

1 rezoning?

2 COMMISSION MEMBER DANIEL NANCE: I motion to
3 approve as presented.

4 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
5 DAVIS: Okay. There's a motion to recommend
6 approval to the Commission. Is there a second?

7 COMMISSION MEMBER BONNIE LOWRY: Second.

8 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
9 DAVIS: Thank you. Can we have roll call vote?

10 MR. VINCE JACKSON: Mr. Murphy?

11 COMMISSION MEMBER KEVIN MURPHY: Yes.

12 MR. VINCE JACKSON: Ms. Lowry?

13 (No Response.)

14 MR. VINCE JACKSON: Ms. Lowry?

15 COMMISSION MEMBER BONNIE LOWRY: Yes.

16 MR. VINCE JACKSON: Mr. Nance?

17 COMMISSION MEMBER DANIEL NANCE: Yes.

18 MR. VINCE JACKSON: And Mr. Bias?

19 COMMISSION MEMBER BRANDON BIAS: Yes.

20 MR. VINCE JACKSON: Motion carries
21 unanimously.

22 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
23 DAVIS: Thank you.

24

25 8-A - CASE Z-19025, RETIREMENT SYSTEMS OF ALABAMA

26 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

27 DAVIS: Okay. The last case of the night is Case

28 Z-19025, Retirement Systems of Alabama. Do we have

1 staff report?

2 COMMISSION MEMBER BRANDON BIAS: Mr.
3 Chairman, I have to recuse myself from this case.

4 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
5 DAVIS: Okay.

6 COMMISSION MEMBER DANIEL NANCE: Mr.
7 Chairman, I have to recuse myself from this case.

8 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
9 DAVIS: All right. Thank y'all.

10 COUNTY ATTORNEY DAVID CONNER: And just for
11 the record, it takes five Planning Commission
12 members to have a quorum. Those two gentlemen have
13 a conflict of interest, so they're not leaving the
14 room. They're staying in the room -- and I mean in
15 the room -- for purposes of having a quorum.

16 The remaining members can vote. But I may
17 have a further statement about that regarding --
18 after the public hearing is concluded.

19 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
20 DAVIS: Vince, you ready?

21 MR. VINCE JACKSON: I'm ready. This is Case
22 Z-19025, Retirement Systems of Alabama property.
23 The subject property, which consists of
24 approximately 1.27 acres, is currently zoned TR,
25 tourist resort district. This property is part of a
26 larger 26.6-acre parcel, which is owned by the
27 Retirement Systems of Alabama.

28 The applicant is requesting a rezoning to

1 HDR, high-density residential district, in order to
2 develop condominium units. As proposed, 12 units
3 would be constructed in a four-story building. And
4 I would point out this is our very first application
5 requesting the HDR designation.

6 Subject property is located on the west side
7 of Scenic Highway 98 at the north end of the Grand
8 Hotel Marina in Planning District 26. And here is
9 the locator map showing the zoning and the location
10 of the property. The TR designation is unique to
11 Planning District 26, and it -- only the Grand Hotel
12 property carries that designation. And it appears
13 that it was created specifically for the Grand Hotel
14 when the zoning was adopted.

15 And then here is the aerial photography
16 showing the subject property. And as you can see,
17 you can see the yacht basin, the boat slips. And on
18 the property, which is proposed for development,
19 there are some structures and parking which are
20 associated with the boat slips. And then here's a
21 survey for the subject property and then pictures.

22 In this case, the staff has recommended that
23 the case be denied. This is a recommendation to the
24 County Commission. And our primary reasons for this
25 recommendation, and they're spelled out in the staff
26 report, first is: First, we have concerns over the
27 appropriateness of a multifamily structure adjacent
28 to a single-family structure.

1 In addition, we have concerns because the
2 subject property is located in what we refer as the
3 "V" zone. And a "V" zone is an area designated on
4 the flood insurance rate maps, to make it simple, so
5 that it can be subject to storm surge during storm
6 and seismic events. There are additional
7 requirements that are set up for properties within
8 "V" zones. There are structural requirements.
9 There are height requirements, additional height
10 requirements.

11 In this case, I believe the elevation is 12
12 to 13 feet. And also for the "V" zone, we have
13 additional setbacks, which are 50 feet from the
14 reach of mean-high tide. So it is a sensitive area,
15 and we have concerns about a high-density
16 residential of this type being constructed in the
17 "V" zone.

18 Our third major concern has to do with the
19 intent of the HDR designation when it was created
20 and concern over the precedent which would be set
21 due to the fact that this is the very first HDR
22 rezoning request. And I can elaborate on that a
23 little bit more following the public hearing.

24 As you can see, there are a number of people
25 here who are interested in this request. We have
26 received a number of letters, which you all are
27 copied on. In fact, we were still receiving emails
28 less than an hour ago. So there's very much -- very

1 significant interest in this case.

