zoning from RSF-1 to RSF-2.

24 The subject property is located on the west side of
25 Scenic Highway 98 south of Battles Road in Planning
26 District 26. This property is, as I stated, currently
27 RSF-1, and it consists of two-point-three (2.3) acres.

28 The reason for this request is to re-zone to the

1 RSF-2, combine this parcel with an adjacent RSF-2 parcel
2 to the north, and then create -- It's called a family
3 subdivision, but I think the way we would view it is more
4 of a family compound where they would keep the ownership
5 of the property in the family and provide dwelling units
6 for the family members.

7 It's something with the configuration and location
8 of the property and with the configuration that they're
9 looking for that it's a creative thing to do. It's, I
10 think, an admirable goal to keep family property
11 together.

12 It doesn't fit neatly into our conventional
13 regulations. -- So we talked about -- and we talked about
14 it for a while -- how do we get there? What are some
15 options?

16 And basically what they're attempting to do, as I
17 stated, is re-zone this to RSF-2, combine it with an
18 adjacent RSF-2 parcel that they own, then they would seek
19 approval to do a planned residential development. But
20 there's a variance that would have to go along with that.

21 There is a variance application pending. It was
22 originally scheduled for October 8th, but it's been
23 postponed in order to let the re-zoning application run
24 its course.

25 So it probably will not go before the Board of
26 Adjustment until December. So if they get the re-zoning
27 and then if they get the variance, they will proceed with
28 their PRD site plan.

1 We're not considering a variance or a PRD site plan
2 tonight. I'm just bringing that up to kind of let you
3 all know where they're trying to go. So that's the
4 reason that they requested this re-zoning.

5 There is adjacent property zoned RSF-2. They are
6 smaller lots, but it is adjacent. There is also adjacent
7 property zoned B-2.

8 And then if you look to the south, there -- south of
9 Battles Drive -- Battles Wharf Drive, rather, there are
10 some RSF-2 down there. There's some more RSF-2 where
11 Meeks Lane runs into Scenic 98.

12 And then just to the south of the Battles Wharf
13 Drive development, there is an RMS-6 area. That is a
14 condominium development that's been there for a number of
15 years..

16 This is an issue that the staff really doesn't have
17 a problem with. It's a change in designation, but it
18 would not be a change in use. It's a way of
19 accomplishing what has been communicated to us as a kind
20 of creative situation. And, like I said, creativity
21 doesn't always fit within conventional zoning
22 regulations.

23 The only other option we came up with that might
24 have made this work was for them to request re-zoning to
25 RMS-6, multi-family, and we did not feel that that was
26 appropriate here. So they're attempting to get the
27 RSF-2.

28 And I will be happy to answer any questions that you

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1 might have.

2 CHAIRMAN SAM DAVIS: Any questions for Vince?

3 COMMISSION MEMBER SPENCE MONROE: Yeah. Vince,
4 you say they're looking at another piece of property to
5 be part of this compound; correct?

6 MR. VINCE JACKSON: Yes.

7 COMMISSION MEMBER SPENCE MONROE: Which parcel
8 is that on the map?

9 MR. VINCE JACKSON: If you look at the map,
10 there's a parcel to the north that has frontage on the
11 bay that's already zoned RSF-2. It's adjacent to this
12 parcel.

13 COMMISSION MEMBER SPENCE MONROE: The smaller
14 parcel?

15 MR. VINCE JACKSON: Yeah. This family already
16 owns that. So they would combine it, keep all of the
17 property in the family, but they would have additional
18 dwellings to accommodate the different family members.
19 And there's a representative of the applicant here who
20 can better address what their plans are.

21 COMMISSION MEMBER SPENCE MONROE: I see that.

22 CHAIRMAN SAM DAVIS: No one is signed up to
23 speak in favor of this.

24 MR. CRAIG DYESS: If no one has signed up, I'm
25 Craig Dyess, and I'll be glad to speak, if you'll allow
26 it.

27 CHAIRMAN SAM DAVIS: All right. Let's finish
28 up with Vince. Any more questions for Vince?

1 (No response.)

