



Baldwin County Planning & Zoning Department

Baldwin County Commission Staff Report

Agenda Item

Case No. Z-19001

Sawyer Property

Rezone RSF-1, Single Family District to B-3, General Business District

March 19, 2019

Subject Property Information

Planning District: 25
General Location: Northwest side of State Highway 180 and Ewing Place
Physical Address: 9949 State Highway 180 W
Parcel Numbers: 05-68-05-22-0-000-001.001
Existing Zoning: RSF-1, Single Family District
Proposed Zoning: B-3, General Business District
Existing Land Use: Residential
Proposed Land Use: Seafood Restaurant and Seafood Retail Store
Acreage: 0.9± acres of 2.74± acre parcel
Applicant: Alfred Elroy Sawyer
9949 Highway 180 W
Gulf Shores, AL 36542
Owner: Alfred and Theresa Sawyer
Lead Staff: Linda Lee, Planner
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Mobile Bay	N/A
South	Vacant	B-1, Professional Business OR, Outdoor Recreation B-3, General Business
East	Commercial	B-4, Major Commercial District
West	Vacant	RSF-1 Single Family

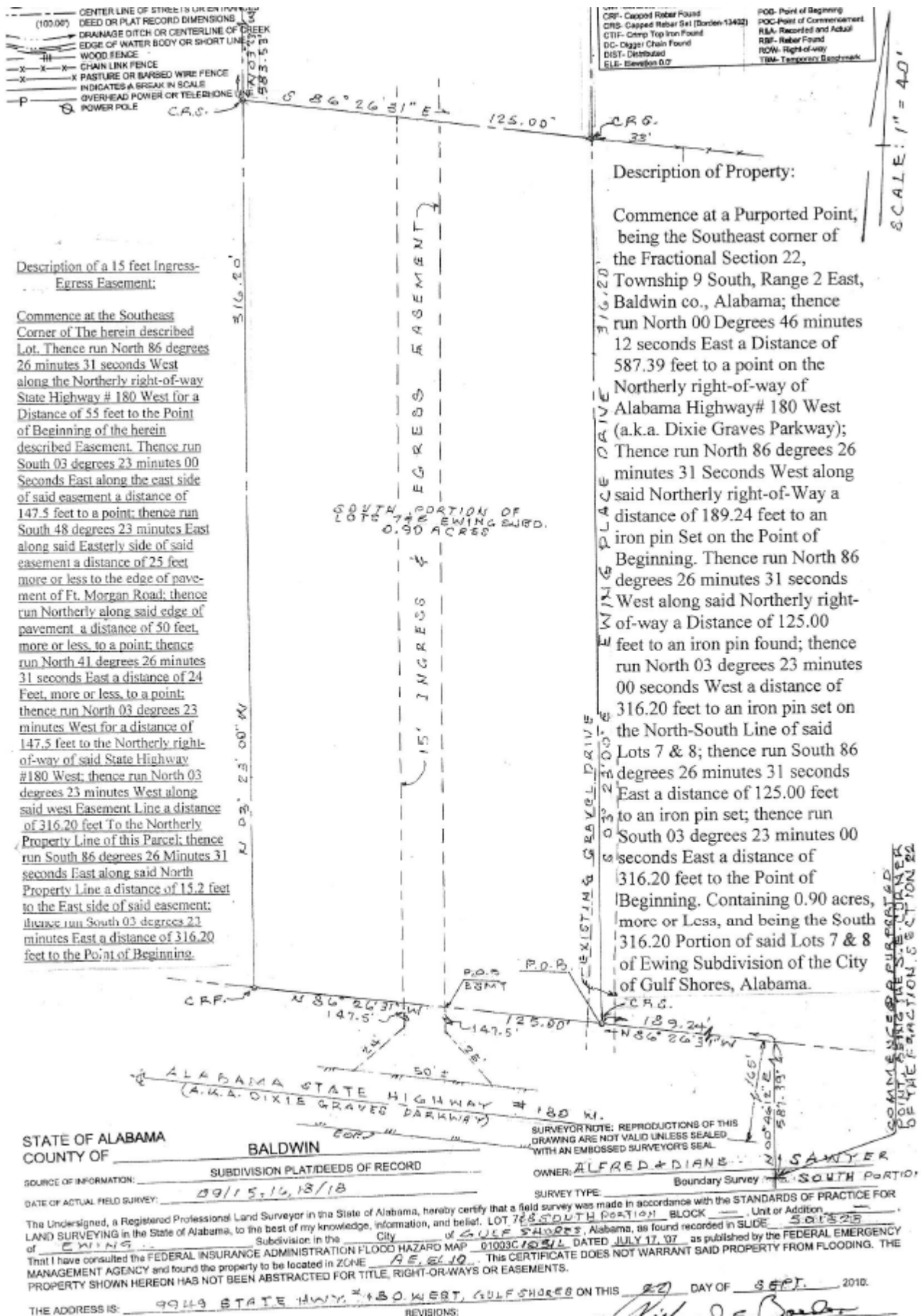
Summary

The subject property, which consists of 2.74 acres, is currently zoned RSF-1, Single Family District. The designation of B-3 General Business District, has been requested for approximately 0.9 acres of the subject property for the purpose of establishing a Seafood Restaurant and Seafood Retail Store. The B-3 zoning designation is necessary for the Seafood Retail Store to be permitted by right.

The Baldwin County Planning Commission considered this request at its February 7, 2019 meeting and voted to recommend APPROVAL to the County Commission. Staff concurs with that recommendation.

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

Survey of 0.9 acre Portion Requested to be Rezoned



Section 4.2 RSF-1, Single Family District

4.2.1 *Generally.* This zoning district is provided to afford the opportunity for the choice of a low density residential environment consisting of single family homes on large lots.

4.2.2 *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.

4.2.3 *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.

4.2.4 *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 13.10: Bed and Breakfast Establishments*).