2 And I will step aside for right now with my
3 comments, but I may have some additional follow-up
4 comments at the end of the public hearing.

5 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
6 DAVIS: All right. Thank you, Vince. Any questions
7 for Vince at this point?

8 COMMISSION MEMBER BONNIE LOWRY: Vince, of
9 course this is on the water. But do they also have
10 a condominium back behind that street? Does RSA
11 also own that condominium that's behind Highway 98?

12 MR. VINCE JACKSON: Which one are you
13 referring to?

14 COMMISSION MEMBER BONNIE LOWRY: It's the
15 high-rise that's back there. It's not on the map.
16 Maybe the gentleman can answer it.

17 MR. VINCE JACKSON: You're referring to the
18 Colony?

19 COMMISSION MEMBER BONNIE LOWRY: Uh-huh.

20 MR. VINCE JACKSON: I believe that property
21 is actually in the City of Fairhope. Yeah, that's
22 in the City of Fairhope, so it's not subject to our
23 zoning.

24 COMMISSION MEMBER BONNIE LOWRY: It's in the
25 City of Fairhope?

26 MR. VINCE JACKSON: Yes, ma'am.

27 COMMISSION MEMBER BONNIE LOWRY: Okay. And
28 this is in their jurisdiction, right?

1 MR. VINCE JACKSON: It's in their permitting
2 jurisdiction and their extraterritorial
3 jurisdiction, but it's under county zoning, Planning
4 District 26.

5 COMMISSION MEMBER BONNIE LOWRY: Thank you.

6 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
7 DAVIS: Any other questions for Vince at this point?

8 (No Response.)

9 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
10 DAVIS: Thank you, Vince. We'll open the public
11 hearing at this point. Let me ask: Is there anyone
12 here to speak for this development? Is anyone here
13 representing RSA?

14 MR. TIM LAWLEY: I'm here. I forgot to sign
15 up. I apologize.

16 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
17 DAVIS: Okay. If you want to come up to the podium.

18 MR. TIM LAWLEY: Good evening, Chairman and
19 Commissioners. I'm Tim Lawley with Goodwyn, Mills,
20 and Cawood. I'm going to keep it short, as I know
21 there's a lot of people here to speak in opposition.

22 Just to touch on, kind of, where we're
23 coming from in this application. The property is
24 currently zoned TR, as Vince stated. That includes
25 a multitude of buy-right uses. A lot of those uses
26 are commercial uses, hotels and motels, accessory
27 structures and shops within the motel. There's a
28 lot of uses you have to have special permit --

1 special exception for approval.

2 So I've been working with RSA on the Colony
3 development as well as a lot of their other
4 developments around here for the past ten years or
5 so, and we have been discussing this property for
6 four to five years. And they have an intent to
7 develop something on it. And we honestly felt like
8 with the condominium approach, that we were
9 providing a step-down or a downgraded zoning going
10 from a hotel or a motel/restaurant use to a
11 privately-owned condominium use to kind of buffer
12 between the hotel and the single family.

13 In regards to what Vince says, that I think
14 what I just said covers item number one. The "V"
15 zone designation, we're well aware of that, and
16 we're well aware of the building requirements in
17 that zone. Obviously, pretty much the entire side
18 of the Bay on that side is developed within that
19 same "V" zone, so it's not something that cannot be
20 accomplished.

21 And as far as regarding or setting a
22 precedent, again, I think this is a downgrade in
23 zoning, going from TR to a residential zoning. So I
24 don't think it would be setting a precedent for
25 other single-family residentials to go with an
26 upgrade to a high-density residence.

27 That's all I've got to say right now. I'm
28 going to give these other folks an opportunity to

1 get up here and speak, and I'll be happy to address
2 any questions from y'all or them now or afterwards.

3 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
4 DAVIS: Is this property currently used for parking
5 and access to the Marina?

6 MR. TIM LAWLEY: It is.

7 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
8 DAVIS: Where would that go?

9 MR. TIM LAWLEY: It would stay there. The
10 preliminary proposed plans have additional parking
11 under the building as well as some additional
12 parking within the parking lot there.

13 I think the total number of spots we had was
14 two per unit, one per slip, and another 10 or 15
15 spots on the preliminary drawing.

16 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
17 DAVIS: Any other questions for this gentleman?

18 AUDIENCE MEMBER: What would be --

19 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
20 DAVIS: Not from the audience, just from the
21 Commission up here. Any other questions for this
22 gentleman?

23 COMMISSION MEMBER BONNIE LOWRY: Do you have
24 an idea of how large this complex is going to be,
25 how many families, how many condos? You know, we
26 don't have any information.

27 MR. TIM LAWLEY: Yes, ma'am. As Vince
28 stated, the preliminary proposal is a four-story

1 building that would be very similar in architecture
2 to the hotel buildings that are there now. There
3 would be three units per floor, and those units are
4 two bedrooms and around 1600 to 1800 square feet per
5 unit.

