

1 spokesperson. We've heard this case once before,
2 and so we'd like to have some help from you guys
3 as far as time management.

4 And if the -- once you pick a spokesperson
5 and they give their side of the case, if they
6 miss something, I'll ask if anything needs added
7 from the other people in opposition. We'll
8 recess for five-minutes.

9
10 (A recess was taken at 7:36 p.m.)

11 (The Baldwin County Planning and Zoning Commission
12 meeting resumed at 7:47 p.m.)
13

14 PLANNING AND ZONING COMMISSION CHAIRMAN

15 SAM DAVIS: Okay. We'll call the meeting back to
16 order. If I could have your attention, please.
17 We'll call the meeting back to order.

18
19 **10 - OLD BUSINESS**

20
21 **10-A - CASE Z-19025, RETIREMENT SYSTEMS OF ALABAMA**

22 **PROPERTY**

23 PLANNING AND ZONING COMMISSION CHAIRMAN

24 SAM DAVIS: All right. The next case, Z-19025,
25 Retirement Systems of Alabama. Do we have a
26 staff report?

27 MR. VINCE JACKSON: We do, Mr. Chairman.

28 COMMISSION MEMBER BRANDON BIAS:

1 Mr. Chairman, before we begin, I need to recuse
2 myself from this case.

3 PLANNING AND ZONING COMMISSION CHAIRMAN

4 SAM DAVIS: Okay.

5 COMMISSION MEMBER DANIEL NANCE:

6 Mr. Chairman, I recuse myself from this case.

7 PLANNING AND ZONING COMMISSION CHAIRMAN

8 SAM DAVIS: All right.

9 COMMISSION MEMBER PULMER TONSMIRE:

10 Mr. Chairman, I recuse myself from this case.

11 PLANNING AND ZONING COMMISSION CHAIRMAN

12 SAM DAVIS: All right. We've got three recusals.

13 MR. VINCE JACKSON: This is Case

14 Z-19025. This case was originally considered by
15 the Planning Commission on July 11th. At that
16 time, the case was tabled originally until
17 August 1st and then again until tonight's meeting
18 on September 5th.

19 The subject property, which consists of
20 approximately one-point-two-seven (1.27) acres,
21 is currently zoned TR, which is a Tourist Resort
22 District. It's part of a larger
23 twenty-six-point-six (26.6) acre parcel, which is
24 owned by the Retirement Systems of Alabama.

25 The applicant is requesting a re-zoning to
26 HDR, which is the High Density Residential
27 District, in order to develop condominium units.
28 As proposed, twelve (12) units would be

1 constructed in a four-story building.

2 The subject property is located on the west
3 side of Scenic Highway 98 at the north end of the
4 Grand Hotel and Marina. And it's currently on
5 the north -- as I stated, on the north end of the
6 marina. And it's currently developed with
7 structures and parking associated with the
8 adjacent yacht basin.

9 Here is the locator map showing the zoning of
10 the subject property. As you can see, there is a
11 good bit of the TR in this area.

12 And TR is an -- is unique to Planning
13 District 26. This Planning District is the only
14 Planning District that currently carries this
15 designation. And it appears that it was
16 specifically created to accommodate the Grand
17 Hotel.

18 If you'll notice, looking to the north of the
19 subject property, the adjacent parcels, as you
20 move northward, are zoned RSF-2 and RSF-1.

21 And then here's the aerial showing the yacht
22 basin and the subject property. As you notice,
23 as you move to the west towards the bay where the
24 property becomes wider, that is the proposed
25 location of the condominium building. Here's the
26 survey of the property. And then here are some
27 pictures.

28 In talking with the applicant on this -- this

1 application, we were asked to provide some
2 information that was in addition to the
3 information that you had previously.

4 This first slide is a rendering that shows
5 the proposed footprint of the condominium
6 building as it relates to the adjacent properties
7 to the north.