2 CHAIRMAN SAM DAVIS: Thank you, Vince.

3 We'll open the public hearing at this point. Come
4 on up, Craig.

5 MR. CRAIG DYESS: Thank you very much.

6 Vince did a pretty good job leading off. This piece
7 of property has been in my client's family for
8 seventy-five years, plus or minus. And they've got a
9 pretty large family; eight at this point plus quite a few
10 children and grandchildren. And it's a very sentimental
11 piece of real estate.

12 When I sat down with Vince's staff, the objective
13 was to do just as he described, to try to create a family
14 compound. But really adjacent -- They own property
15 adjacent to the north, which has been in their family for
16 the same amount of time.

17 And then the property adjacent to the south is
18 smaller than anything that would ultimately come out of
19 this. And as you can see from the map, there's an RSF-2
20 in quite a bit of places as well as RMFS-6, you know,
21 that it was called years ago.

22 If I can answer any questions, I'll be glad to. But
23 it's pretty straightforward.

24 CHAIRMAN SAM DAVIS: Any questions for Craig?

25 COMMISSION MEMBER SPENCE MONROE: The only two
26 parcels you're looking at though are the one that's in
27 blue right now and the parcel to the north; the smaller
28 parcel?

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1 MR. CRAIG DYESS: Well, they own the smaller
2 parcel already, and it's already zoned RSF-2. The only
3 parcel being requested to change the zoning on, which is
4 RSF-1 is the subject property.

5 COMMISSION MEMBER SPENCE MONROE: Correct. But
6 you would be combining those two properties?

7 MR. CRAIG DYESS: That is correct.

8 CHAIRMAN SAM DAVIS: Any other questions?

9 (No response.)

10 CHAIRMAN SAM DAVIS: Okay. Thank you. There's
11 four people signed up in opposition. I had asked at the
12 beginning of the meeting in a case like this to try to
13 pick one or two in order to present the case. So have
14 y'all done that?

15 MR. RICHARD JOHNSON: No, sir. But I'll go
16 first.

17 CHAIRMAN SAM DAVIS: We appreciate y'all doing
18 that, too.

19 MR. RICHARD JOHNSON: I'm Richard Johnson. I
20 represent Ellen Dyess. She owns the property immediately
21 south to this proposed change. And we're gonna piggyback
22 a lot from the prior application.

23 We're looking at the big picture here. And I think
24 one thing that wasn't asked is how many lots and how many
25 houses they're planning for this family subdivision,
26 they're calling it.

27 It's my understanding they can put, once they
28 combine, up to six to eight different lots on that piece

1 of property. And that's just simply another dangerous
2 precedent to start here.

3 I don't think there's any other estate lots like
4 this up and down Battles Wharf or Point Clear where
5 there's six to eight family homes.

6 You get into the same issue. It doesn't comply with
7 the development pattern plan for this area. It creates a
8 high-density environment. We don't have an ingress or
9 egress, if this gets approved at some point.

10 Right now, there's only one access to the north on
11 here, and it's about ten (10) foot wide, which won't meet
12 the minimum of, I believe, thirty (30) once this -- if
13 this is ever approved.

14 This is supposed to be a low-density area. If you
15 do this, it will be high density. It's gonna also create
16 traffic issues. I'm sure other people may speak about it
17 here today, and the sewage issues as well.

18 Just like the last one, if you do this, I think it
19 is gonna set a dangerous precedent. What's to stop
20 somebody else further down the bay in Point Clear from
21 saying, well, the Dyesses did it, why can't we put in six
22 to eight houses on our property? We've got it.

23 I think if you look at the numbers right now, that's
24 a hundred and three thousand (103,000) square foot
25 they've got just right now before they merge it with the
26 other piece of property. That's six lots right there.

27 And based upon what we've heard, they're planning
28 six to eight on this property. And it's just simply too

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1 much and sets a dangerous precedent for this area.

2 CHAIRMAN SAM DAVIS: Any questions for this
3 gentleman?

4 (No response.)