6 COMMISSION MEMBER BONNIE LOWRY: Parking
7 underneath?

8 MR. TIM LAWLEY: And there would be -- Yes.
9 It would be a typical raised elevation on piers like
10 you see in coastal areas, and we would have parking
11 underneath the facility.

12 COMMISSION MEMBER BONNIE LOWRY: And how
13 many did you say? How many units?

14 MR. TIM LAWLEY: Twelve units total is
15 what's proposed.

16 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
17 DAVIS: So you would add additional 24 parking spots
18 that would take away from what's there now, which is
19 hardly sufficient for the Marina at this point.

20 MR. TIM LAWLEY: Right. Like I say, I don't
21 have the total count in front of me. But I want to
22 say it's in the high 40s or low 50s, what we had
23 sketched in the preliminary site front of the plan.

24 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
25 DAVIS: Any other questions for this gentleman?

26 (No Response.)

27 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
28 DAVIS: Thank you, sir.

1 MR. TIM LAWLEY: Thank you.

2 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
3 DAVIS: Now, the spokesperson back in the back,
4 would you come on up and state your name?

5 In the meantime, could we have everyone
6 that's here in opposition to stand just we'll see
7 how many there are?

8 (AUDIENCE MEMBERS STAND.)

9 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
10 DAVIS: Okay. Thank, y'all.

11 MR. MICHAEL UPCHURCH: Commissioners, good
12 evening. My name is Michael Upchurch, and I
13 represent the Point Clear Property Owner's
14 Association. And I can assure you that every one of
15 these folks would love to get up and share their
16 thinking with you, but we have organized ourselves
17 to cover the issues that we think are important
18 among four different speakers. I hope that will be
19 acceptable.

20 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
21 DAVIS: As long as there's not repetition.

22 MR. MICHAEL UPCHURCH: Yes.

23 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
24 DAVIS: Because we have read all the letters and all
25 the emails. So we just don't want a lot of
26 repetition, but we'll listen to anything that's new
27 or has not been covered.

28 MR. MICHAEL UPCHURCH: Right. And we've

1 tried to design it so there won't be repetition.

2 Let me start out by saying -- by addressing
3 the comments that what's being proposed, the
4 condominiums, would be a downgrade. We disagree.
5 This is a almost exclusively single-family
6 residential area. It has three separate historic
7 districts that are on either side of the hotel, as
8 you can visually -- (SHOWS PICTURES) -- which is
9 what I'm talking about. The pink areas are the
10 historic districts, three different historic
11 districts. Then the Grand Hotel, which is historic
12 itself, and this little sliver here is what's
13 proposed to put condos on.

14 COUNTY ATTORNEY DAVID CONNER: Just for
15 purposes of the video, this is now on Facebook and
16 recording, so make sure you speak in the camera if
17 you can -- in the microphone if you can, because
18 nobody at home can hear it.

19 MR. MICHAEL UPCHURCH: Okay. And my point
20 is that the hotel in this community, the
21 single-family residence community, have grown up
22 together. And they are connected and always have
23 been. And it's a unique character of this community
24 that this community has worked for hard to protect.

25 What is completely incongruent, inconsistent
26 conflicting in this community and with the historic
27 nature of the Grand Hotel are multifamily
28 condominiums shoehorned into this very small sliver

1 of land by the yacht basin. It is a completely
2 offensive change to the character of the
3 neighborhood, which is why you have so many people
4 here in opposition.

5 What I'm going to talk about briefly is
6 something that Vince touched on, and that's the HDR
7 designation. Because I've looked at the transcripts
8 from your meetings several years ago when y'all
9 created that. It was a thoughtful meeting, a lot of
10 discussion, a lot of consideration.

11 And Vince explained at the time -- Vince
12 proposed it as something new, because the County was
13 missing out on controlling development and zoning,
14 because some developers adjacent to municipalities
15 were annexing in to be allowed to have
16 higher-density development. And the idea was for
17 the County to exercise some control over those
18 developments when they're adjacent to municipalities
19 -- which this is not. This sliver of property is
20 not adjacent to a municipality. It is adjacent to a
21 residential county neighborhood.

22 (HOLDING SIGNS OF TRANSCRIPT) I wanted to
23 remind you of the conversation --

24 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
25 DAVIS: Since this is live streamed now, maybe
26 someone else can hold the placard for you.

27 MR. MICHAEL UPCHURCH: Let me start by
28 saying something -- by reminding y'all of something

1 Commissioner Lowery had to say. And this isn't on
2 the board, but Commissioner Lowery had concerns
3 about the HDR development and how it was going to be
4 used.

5 And she said -- and this is foreshadowing:
6 "I don't think you should be able to use that one
7 acre to put 12 units next to another acre that is an
8 estate with one or two houses on it." That is
9 exactly what we have on this proposal, homes on
10 large Bay-front lots, single-family homes adjacent
11 to a piece of property that someone is trying to put
12 12 units on.