4.2.5 *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-Feet
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width at Building Line	100-Feet
Minimum Lot Width at Street Line	50-Feet
Maximum Ground Coverage Ratio	.35

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 | (cc) Funeral home |
| (b) Air conditioning sales and service | (dd) Golf course |
| (c) Amusement arcade | (ee) Golf driving range |
| (d) Animal clinic/kennel | (ff) Grocery store |
| (e) Arboretum | (gg) Landscape sales |
| (f) Auto convenience market | (hh) Marine store and supplies |
| (g) Automobile service station | (ii) Miniature golf |
| (h) Bakery, wholesale | (jj) Mini-warehouse |
| (i) Ball field | (kk) Night club, bar, tavern |
| (j) Bicycle sales and service | (ll) Nursery |
| (k) Bowling alley | (mm) Office equipment and supplies sales |
| (l) Business machine sales and service | (nn) Park or playground |
| (m) Business school or college | (oo) Pawn shop |
| (n) Butane gas sales | (pp) Pet shop |
| (o) Cemetery | (qq) Plumbing shop |
| (p) City hall or courthouse | (rr) Printing/publishing establishment |
| (q) Country club | (ss) Restaurant sales and supplies |
| (r) Department store | (tt) Riding academy |
| (s) Discount/variety store | (uu) Rug and/or drapery cleaning service |
| (t) Drug store | (vv) Seafood store |
| (u) Elevator maintenance service | (ww) Sign shop |
| (v) Exterminator service office | (xx) Skating rink |
| (w) Farmer's market/truck crops | (yy) Stone monument sales |
| (x) Firing range | (zz) Swimming pool (outdoor) |
| (y) Fitness center or gym | (aaa) Taxidermy |
| (z) Florist | (bbb) Teen club or youth center |
| (aa) Fraternity or sorority house | (ccc) Tennis court (outdoor) |
| (bb) Fruit and produce store | (ddd) Wildlife sanctuary |
| | (eee) 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 | (g) Automobile repair (mechanical and body) |
| (b) Ambulance/EMS service | (h) Automobile storage (parking lot, parking garage) |
| (c) Amusement park | (i) Barge docking |
| (d) Armory | (j) Boat sales and service |
| (e) Auditorium, stadium, coliseum | (k) Broadcasting station |
| (f) Automobile parts sales | |