8 If you notice, if you look at the lots
9 indicated, you see some fairly large structures
10 on those lots. Those are existing condominium
11 developments that are located in Planning
12 District 26.

13 Now, these developments were initially the --
14 the facility on Lot Q is known as Over the Bay
15 Condos. It was constructed in 1984. And going
16 further north to the lot indicated as W, that
17 property is known as Point Clear Landing. That
18 was originally constructed in 1983. The zoning
19 was not adopted until 1993, so both of these
20 developments were constructed prior to zoning.

21 In the case of Over the Bay Condos, the
22 zoning of that property is RSF-1, which is a
23 single-family destination. So the use -- the
24 multifamily use on that property is
25 nonconforming, but it's grandfathered because it
26 existed prior to zoning. And it has existed
27 continuously since that time.

28 And the owners of that property have never

1 asked for any type of re-zoning. So it has
2 remained RSF-1.

3 With regard to the Point Clear Landing
4 facility, that facility originally carried a
5 single-family designation when the zoning was
6 adopted in 1993. In 1999, however, the owners of
7 the property requested that the property be
8 re-zoned to multifamily, which it was, and then
9 they also requested approval of a PRD, Planned
10 Residential Development site plan.

11 And the purpose of that site plan was to
12 allow them to add some additional units, but also
13 to address some conformity issues that they had
14 in relation to their insurance.

15 In addition to that, there has only been one
16 other property re-zoned to the multifamily
17 designation, and it is located on highway --
18 County Road 32. It consists of approximately one
19 (1) acre, but is currently being developed into
20 single-family dwellings.

21 The next slide that we have, this is a site
22 plan of the proposed condominium building. And
23 this is a layout of what the units would look
24 like.

25 As we stated, the current proposal is for
26 twelve (12) units on four (4) floors. And this
27 is the rendering of the proposed exterior of the
28 building.

1 Now, this is a site plan showing a possible
2 hotel building. As the property is currently
3 zoned, hotels are allowed by right.

4 So this is a building that could potentially
5 be built on the subject property in the event
6 that the re-zoning application is not approved.

7 As proposed, this building would be three (3)
8 stories. It would have seventeen (17) guest
9 rooms per floor, as well as nine (9) two-bay
10 suites. So that would be a total of sixty (60)
11 rooms.

12 If you notice, if you look at this footprint
13 as opposed to this footprint, the proposed hotel
14 footprint is much larger.

15 However, they can build a hotel, as I stated,
16 as a matter of right under the existing TR
17 designation. We haven't had an actual
18 application for a hotel. So it's difficult to
19 say how it stacks up.

20 Just a quick review. It basically meets
21 setback requirements. They would be required to
22 provide the twenty-five (25) foot landscape
23 buffer on the north, the same as with the
24 condominium building. And the height of this
25 building would be three (3) stories versus four
26 (4).

27 In providing this -- this site plan -- And I
28 believe the representative of the applicant will

1 address this in more detail -- the argument is
2 that what is proposed under the proposed HDR
3 zoning represents a better option for adjacent
4 property as opposed to what could be constructed
5 under the current zoning, as well as setback and
6 height requirements.

7 We would also have to look at parking. And
8 in looking at parking, we would have to look at
9 the entire twenty-six-point-six (26.6) acres.
10 Our analysis would not be limited just to this
11 portion of the property.

12 However, if something is allowed by zoning,
13 and we receive an application that meets the
14 zoning requirements, we would be obligated to
15 approve it. So that is a consideration.

16 Having said that, our recommendation for this
17 re-zoning request is to deny. And that was our
18 recommendation at the July meeting. We have not
19 changed our recommendation.

20 Part of our recommendation is based on the
21 fact that the property is located in the V Zone,
22 which is the Coastal High Hazard Area.

23 Another reason for our recommendation has to
24 do with the compatibility of a multifamily
25 structure adjacent to a single-family structure.

26 And, also, this is the first request that we
27 have had for the HDR, High Density Residential
28 Zoning designation. When this was adopted two

1 years ago, we envisioned a different scenario.