13 David Conner, your excellent lawyer, pointed
14 out that, "HDR was only a tool to be used when you
15 and the County Commission think it can be used
16 correctly. Just because we have a designation
17 available doesn't mean you give it everywhere.
18 Just because they ask, we're not going to recommend
19 it necessarily. Another tool does not have to be
20 used on every property."

21 And Vince chimed in and said, "No, that's
22 right."

23 And then David said, "I think you all" --
24 meaning the Commissioners -- "would be more
25 conservative in where you would use this district
26 and how you would deal with development. In other
27 words, given the nature of the HDR, you would be
28 especially vigilant in how it was applied to make

1 sure it was applied correctly and not
2 indiscriminately."

3 And then Vince -- and I don't even need
4 these blow-ups to hide Vince since he's who I'm
5 talking about. Vince said, "Our County Commission
6 and our staff would exercise more discretion in
7 where we recommend this. It's not going to be
8 applied everywhere. There are some areas that it's
9 most certainly not appropriate." And this is
10 important: Then he said, "That's why we make
11 recommendations." And in this case, we know what
12 his recommendation is, what the staff's
13 recommendation is, and it's denial.

14 It was a tied vote. The Chair broke the
15 tie. It was a close call. And here we are today,
16 the first HDR request. And this is so important,
17 because this will set a precedent of how does a
18 community get ruined. How does Orange Beach happen?
19 It's one exception at a time. It's one precedent
20 that can be latched onto that creates momentum that
21 takes you down a path that is the wrong path. And
22 that's why all these folks are here this evening,
23 because we do not want Point Clear to go down that
24 path.

25 The citizens of District 26 voted back in
26 the nineties to institute county zoning for tonight
27 -- for a night just like tonight, when they would
28 have an opportunity to have their voice heard and to

1 have representatives -- their representatives
2 control growth, to stop unwanted, inappropriate,
3 destructive increases in density in their community.
4 That's why they're here. That's why they voted to
5 have zoning. So we think it's critical that this
6 not be allowed. This would open up the gate.

7 RSA -- I don't blame RSA. What RSA does is
8 develop. I think if I parked a flatbed truck out in
9 the street too long, they would put a condo on it.
10 I mean, it's what they do, and it's just the nature
11 of the beast. And they are creative, and they will
12 push the envelope, and they will keep developing
13 until they're stopped. They're not evil. They're
14 not bad, but it's their nature. And we are here to
15 not let what has happened in other communities to
16 destroy the unique nature of those communities
17 happen in Point Clear.

18 This is critical. It's also a tiny sliver
19 of land entirely inappropriate for a high-density
20 condominium. And if you have seen it, you know what
21 I'm talking about. It is barely a little over 100
22 feet wide, a very low adjacent to a yacht basin, and
23 it creates a buffer.

24 The TR zone was created for the Grand Hotel.
25 It is the Grand Hotel. The TR zone is more
26 restrictive in the setbacks than the HDR zone. That
27 is why RSA is asking to rezone this one sliver of
28 their property; not to do us a favor and to do

1 something less than TR, but to do something they
2 can't do in the TR zone, which is put this building.
3 They cannot put this building of this size in the TR
4 zone with the existing setbacks.

5 So they're trying to take advantage of the
6 new HDR zone to cram a condominium on this little
7 piece of property and eliminate the buffer that this
8 side of the yacht basin has presented for decades
9 for the community.

10 And I'm sure that the owners of the hotel,
11 the operators of the hotel, never dreamed when the
12 TR zone was established, that somebody at some point
13 was going to try to put condominiums on that little
14 slice of land on the north side of the yacht basin.
15 So that's my point.

16 And now, if you will allow Matt Mosteller,
17 who has the house not adjacent to the proposed site
18 but one beyond that, to speak to you, I would
19 appreciate it.

20 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
21 DAVIS: All right. Let's have him up.

22 MR. MATTHEW MOSTELLER: Thank you. My name
23 is Matthew Mosteller. I live at 17999 Scenic
24 Highway 98. I live two doors -- My wife and I live
25 two doors north of the Grand Hotel Marina. I'm a
26 registered voter here in Baldwin County. My house
27 is homesteaded there. We have been there for almost
28 30 years.

1 I'm here as a representative of the Property
2 Owner's Association to tell you that there is a
3 group of 400 households that unanimously are against
4 this rezoning. I'd like to tell you a couple of
5 reasons why I personally am against it.

6 A few weeks ago when all the rumors were
7 going around regarding what was going to happen to
8 the hotel and marina, we tried to get in touch with
9 RSA to find out what was going to happen, and we
10 were having a hard time meeting with them.

11 So if you need to find out something going
12 on in the Bay, who do you call to get all your
13 information? You call Jimbo Meador, okay? Jimbo
14 Meador has lived on the Bay his whole life. In his
15 letter of objection, he said he and his wife have
16 been here for 170 years.