- | | |
|---|---|
| (l) Building materials | (bb) Marina |
| (m) Bus and railroad terminal facility | (cc) Motorcycle sales service and repair |
| (n) College or university | (dd) Movie theatre |
| (o) Convalescent or nursing home | (ee) Radio/television tower |
| (p) Correctional or penal institution | (ff) Railroad facility |
| (q) Dog pound | (gg) Recreational vehicle park |
| (r) Electric power substations | (hh) Recreational vehicle sales service, and repair |
| (s) Farm implements | (ii) Restaurant, drive-in |
| (t) Flea market | (jj) Restaurant, fast-food |
| (u) Freight depot, rail or truck | (kk) Sewage treatment plant |
| (v) Home improvement center | (ll) Taxi dispatching station |
| (w) Hotel or motel | (mm) Taxi terminal |
| (x) Hospital | (nn) Telephone exchange |
| (y) Landfill | (oo) Water or sewage pumping station |
| (z) Maintenance facility/storage yard for schools, government agencies, and telephone and cable companies | (pp) Water storage tank |
| (aa) Manufactured housing sales, service and repair | (qq) Wireless telecommunication facility |
| | (rr) 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

Baldwin County Subdivision Department:

From: Seth L. Peterson

Sent: Tuesday, December 11, 2018 12:56 PM

To: D Hart <DHart@baldwincountyal.gov>

Cc: Laurie Rumbaugh <LRUMBAUGH@baldwincountyal.gov>; Mary Booth <MBOOTH@baldwincountyal.gov>

Subject: RE: Z-19001 Sawyer Property

DJ,

I do not have any comments on this case.

Thanks,

Seth

ADEM:

From: Brown, Scott [<mailto:jsb@adem.alabama.gov>]

Sent: Friday, January 11, 2019 8:22 AM

To: D Hart <DHart@baldwincountyal.gov>

Cc: USACE | J. Eric Buckelew <James.E.Buckelew@usace.army.mil>; Connole, Timothy N <TNC@adem.alabama.gov>;

Denson, Dana T <DDenson@adem.alabama.gov>

Subject: ADEM Comments Baldwin County rezoning cases

Case No. Z-19001: Sawyer Property

This parcel contains high quality coastal wetlands which are protected coastal resources under the Alabama Coastal Area Management Program. The applicant is encouraged to have these wetland area(s) delineated and marked in order to avoid any direct, indirect, or accidental impacts thereto, including filling and/or dredging, resulting from any use on the parcel. Any proposal to impact coastal wetlands must be reviewed by the Mobile District U.S. Army Corps of Engineers and ADEM for compliance with both State and Federal rules.

Case No. Z-19001 (Parcel 05-68-05-22-0-000-001.001) is located in the coastal area of Alabama and is subject to the enforceable policies of the Alabama Coastal Area Management Program. The applicant must coordinate with the ADEM and the Mobile District Army Corps of Engineers prior to engaging in any disturbance to any areas on the parcel which are or could be delineated as wetlands. The applicant must coordinate with the ADEM and the Mobile District Army Corps of Engineers prior to engaging in any construction, dredging, and/or filling activity in Bon Secour Bay.

ALDOT: No comments received.

Municipality:

From: Andy Bauer [<mailto:abauer@gulfshoresal.gov>]

Sent: Wednesday, January 16, 2019 8:31 AM

To: D Hart <DHart@baldwincountyal.gov>

Subject: RE: rezoning cases

DJ:

Due to the existing summer time traffic and constraints of State Highway 180 West and State Highway 59 the City of Gulf Shores does not support the up-zoning of property that creates additional density.