2 We envisioned that it would be adjacent to
3 municipalities and areas with larger areas of
4 property. And it would be situations where
5 someone wanted to develop a fairly large,
6 high-density complex, but they wanted to remain
7 under County Zoning rather than annexing into a
8 municipality.

9 So this request doesn't really match the
10 intent that we had when we first created this
11 designation. And we feel like with this being
12 the first request, this one would set a precedent
13 for others which will follow.

14 So we feel like it's important to, you know,
15 consider the intent that we had when we
16 originally created this designation.

17 Those are all the comments I have at this
18 time, but I would be happy to answer any
19 questions that you might have.

20 I would point out that there has been a
21 significant opposition expressed to this
22 application. And we have provided copies of the
23 letters of opposition.

24 A number of them were submitted prior to the
25 July meeting, but we have continued to receive
26 letters, and we have added those to what we have
27 provided to you all tonight.

28 PLANNING AND ZONING COMMISSION CHAIRMAN

BALDWIN COUNTY PLANNING AND ZONING COMMISSION REGULAR MEETING 09/05/2019

1 SAM DAVIS: Thank you, Vince.

2 Any questions for Vince?

3 COMMISSION MEMBER BONNIE LOWRY: Yeah.

4 Vince, do you have any idea at all what's going
5 to happen to the Harbor Master building?

6 MR. VINCE JACKSON: I believe it's
7 proposed for removal. It may have been removed
8 already. I know some gas tanks were removed from
9 the property. So the building may have been
10 removed.

11 But if the property is developed, whether
12 it's under the current zoning or whether it's a
13 condominium, that building would be removed.

14 PLANNING AND ZONING COMMISSION CHAIRMAN

15 SAM DAVIS: Any other questions for Vince?

16 (No response.)

17 PLANNING AND ZONING COMMISSION CHAIRMAN

18 SAM DAVIS: Okay. Thank you, Vince.

19 We'll open the public hearing at this point.
20 Tim Lawley is here for the RSA. Where are you?

21 (Mr. Tim Lawley indicating.)

22 PLANNING AND ZONING COMMISSION CHAIRMAN

23 SAM DAVIS: You want to come up to the podium?

24 MR. TIM LAWLEY: I'd rather let the
25 opposition speak first. I'll be happy to come up
26 now, if you'd like me to.

27 PLANNING AND ZONING COMMISSION CHAIRMAN

28 SAM DAVIS: Yeah, let's let you go first.

1 MR. TIM LAWLEY: Okay.

2 (Mr. Tim Lawley approached the podium.)

3 PLANNING AND ZONING COMMISSION CHAIRMAN

4 SAM DAVIS: I think your well aware of the
5 opposition and their issues. You can address
6 them on the front end?

7 MR. TIM LAWLEY: I can definitely
8 address the comments from the last meeting.

9 Good evening, Chairman and Commissioners.
10 I'm Tim Lawley with Goodwyn, Mills & Cawood. I'd
11 like to follow up on what Vince said.

12 You know, RSA, obviously, owns this
13 property -- investment property. They intend to
14 do something with this and feel like it's an
15 obligation to their investors to do something
16 with this property.

17 We've been talking about this development for
18 probably the past four to five years, and,
19 honestly, in an effort to be a good neighbor,
20 felt the condominium use would be a more suitable
21 use than putting a large hotel building in this
22 area.

23 Regarding some of the comments made at the
24 last meeting, there were several comments stating
25 that, you know, that there was no multifamily in
26 this area.

27 Well, there, in fact, is two multifamily
28 developments that are within half a mile of this

1 development. As you know, Over the Bay
2 Condominiums that Vince referenced, from the best
3 I could tell from aerial photography, appears to
4 be about fifteen (15) units on one (1) acre. So
5 that'd be fifteen (15) units per acre density.