17 So he told me, he said, "I don't want to
18 spread any rumors, but I heard they're going to
19 build a pig farm."

20 So I said, "Well, you know what? We need to
21 meet with RSA and find out what's really going to
22 happen."

23 So a couple of their executives from
24 Montgomery drove down. I think they were the
25 president and the vice president of the real estate
26 development. They came down and made their
27 presentation and told us they wanted to build 12
28 units. They realized they were in a flood zone.

1 They realized that it was going to be next to R-1,
2 that they were going to be in a historic district,
3 that they were going to be the first high-density
4 residential. They agreed to all of that, but it
5 didn't really bother them that much.

6 The point that I want to make is that if you
7 drive down Scenic Highway 98 on any day, you got
8 runners, bikers, people walking their dogs, pushing
9 their children. We have the Jill Hall Bike Path and
10 Running Path. That's the only place we can safely
11 walk now. You would not want to walk down Section
12 Street anymore. You don't want to walk 181 or 13.
13 You go down Scenic Highway 98.

14 And I think it's only going to get worse
15 because RSA, as you know, is going to build -- they
16 have permission to build over 800 houses between
17 Section Street and Twin Beach. And all of that is
18 going to funnel into Section Street and funnel into
19 Twin Beach. That leaves Scenic Highway 98 for our
20 pedestrians, and we want to keep it that way.

21 This past spring, there was a physician from
22 Fairhope was going around the curve on his bicycle.
23 There's a lot of pedestrian crosswalk there now.
24 There's even two stop zones on that curve. His
25 brakes locked with a pedestrian, he broke his back.
26 He was Life Flighted out of there. He ended up in
27 Atlanta for six weeks of rehab. He's back at work.
28 But if we keep increasing density, we're going to

1 see more and more of these things happening.

2 I'm a member of the Colony Club, the
3 Lakewood Club. And I respect the relationship that
4 Point Clear has with the Grand Hotel. The Grand
5 Hotel has been there for 150 years. I respected
6 that they came back after Katrina and rebuilt. They
7 could have walked away. I respected that they
8 rebuilt the golf courses with the Trent Jones tour.
9 It brings in the tourism. I don't agree with their
10 800 houses in the Colony, but that's in an unzoned
11 area. This area is zoned for R-1 and R-2, and we
12 are against the high-density residential.

13 So in summary, I'd like to say one thing,
14 and that is to quote Jimbo Meador. "Let's keep
15 Scenic Highway 98 scenic." Thank you.

16 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

17 DAVIS: Thank you. Give me just one second.

18 (CHAIRMAN OFF-THE-RECORD DISCUSSION WAS
19 HAD.)

20 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

21 DAVIS: Okay, sir. Go ahead and state your name.

22 MR. DANNER FRAZER: Can I give you a
23 handout?

24 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

25 DAVIS: Sure.

26 MR. DANNER FRAZER: My name is Danner
27 Frazer. My wife and I have a house eight houses
28 north of this land that's supposed to be rezoned --

1 that request to rezone, and it's been in my wife's
2 family for a lot of years. Her dad, who grew up in
3 New Jersey and traveled the world in the shipping
4 business, used to say that there's no finer place in
5 the world than Point Clear, Alabama. And that's
6 what we're trying to preserve.

7 The handout that I've given you -- and
8 Michael Upchurch, by the way, has said a lot of what
9 I was going to say, so I'm going to skip through it.
10 But the handout I've given you just highlights some
11 points that the Baldwin County Commission has stated
12 its support for the very thing we're here about
13 today.

14 Because if you look in the brochure I gave
15 you, it says, "The Baldwin County Commission will
16 preserve the excellent and unique quality of life
17 for Baldwin County."

18 The master plan says -- in the booklet that
19 says, among other things, "Growth on the Eastern
20 Shore will need to characteristically fit with its
21 history." Interestingly, the Grand Hotel touts the
22 unique, quiet residential nature of our
23 neighborhood.

24 They, on their website, they site magazine
25 articles, including one that quotes Fannie Flag
26 saying, among other things, "There's always been
27 something magical about Fairhope." And she was
28 referring to an earlier visit. And now so many

1 years later, there still is Fairhope. It's unlike
2 in other small town.

3 Another article, "Fairhope and its
4 surrounding area is one of those rare places that
5 remains deeply itself despite the world changing
6 around it." I don't know if it's going to continue
7 to be itself after those 800 houses, but anyway, it
8 used to be.

9 And then the general manager over the hotel
10 is quoted as saying, "The local community is so
11 important to the hotel." But it seems to me there's
12 a disconnect between the people in the hotel who
13 appreciate the quiet residential neighbor -- nature
14 of the neighborhood in which the hotel exists, and
15 the disconnect between them and the business people
16 in Montgomery or wherever they are who want to
17 squeeze dollars out of dirt.