5 CHAIRMAN SAM DAVIS: Thank you.

6 Did he properly represent, or are there any other
7 concerns that he didn't cover?

8 COMMISSION MEMBER ARTHUR OKEN: There's a
9 variance on this? Is there a pending variance on this
10 case?

11 CHAIRMAN SAM DAVIS: Excuse me?

12 COMMISSION MEMBER ARTHUR OKEN: Was there a
13 variance pending on this case?

14 CHAIRMAN SAM DAVIS: Subject to the re-zoning.

15 MR. RICHARD JOHNSON: Yes. It's postponed.

16 MR. RONALD SNIDER: I'm Ron Snider. My wife
17 and I and Paul and Amy Hamilton have owned a summer house
18 on the bay for approximately thirty years immediately
19 adjacent to this property.

20 In addition to what he said, I guess our main
21 concern is changing the entire character of this property
22 and make this a subdivision.

23 What we've understood, the two houses they own on
24 the bay, they're going to have a third house on the bay.
25 They were going to add five to six more houses behind the
26 property.

27 We have a one-lane driveway with three houses using
28 it now. We could have as many as nine houses using it.

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1 But I think, primarily, it's just a terrible precedent
2 for the Battles Wharf/Point Clear area. And we would
3 respectfully ask that y'all not start setting precedents.

4 CHAIRMAN SAM DAVIS: Any questions for
5 Mr. Snider?

6 (No response.)

7 CHAIRMAN SAM DAVIS: Thank you, sir.

8 MR. RONALD SNIDER: Thank you.

9 CHAIRMAN SAM DAVIS: Anyone else got anything
10 that's signed up in protest that hasn't already been
11 covered? Now is your chance.

12 (No response.)

13 CHAIRMAN SAM DAVIS: All right. Craig, do you
14 want to answer the concerns?

15 MR. CRAIG DYESS: I'll be glad to. Thank you.

16 It's pretty black and white, you know, the reality
17 of this precedent. You know, the last one, Allan was up
18 here. And the previous case you guys heard was about a
19 family subdivision.

20 I think Vince described it as Posey Lane Property.
21 That isn't as Point Clear as it gets. It's down just
22 south of Zundel's. So the other thing is just -- You
23 know, they're all over from here up. The Ridingbarks
24 [sic] have divided property. That's really kind of a
25 moot point from our perspective.

26 The adjacent property, which Mr. Snider spoke of,
27 which he's owned for sometime, he and his partner, you
28 know, it's smaller than any property we would potentially

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1 put on those three acres that we own combined with the
2 lot next door.

3 So at the end of the day, we're not asking for you
4 to approve a subdivision or approve a site plan. We're
5 asking for you to consider re-zoning this to the same
6 zoning as they're asking for, which are, I believe,
7 nonconforming as well even for what they've been zoned
8 RSF-2.

9 So at the end of the day, we're just asking for one
10 thing, just to re-zone our property RSF-2 and let us
11 take -- move it forward and see if we can get to where we
12 need to get.

13 We do have a large family. There's seven children
14 and my mother, who is ninety-three. And this obviously
15 came through her family. So there's a lot of
16 heartstrings tied to this piece of property.

17 And it almost galls me that newcomers would give us
18 grief about the fact that we wanted to stay there on the
19 bay where everyone grew up.

20 Lastly, Ellen Dyess' piece of property without the
21 driveway that goes from the back of Snider's property to
22 the highway would be RSF-2 as well. The only reason is
23 the square footage of that lot is greater than -- It's
24 probably closer to the thirty thousand (30,000) required
25 for RSF-1.

26 Thank you.

27 CHAIRMAN SAM DAVIS: Any questions -- Before
28 you leave, Craig, any questions for Craig?

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1 (No response.)