Please let me know if I can be of further assistance.

Andy Bauer, AICP

Director of Planning & Zoning

Fort Morgan Advisory Committee:

VIA EMAIL

January 22, 2019

DJ Hart, Planning Technician
Baldwin County Planning & Zoning Dept.
dhart@co.baldwin.us.al

The Fort Morgan Planning & Zoning Advisory Committee met on January 16, 2019 at the Shell Banks Baptist Church to review the two cases below. In attendance were: Chan West, Thelma Strong, Bonnie Lowry, Ernie Church and Randy Ulrich.

Case No. Z-19001 Sawyer Property

The request was reviewed. Four members voted for recommendation of approval of the zoning request from RSF-1 to B-3. One member opposed the zoning request. The four members felt this is the appropriate zoning for the restaurant. The committee had reported in their previous review of October 17, 2018, that they felt a B-3 zoning would be adequate for this purpose.

Submitted by Carol N. Kittrell, Secretary

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?

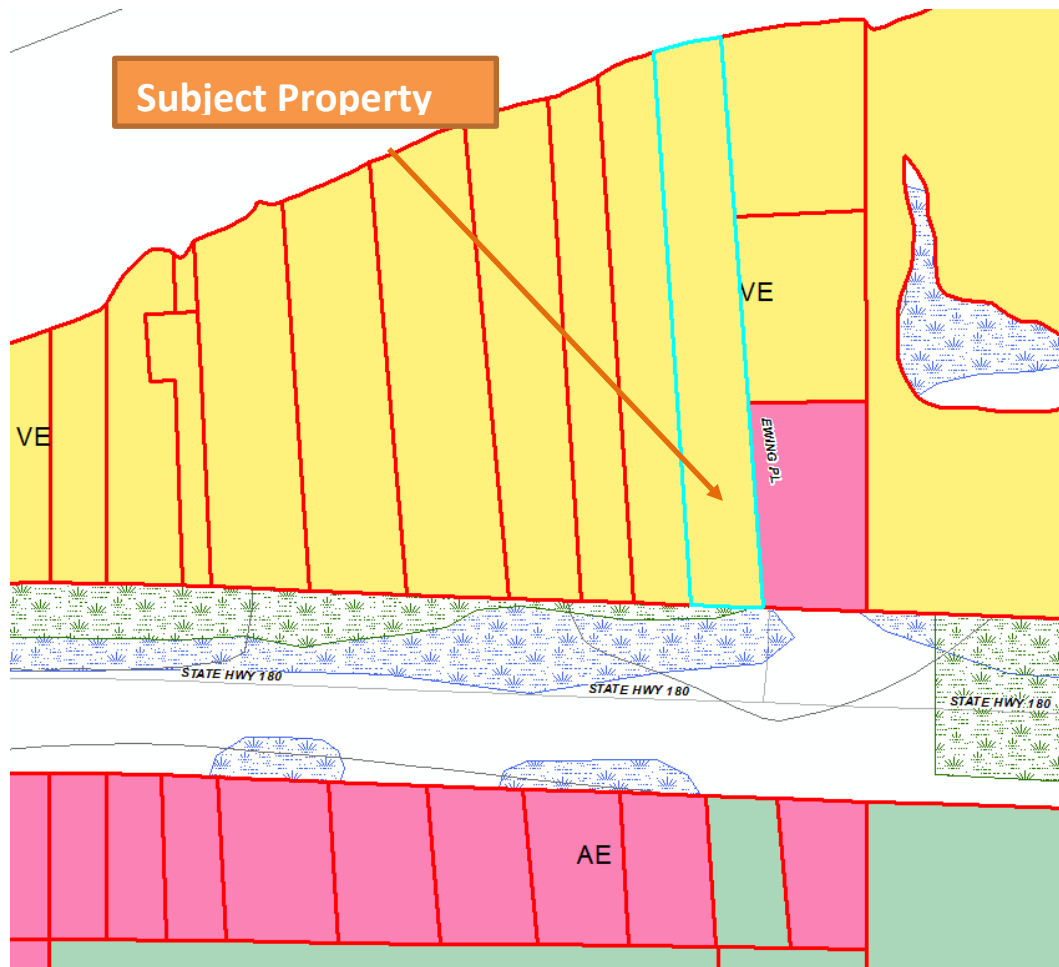
The portion of the subject property requested to be rezoned is vacant. The property adjoins State Highway 180 to the south. The adjoining properties are residential and commercial. There are numerous B-3 zoned properties southwest of this property on State Highway 180.