18 And so they said it in the letter that they
19 wrote to you, that they have been trying to figure
20 out a way to make money out of this land, and they
21 finally came up with this, is what they could come
22 up with. Well, I call your attention also to the
23 Baldwin County Zoning Ordinance, section 19.6 for
24 changes, and it has some criteria. Vince addressed
25 them in his report, and I've addressed them here.
26 And in my opinion, they have not met a single one of
27 those criteria.

28 As been said, this zoning has existed since

1 1993. They bought the property in 1999. Nothing
2 has changed. It's still a residential area. That
3 marina is just like it's been for over 70 years. So
4 one other things in the criteria for zoning changes,
5 under subparagraph "F," it makes a very important
6 statement. "Economic considerations pertaining to
7 the applicant shall not be a consideration." So the
8 fact they want to make money out of it is not an
9 issue and not to be considered.

10 So I just repeat what Michael said, a
11 community can be destroyed one exception at a time,
12 and we ask you to please preserve the quality on our
13 community in Point Clear. Thank you.

14 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
15 DAVIS: Thank you.

16 MR. ALLAN CHASON: Mr. Chairman, members of
17 the Commission, I'm Allan Chason. I live on Scenic
18 Highway 98, a short distance south from the Grand
19 Hotel, and I'm here in opposition to this
20 application.

21 District 26 where this property is situated
22 runs along Scenic 98, a short distance away from the
23 Bay, just a narrow corridor down the Bay from the
24 south city limits of Fairhope at the north end to
25 Pelican Point and Weeks Bay on the south end. So
26 I've not measured that distance, but five or six --
27 seven miles, something like that.

28 I haven't counted the number of parcels in

1 District 26, but I feel sure it's in excess of 1,000
2 parcels. Whatever number there are, my conservative
3 judgment is that more than 95 percent of them are
4 zoned either RSF-1 or RSF-2. This is a low-density,
5 single-family community, unlike any other district
6 in this County. There's not another one. Magnolia
7 Springs used to be like that, and it's a city now.
8 Orange Beach was like that one time.

9 I had an unusual experience two weeks ago.
10 I talked to Griffin Powell, who is the planner at
11 the City of Orange Beach, about a client I have
12 there who has a single-family lot, 100-foot lot on
13 the Gulf zoned single family, one of the few left.
14 He is surrounded by 14-story buildings. And he
15 finally gave in, and he said, "I want to sell mine
16 for a bunch of money."

17 Would you believe that now after some 30
18 years since Hurricane Frederick, Orange Beach has
19 now decided they made a mistake in their
20 high-density development? The traffic is swallowing
21 them. They allow 42 units an acre in their
22 high-density district. District 26 in Point Clear
23 on the other hand, 95-plus percent of it allows
24 either one or two units an acre. Those are two very
25 different communities, and we want to keep ours like
26 it is.

27 The County master plan that was only adopted
28 a few years ago recognizes this fact. It recognizes

1 that Point Clear is a low-density district. The HDR
2 that is proposed here would not be one or two units
3 an acre. It would be 12 units an acre, which is
4 unprecedented in Point Clear. There is no
5 12-unit-an-acre development. And the development
6 that Commissioner Lowry mentioned is not in District
7 26. It's in the City of Fairhope, and so the
8 citizens of Fairhope will have to discuss that. We
9 do not want to turn Scenic Highway 98 into another
10 Highway 181 or even a South Section Street. We want
11 it to remain scenic.

12 I was in the Bicycle Shop last Saturday
13 morning. I went to the hardware store, and I saw
14 the Bicycle Shop and thought I'd stop in there and
15 see what they think of this. The lady at the
16 counter turned her computer around and said, "This
17 is the website that bicyclists use when they decide
18 where they're going for their races and to take a
19 Saturday morning ride." It's Speeder.com or
20 something like that. They had a bright red line on
21 Scenic 98 south of Fairhope advertising to all the
22 world that that's a great place to ride their
23 bicycle. They can't ride on 181 anymore.

24 And we've had a number of -- Any day,
25 particularly on Saturday and Sundays, you see a
26 constant stream of bicycles up and down that street.
27 They don't like to ride on the Eastern Shore Trail
28 that Teko Wiseman built. For the most part, that's

1 the pedestrians on the trail, and the bicyclists
2 like to use the highway. And if you get behind a
3 pack of six or eight of them, you just go slow. You
4 find a way to get around them.

5 To add another 12 units of people into that
6 environment is not good, particularly at that curve
7 in Point Clear where the hotel had to put parking on
8 the east side of 98 because they don't have enough
9 parking on the west side. And now you've got
10 pedestrian walkways across the highway for both
11 guests and employees to go back and forth.

12 Mr. Chairman, you mentioned the size of this
13 property. There's a survey attached to the
14 application, and it's very irregular. I tried to
15 scale it, and I'm not sure about what the dimensions
16 of it. It says 1.27 acres. But the west end of it
17 is a "J." I mean, you can reach from one side to
18 the other. The widest place I see looks like they
19 might have 120-foot square right in the middle of it
20 to build something.