2 CHAIRMAN SAM DAVIS: All right. Thank you.

3 MR. CRAIG DYESS: Thank you.

4 MS. TRICIA NIEMEYER: Has the family
5 considered --

6 CHAIRMAN SAM DAVIS: Excuse me, ma'am. Are you
7 signed up to speak?

8 MS. TRICIA NIEMEYER: I did something to my
9 foot on the way out. But never mind.

10 MR. CRAIG DYESS: She did sign up to speak.

11 CHAIRMAN SAM DAVIS: She did?

12 MR. CRAIG DYESS: She said her foot is hurt.

13 CHAIRMAN SAM DAVIS: Oh, okay. I'm sorry. I
14 didn't understand you had a foot problem. So go ahead.

15 MS. TRICIA NIEMEYER: Right. I do apologize.

16 I do honor the family's desire to have their
17 seventy-five years of history stay where it is on the
18 bay. I wonder if you could consult with an architect and
19 design such a dwelling that wasn't six separate ones.

20 There's some creative family homes to do exactly
21 what you're trying to do that don't require as much
22 drive, as much parking, as much -- I'm just throwing it
23 out there.

24 MR. CRAIG DYESS: Do you want me to reply?

25 CHAIRMAN SAM DAVIS: If you'd like.

26 MR. CRAIG DYESS: I'll just say yes, we have.
27 We actually are dealing with a couple of architects on
28 this -- a couple of architects and land planners.

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1 The name of the game is to make this small cottages,
2 coastal and as environmentally sensitive as possible.

3 And I know I've had these conversations with the
4 Planning Department many times about other properties on
5 doing environmental subdivisions in site-planned
6 residential communities.

7 And they are available. It's available to us. So
8 yeah. Just like I said, we just want to get through the
9 R-1 to RSF-2 and then let us push forward with a site
10 plan. And you'll get another bite at it.

11 MR. RICHARD JOHNSON: I'd like to raise up
12 another question, if I may. What's to prevent them from
13 selling the lots to somebody else later on down the line?

14 MR. CRAIG DYESS: There is nothing to prevent
15 that.

16 CHAIRMAN SAM DAVIS: Nothing to prevent that
17 now or then.

18 All right. We'll close the public hearing. Staff
19 got anything else?

20 MR. VINCE JACKSON: I was just gonna mention we
21 didn't get into a lot of the details of what they're
22 proposing with their PRD, because we don't have an active
23 PRD application yet. We didn't want to confuse the issue
24 and start discussing an application that is not currently
25 on the table.

26 Like I said, this is an unconventional kind of thing
27 that we spent a lot of time trying to figure out how to
28 possibly make this work. And there were two options.

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1 And the other option of re-zoning to RMS-6, we did
2 not feel was appropriate at all. We felt like this with
3 the re-zoning, a variance PRD, that was an easier way to
4 try to go.

5 And we stated upfront there were no guarantees,
6 because it is unconventional. But we applaud the effort
7 to keep family land together and, you know, have a
8 dwelling for their mother and the various siblings.

9 CHAIRMAN SAM DAVIS: Any questions for Vince?

10 COMMISSION MEMBER SPENCE MONROE: I've got a
11 clarification just to make sure. If we approve or deny
12 this, then it goes to County Commission for their
13 approval?

14 MR. VINCE JACKSON: Yes. As a recommendation.

15 COMMISSION MEMBER SPENCE MONROE: As a
16 recommendation or not, does it also go to Fairhope?

17 MR. VINCE JACKSON: The re-zoning does not.

18 Now, when we get to the -- You know, assuming we get
19 to the point where they submit a PRD site plan, if the
20 PRD site plan is ultimately approved, then there will be
21 some subdivision issues that the City of Fairhope will
22 have to look at. But it'll be after all that.

23 COMMISSION MEMBER SPENCE MONROE: So there's at
24 least two more or three more steps before they can do
25 anything?

26 MR. VINCE JACKSON: At least two, probably
27 more.

28 COMMISSION MEMBER SPENCE MONROE: Okay.

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1 CHAIRMAN SAM DAVIS: Anymore questions for
2 Vince?

3 (No response.)

4 CHAIRMAN SAM DAVIS: Okay. Thank you, Vince.
5 Any discussion?

6 (No response.)