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 adjoining property to the east was rezoned to B-4, Major Commercial District in February 2017.

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

The Baldwin County Master Plan, 2013, provides a future land use designation of Residential for the subject property. Approval of the rezoning will result in an amendment of the Future Land Use Map to commercial.



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

Staff is not aware of any conflicts.

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

Per the Federal Highway Administration the functional classification of State Highway 180 is major collector. Collectors serve a critical role in the roadway network by gathering traffic from Local Roads and funneling them to the Arterial network. The traffic going to and from the restaurant/seafood retail store could have an impact on traffic patterns or congestion. Access to this site would require approval from ALDOT.

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.

The property to the east is a Pizza business. The proposed rezoning would allow for the proposed use of a seafood restaurant and seafood retail store.

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

See response to item number 6 which is listed above.

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?

Staff doesn't anticipate any adverse impacts.

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.

If approved, a twenty-five foot landscaped buffer would be required on the west side of the property adjacent to the residentially zoned property when subject property is developed.

Staff Comments and Recommendation

As stated previously, the subject property, which consists of 2.74 acres, is currently zoned RSF-1, Single Family District. The designation of B-3 General Business District, has been requested for approximately 0.9 acres of the subject property for the purpose of establishing a Seafood Restaurant and Seafood Retail Store. The B-3 zoning designation is necessary for the Seafood Retail Store to be permitted by right.