21 Well, now, Vince mentioned the velocity "V"
22 zone from the flood ordinance requires a 50-foot
23 setback. I think that's going to be from the south
24 side, which is against the sea wall against the
25 yacht basin. The buffering requirements of the
26 zoning ordinance require 25-foot setback where it's
27 up against single-family residential. So if it's
28 120 feet wide, they got 75 feet of setbacks. So

1 they've only got less than 50 feet, the way I've
2 looked at it to build something on. And several
3 people mentioned squeezing in a condominium. That
4 is squeezing in a condominium.

5 Another question that you alluded to,
6 Mr. Chairman, what happens to the yacht basin?
7 Because right now, it is not undeveloped. I bought
8 fuel there last Sunday. It has a fuel dock, and it
9 has a two-story harbormaster office where they
10 monitor channel 16 on the marine radio. And those
11 uses are what's called "accessory uses" in the
12 ordinance, and they can be there as long as it's TR.

13 But if they rezone it to HDR residential,
14 they can't have fuel sales. They can't have a
15 harbormaster's office. And the south side of the
16 yacht basin is built up, so I don't know where those
17 uses would go. Now, that's something for them to
18 explain.

19 There's 36 boat slips in that yacht basin.
20 There's got to be parking for those people, and
21 there's got to be 24 or so parking spaces for the
22 new development. There's just not enough room.
23 They don't have enough parking spaces now. The
24 ordinance requires the hotel to have 1.25 spaces per
25 guest bedroom. They advertise they got 405
26 bedrooms, therefore, they've got to have 506 parking
27 spaces. They ain't got it now.

28 The last thing I want to say is that

1 Mr. Lawley mentioned that the justification for
2 this was that they could put a restaurant and a
3 night club, this, that, and the other, so it's
4 really no big deal to put HDR. With all due
5 respect, he's mistaken. If you read the uses, it
6 can be made in a TR, it does reference night clubs,
7 taverns, bed and breakfast, tourist home,
8 convenience stores, restaurants, and offices. But
9 those are only permitted by special exception.
10 They're not -- they cannot be put there as a matter
11 of right.

12 That application for a special exception, I
13 believe, would have to go to the Board of
14 Adjustments, number two, made up of local people
15 over there, and I don't believe that would be
16 granted. Similarly, he says that in the HDR, that
17 they can put food service, gift or novelty shop,
18 barber shop, or beauty shops. That's not right
19 either. Those uses can only be made if they're
20 accessory uses, which is defined under the
21 ordinance, to the hotel. So if they've got
22 condominiums, they wouldn't be accessory units to
23 the hotel.

24 So our point is: There's a very big
25 difference between HDR and TR, and we don't think
26 you ought to allow the change.

27 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
28 DAVIS: Thank you, sir.

1 COMMISSION MEMBER BONNIE LOWRY: Mr. Chason,
2 do you happen to know the elevation of the property?

3 MR. ALLAN CHASON: It wasn't reflected on
4 the survey. But from experience, I would say that
5 the mean high tide is maybe -- the grade elevation
6 is maybe three feet at high tide, maybe four. But
7 the water there is affected by the ebb and flow of
8 the tide. There's a sign on the channel going out
9 into the Bay that cautions boaters, that you may hit
10 bottom on low tide.

11 I mean it's -- It is definitely public water
12 that I think you definitely measure that velocity
13 "V" zone from the south side against that tidal
14 water which cuts down the usable width of this lot
15 to something less than 50 feet.

16 COMMISSION MEMBER BONNIE LOWRY: Well, the
17 reason I was asking is because you have to have
18 parking underneath whatever's built there. And of
19 course, it's two cars per bedroom that has to be
20 available. And if it's in a flood-zone area, those
21 cars are not safe and neither is anybody going to
22 them.

23 MR. ALLAN CHASON: I agree completely.
24 Thank you, Mr. Chairman.

25 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
26 DAVIS: Thank you. And I'm sorry, but the
27 representative, I forget your name.

28 MR. TIM LAWLEY: I'm Tim Lawley.

1 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
2 DAVIS: Would you like to come back up?

3 MR. TIM LAWLEY: Tim Lawley with Goodwyn,
4 Mills, and Cawood. I want to thank everybody for
5 coming out tonight and all the comments. I do want
6 to address the first gentleman that spoke. I
7 believe his name was something-Upchurch.

8 In regards to the -- He stated the reason we
9 wanted to go to HDR is because it had more generous
10 setbacks, and something to that effect. That is
11 actually the opposite. The pertinent setback in
12 that area would be the side setback, which would be
13 the north setback. The TR district allows a 20-foot
14 setback. HDR actually allows a 25-foot setback, so
15 it does actually increase the setback on that north
16 property line to go from TR to HDR.