6 The other one is -- How many units are in
7 that one, Vince? Twenty-four (24), twenty-six
8 (26), something like that?

9 MR. VINCE JACKSON: I think that's about
10 right. Yeah, they asked -- originally, eighteen
11 (18) with two (2) additional units and then four
12 (4) more.

13 MR. TIM LAWLEY: So Over the Bay is on
14 Lot Q. And that's the one that has about fifteen
15 (15) units on one (1) acre. The other one I'm
16 referring to is Lot W. And it's got twenty (20)
17 something units on five (5) acres. However, they
18 are including their marina property as acreage.

19 So as far as land acreage, I think it'd
20 probably be more like twenty (20) something units
21 two (2) acres or three (3) acres.

22 And the whole purpose of this image here,
23 there was a lot of additional comments to how are
24 we going to put this building on our property,
25 our property too narrow.

26 Well, as you can see, our building is
27 actually smaller than -- at footprint-wise than
28 most of the adjacent houses and other

1 developments in the area and fits actually
2 smaller on our lot, reference-wise, than some of
3 these other housing developments.

4 Regarding setting a precedent, I definitely
5 understand the conversation about that. But when
6 you're talking about going from a TR zoning,
7 which allows commercial uses like hotels, has
8 special exceptions for other commercial uses with
9 office space, bars, taverns, which would require
10 Planning Commission approval, I think you're
11 going from a -- downgrading the zoning building
12 commercial uses to a single -- or a multifamily
13 residential.

14 So I don't believe that this actually sets
15 precedence for somebody that had a R-1 or R-2
16 zoning to go up in zoning to a multifamily.

17 I think -- And there is no other HDR zoning
18 in the entire county. So what would you be
19 setting a precedent for? What other property?
20 There is no other property that could go from TR
21 to HDR.

22 Regarding the use of the property, I would
23 like to point out that, obviously, the Grand
24 Hotel was here before all these other residences
25 and all this other development in the area.

26 So there was commercial use on this property
27 before any of the adjacent properties decided
28 they wanted to move here, build their

1 developments, whatsoever.

2 So they knew coming in that, hey, we're next
3 to this hotel property that has a commercial use
4 on it. So it's kind of backwards, to me, to
5 think that we're infringing on their property
6 rights when the hotel was, in fact, there first
7 and had commercial use on their property.

8 I think that's all I've got to add right now.
9 I'd be glad for an opportunity to come back up if
10 something else comes up that we haven't discussed
11 or something new that wasn't discussed at the
12 last meeting. I'm happy to answer any questions
13 from you as well.

14 PLANNING AND ZONING COMMISSION CHAIRMAN

15 SAM DAVIS: Any questions for Mr. Lawley?

16 (No response.)

17 PLANNING AND ZONING COMMISSION CHAIRMAN

18 SAM DAVIS: Okay. Thank you, sir.

19 I understand that the Point Clear group in
20 opposition has chosen four people to speak. So
21 who would like to go first?

22 (Mr. Michael Upchurch approached the podium.)

23 MR. MICHAEL UPCHURCH: I'm Michael
24 Upchurch, and I represent the Point Clear
25 Property Owner Association.

26 The first thing I'd like to do is to have
27 everyone who is here in opposition to stand, if
28 you would, so that we can get an idea.

1 (Several audience members complied.)

2 MR. MICHAEL UPCHURCH: He's -- we've
3 been here before. At the last meeting, we had
4 folks, some of which weren't able to make it
5 tonight, and some of these folks were here, and
6 then we have got some new folks who weren't here
7 last time here this time.

8 PLANNING AND ZONING COMMISSION CHAIRMAN
9 SAM DAVIS: Y'all can have a seat.

10 MR. MICHAEL UPCHURCH: And this is a
11 worried community and a united community. In
12 1992 -- talking about those two condominium
13 units, in 1992, these residents, District 26
14 residents, voted to institute zoning, because
15 they saw what was happening to their community
16 with a couple of these condominium. And they
17 wanted to stop it. They wanted to preserve the
18 nature and the character of their community. And
19 they voted to institute zoning.