7 CHAIRMAN SAM DAVIS: All right. Anyone care to
8 make a motion?

9 COMMISSION MEMBER ARTHUR OKEN: Motion,
10 Mr. Chairman.

11 CHAIRMAN SAM DAVIS: Motion to recommend
12 approval?

13 COMMISSION MEMBER ARTHUR OKEN: Move for this
14 Planning and Zoning Commission to recommend to the County
15 Commission approval of this application subject to the
16 approval of the pending variance.

17 CHAIRMAN SAM DAVIS: No. This is a re-zoning.
18 So your motion would be to re-zone.

19 COMMISSION MEMBER ARTHUR OKEN: Subject to the
20 variance.

21 MR. VINCE JACKSON: Let me clarify. The
22 variance doesn't have anything to do with the re-zoning.
23 It only has to do with the PRD.

24 COMMISSION MEMBER ARTHUR OKEN: I see.

25 MR. VINCE JACKSON: So they'll have to get the
26 variance before they can move forward with the PRD
27 application.

28 COMMISSION MEMBER ARTHUR OKEN: So I'll restate

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1 the motion. Then it's a motion to recommend to the
2 County Commission to approve this application.

3 CHAIRMAN SAM DAVIS: Is there a second?

4 COMMISSION MEMBER BRANDON BIAS: Second.

5 CHAIRMAN SAM DAVIS: Okay. Let's have a
6 rollcall vote.

7 MR. VINCE JACKSON: Mr. Oken?

8 COMMISSION MEMBER ARTHUR OKEN: Yes.

9 MR. VINCE JACKSON: Mr. Monroe?

10 COMMISSION MEMBER SPENCE MONROE: No.

11 MR. VINCE JACKSON: Mr. Nance?

12 COMMISSION MEMBER DANIEL NANCE: Yes.

13 MR. VINCE JACKSON: And Mr. Bias?

14 COMMISSION MEMBER BRANDON BIAS: Yes.

15 MR. VINCE JACKSON: So that motion carries on a
16 vote of three-to-one. And we will take that
17 recommendation to the County Commission.

18 CHAIRMAN SAM DAVIS: All right. Thank you.

19

20 **8D - CASE Z-18046 THE RESERVE AT DAPHNE PROPERTY**

21 CHAIRMAN SAM DAVIS: Our final case is Z-18046
22 the Research at Daphne. Could we have a staff report?

23 MR. VINCE JACKSON: Yes, sir. This is a
24 request for PRD site plan approval. The applicant is
25 requesting site plan approval of a proposed development
26 to be known as the Reserve at Daphne consisting of six
27 hundred nine (609) lots on approximately four hundred and
28 sixty-nine (469) acres.

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1 The subject property is located north of the Reserve
2 at Daphne Phase I, south of Plantation Hills and east of
3 County Road 54 in Planning District 7, 15 and 28.
4 Planning Districts 15 and 28 are zoned. Planning
5 District 7 is un-zoned.

6 If this seems familiar to you, you have seen this
7 before. This is the third time that you've looked at the
8 Reserve at Daphne -- most of you.

9 When this first came before the Planning Commission,
10 May of 2018, the PRD at that time consisted of six
11 hundred and twelve (612) lots. Subsequent to Planning
12 Commission action, the plans for the PRD were revised to
13 include an additional six (6) lots. And as a result, it
14 was felt that further review by the Planning Commission
15 was necessary, so it came back to the Planning
16 Commission. And that revised site plan was again
17 recommended for approval this time on July 12, 2018.

18 Having said that, the application was withdrawn
19 prior to any action by the County Commission because
20 there was some issues that came up relative to the
21 property. And also, at the time, it was expressed that
22 they might add some additional lots.

23 What we've ended up now is a new application that
24 actually has fewer lots than the original approval.
25 We're down to six hundred nine (609) lots now.

26 I would mention -- And I'm just gonna go through the
27 maps. This is the locator map, area photography, this is
28 a survey, and then this is the proposed site plan.