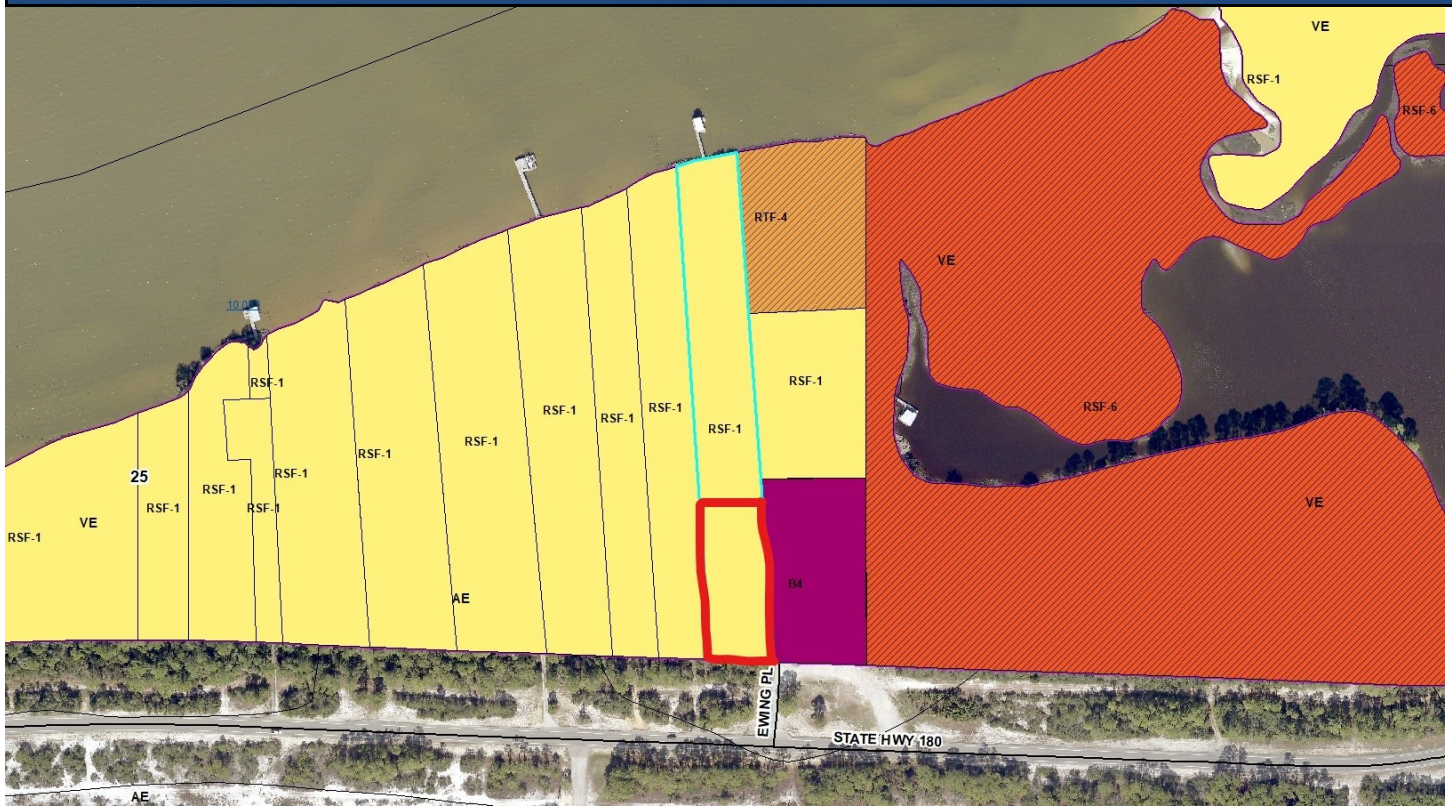
The Baldwin County Planning Commission considered this request at its February 7, 2019 meeting and voted to recommend APPROVAL to the County Commission. Staff concurs with that recommendation.

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

Property Images



Locator Map



Site Map



Letter in Opposition

Barry Copeland

3609 Walther Drive • Gulf Shores, Alabama 36542 • Phone: 817-915-6789
E-Mail: bcopeland78@gmail.com



Date: January 31, 2019

Baldwin County Planning & Zoning Commission
22251 Palmer Street
Robertsdale, Alabama 36567

Re: Case No. Z-19001; Rezoning Request for Parcel ID No. 05-68-05-22-0-000-001.001

Dear Commissioners:

I am writing to oppose the above-referenced rezoning request directed to the southern portion of the homestead property of Al and Diane Sawyer on Fort Morgan Road (the "Sawyer Property"). My wife and I own the property adjoining the Sawyer Property on the west side and are currently building what will be our primary residence for our retirement. We were surprised to learn of the rezoning request and were alarmed to hear that the Sawyers were planning to put in a fish market and seafood restaurant alongside the southern 300 feet of our residential lot. I contacted Mr. Sawyer to discuss our concerns, but was unable to persuade him to abandon the request. For the reasons below, we are strongly opposed to the requested rezoning or any other commercial rezoning that would negatively impact the livability and value of our property, as the proposed fish market/eatery would clearly do.

Reasons for Opposition

1. General Objection to Commercial Rezoning.

Currently, a public road, Ewing Place, separates the Sawyer Property and our property from any commercial land, providing a buffer between residential and commercial. The proposed rezone, however, would provide no such buffer. Our residential lot would directly adjoin 300 feet of B-3 Commercial property. In all likelihood, the rezoned Sawyer Property would never again be rezoned to its current RSF-1 classification, and we could be living next to any number of permitted B-3 uses in the years to come, not just the currently proposed seafood market/eatery. For reasons that will be discussed, the currently proposed use is highly objectionable. But equally if not more objectionable are what I understand to be other B-3 uses that are permitted "as of right" (e.g. cemetery, funeral home, laboratory, appliance repair, laundromat, air conditioning repair, kennel, butane gas sales, car wash, exterminator business, firing range, lawnmower service, liquor store, night club, pawn shop, taxidermy shop, auto service station, bait store, etc.). The mere prospect of having any such business adjoining our residential lot, in the event the Sawyers or future owners decide to get out of the fish market business, will significantly and detrimentally affect the value of our property.