17 Really, well, there's a lot of information
18 out there. And I think at this time, we would like
19 to maybe table this application and give us some
20 more time to respond to some of these comments and
21 provide some more information to the County, if the
22 Planning Commission would find that appropriate?

23 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
24 DAVIS: All right. Thank you. I think our attorney
25 wants to make a statement as well.

26 MR. TIM LAWLEY: Okay. Thank you.

27 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
28 DAVIS: Thank you.

1 COUNTY ATTORNEY DAVID CONNER: Are you
2 wanting to table it indefinitely, or are you asking
3 that it be tabled to the next meeting? What are you
4 asking for?

5 MR. TIM LAWLEY: Tabled to the next meeting.

6 COUNTY ATTORNEY DAVID CONNER: That's
7 certainly within the Planning Commission's
8 prerogative to do that. There are several issues
9 that I think y'all need to address, some that have
10 not been spoken here tonight --

11 MR. TIM LAWLEY: Okay.

12 COUNTY ATTORNEY DAVID CONNER: -- as it
13 relates to that. And also we have -- I think that's
14 a good idea, because we have an unusual situation to
15 where we have only three members that can vote out
16 of nine, and one of them votes if there's a tie.
17 And so on such a decision that I think of the
18 magnitude of this, I think it would be prudent to
19 have more eyes and ears looking at this.

20 And so what I would recommend as part of
21 that is to not only to table the action, but also to
22 -- if there's no one else to speak -- and you
23 haven't asked that question yet, if there's anybody
24 to speak -- would be to recess the public hearing
25 and to reconvene at that hearing with the completed
26 information that you have. And that way you can
27 reopen the public hearing, give anybody else a
28 chance to speak if they need to, and hopefully we'd

1 have more people here.

2 Now, I'm not saying that it would be illegal
3 here if a vote was taken, but it's just an odd
4 scenario to have this few people in this
5 circumstance voting on something that is that
6 important to that community.

7 So I like your idea of tabling. I would
8 recommend that. But I also recommend that once the
9 public hearing is done tonight, that you just recess
10 the public hearing to that next meeting and then
11 reopen it to allow additional people to speak.

12 PLANNING AND ZONING COMMISSION CHAIRMAN SAM
13 DAVIS: Don't we have two things going on? If the
14 applicant is asking to table it, that would be
15 basically withdrawing this, wouldn't it? So --

16 COUNTY ATTORNEY DAVID CONNER: No, it's not
17 withdrawing it. He's just asking for you to take
18 the action -- or postpone the action, is probably
19 the better word -- to postpone the action to the
20 next meeting or table it to the next meeting. It
21 will come up at the next meeting for consideration.

22 And the reason that I add about the recess
23 in there is that if you close the public hearing
24 tonight, you can always open it back up. But if
25 something was to change, it might be a notice
26 questions. So if you recess this meeting and you
27 reconvene it and there's no notice requirements,
28 everybody here has knowledge as well as the public,

1 and then it will come up on the agenda as well.

2 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

3 DAVIS: So we'd have to recess the public hearing
4 before we ask for the motion to table?

5 COUNTY ATTORNEY DAVID CONNER: Right.

6 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

7 DAVIS: Okay.

8 COUNTY ATTORNEY DAVID CONNER: Right; recess
9 and reconvene.

10 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

11 DAVIS: Thank you.

12 MR. TIM LAWLEY: All right. Thank you.

13 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

14 DAVIS: Okay. We will recess the public hearing at
15 this point to be reopened at the next meeting.

16 Applicant has asked to table. Is there a motion to
17 do so?

18 COMMISSION MEMBER KEVIN MURPHY: I make a
19 motion to accept this.

20 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

21 DAVIS: Okay. There's a motion to table this until
22 the next meeting. Is there a second?

23 COMMISSION MEMBER BONNIE LOWRY: Second.

24 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

25 DAVIS: Okay. There's a second. All in favor, say
26 "aye."

27 (COMMISSION MEMBERS SAY AYE IN UNISON.)

28 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

1 DAVIS: Motion to table passed.

2

3 9 - PUBLIC COMMENT

4 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

5 DAVIS: That concludes the meeting for tonight.

6 With the exception of any public comment?

7 MR. VINCE JACKSON: I don't believe there's
8 any additional public comment, Mr. Chairman.

9

10 10 - OLD BUSINESS

11 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

12 DAVIS: Any old business?

13 MR. VINCE JACKSON: No old business.

14 COMMISSION MEMBER BONNIE LOWRY: Can I ask
15 Vince a question?

16

17 11 - NEW BUSINESS

18 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

19 DAVIS: Any new business?

20 MR. VINCE JACKSON: No new business.

21

22 12 - REPORTS AND ANNOUNCEMENTS

23

24 12-A - STAFF REPORTS

25 PLANNING AND ZONING COMMISSION CHAIRMAN SAM

26 DAVIS: Any other staff reports?

27 MR. VINCE JACKSON: I just wanted to
28 mention, and you mentioned this earlier in the