2. Air, Noise and Light Pollution.

With respect to the use currently proposed for the rezoned Sawyer property, we have specific objections. The proposed fish market/eatery would presumably have a kitchen that would be venting smoke to the surrounding area including our adjoining property. It would also require waste disposal associated with both the restaurant

business and the fish market. Even if the dumpster(s) were emptied daily, it would be virtually impossible to contain the odors - especially in the summer months - or to prevent the attraction of rats or other vermin, all of which would invariably spill over onto our property. The noise associated with heavy trash trucks, including piercing sound of the back-up signal would also be very disruptive. Assuming that they would be open during dinner hours, the requisite parking area would need to be well lighted. The lighting (from the establishment and the patron headlights) and noise from the evening operations would be very difficult to shield from our planned home, and would certainly diminish the ambience that we would expect in a residential neighborhood.

3. Wetlands Impact.

We understand the Sawyer Property proposed for rezoning contains wetlands adjacent to and extending onto our property. The planned development would necessarily impact those wetlands. Even if the Sawyers were able to secure wetland mitigation approval, the trucking in of fill dirt would cause the displacement of existing water and/or increase the discharge of rainwater from the Sawyer Property to ours, adversely affecting our wetlands and potentially flooding our driveway. At the very least, our drive into our lot will be transformed from what is now a scenic path through wetlands to what would essentially be an alley alongside a fish market.

4. Traffic.

The southern boundary of the proposed rezone fronts the right-of-way for Fort Morgan Road. Fort Morgan Road at that point is a two-lane paved road (one eastbound lane and one westbound lane) with no turn lane. With no turn lane, traffic wanting to enter the site from the west would be forced to stop in the eastbound lane while waiting to turn in the event of oncoming traffic from the east. This stoppage in a 55 mph speed zone could be hazardous and would cause delays in the eastbound traffic flow. If just a few cars were backed up in that eastbound lane, it would also block an eastbound exit from our driveway. Finally, the proposed rezone would expose our property, which is currently quite secluded, to unwanted pedestrian traffic. Currently, the only land access to our property is from Fort Morgan Road via our driveway. The proposed rezone would put a commercial business that invites the public to park their cars and freely walk along as much as 300 feet of the eastern boundary of our property -- increasing the likelihood of trespass or other mischief.

5. Negative Property Value Impact.

There is no question that the requested rezone, which leaves no residential/commercial buffer, would adversely impact the value of our residential property and that of our neighbors. Our lot and the next two lots to the west are all bayfront lots that have (or in our case will have) very nice, large homes on the bluff overlooking Bon Secour Bay. Because of the elevation, these lots are some of the most desirable residential lots on the entire peninsula. I have consulted our realtor, who contacted his appraisers. For at least the reasons described above, I believe the value of our property would be significantly reduced, perhaps by 30% or more, if the proposed rezone and development were allowed. The reduction in value to the lots west of our property would also be significant, but sequentially less as our lot would serve as a buffer to the commercial use.

For all of the foregoing reasons, we strongly object to the requested rezoning and urge the Commission to deny the Sawyers' request.

Sincerely,



Barry L. Copeland
Owner – 9917 Fort Morgan Road

We have read the foregoing letter and agree that the requested rezoning of the Sawyers' lot would negatively impact the value of our homes. We therefore object to the requested rezoning.

Signature

Printed name and address

Signature

Printed name and address