20 These condominiums -- when we talk about
21 precedent, RSA's trying to use pre-zoning
22 condominiums as precedent to allow them to
23 re-zone a tiny sliver of their property to allow
24 a condominium, but at the same time, telling us
25 we don't really know what's good for us, trust
26 them, they're doing this for us.

27 And we -- we don't see it that way. I think
28 RSA -- I don't think they're evil, but they're an

1 insatiable -- they have an insatiable appetite
2 for development. And every opportunity RSA gets
3 to build -- I don't care how small or tiny or
4 what the nature of the property is, they're going
5 to try to put some income producing property on
6 it.

7 And that's what's happening here. And what
8 we talk about, the don't worry, there's not going
9 to be a precedent, there is TR zoning property on
10 the other side of the bike trail, the walking
11 trail. If we also allow a change to HDR zoning
12 in this case, that will open the door for RSA to
13 then go across the road and want to put
14 condominiums on that side of the road.

15 So this is a very, very serious matter. It's
16 not simply the nature of the building. It's this
17 is the very first HDR application, the very first
18 one. And so what is the Commission -- how is the
19 Commission going to treat HDR for the future.

20 And we all know how Orange Beach happened.
21 It happened one exception, one precedent at the
22 time. It's a slippery slope. And we're at the
23 top of that slope now. And the question is, are
24 we going to take that first step off it and end
25 up, potentially, like Orange Beach. And that's
26 why these folks are here. And that's why there's
27 so much concern.

28 I want to go back to 2017, when HDR was first

1 created and discussed. And Vince, Vince is the
2 father, the author of the HDR zone. He is the
3 one who proposed it, who researched it, who put a
4 lot work into analyzing it. And he's telling you
5 tonight, this isn't we intended for HDR.

6 While we have the transcript from the meeting
7 where HDR was discussed back 2017, so let's look
8 at what this Commission was saying back then
9 about this HDR.

10 And this says:

11 *You know it will be an adjustment when*
12 *we get this adopted. There may be some*
13 *that come and we turn them away and say,*
14 *you know, this is simply not the right*
15 *location. We may have to say no to a*
16 *few people.*

17 Vince and y'all, back then, realized that
18 this was a very, very special exception and that
19 it wasn't going to be used indiscriminately, and
20 you were going to have to say no. And tonight is
21 that night, I hope.

22 This is Ms. Lowry, who had some foresight
23 back in 2017, if you look at the top:

24 *I don't think you should be able to use*
25 *that one acre to put those twelve units*
26 *next to another acre that is an estate*
27 *with one or two houses on it. I don't*
28 *think that's a proper use of the land.*

1 Back in 2017, Ms. Lowry was thinking ahead
2 and thinking, I'm not sure about this. I've got
3 concerns. And then David Conner here,
4 outstanding lawyer, also was thinking about it
5 carefully and said:

6 *I think you --*

7 Meaning this Commission.

8 *-- would be more conservative in where*
9 *you would use this district and how you*
10 *would deal with development.*

11 In other words, that you would be careful and
12 thoughtful about when to apply it and when not
13 apply it. And this, again, I have to applaud the
14 Commission in 2017, for being so -- putting so
15 much thought into this HDR.

16 This was not something Vince proposed and
17 everyone just said, sure, let's do it. There was
18 a lot of analysis and discussion about this HDR
19 designation.

20 The real question at the most basic level
21 when somebody comes in for re-zoning that's --
22 And that's what we're about, re-zoning. We're
23 not here about hotel rooms. We're here about
24 changing the zone on this little sliver of
25 property. This has nothing to do with whatever
26 their backup plan is for hotel rooms.

27 Is this property appropriate for this zoning
28 classification based on all the circumstances?

1 What is around this property? How close is it to
2 other multifamily or commercial-type uses? Is
3 this going to be out there by itself with nothing
4 around it? Is it being next to and surrounded by
5 single lot family subdivisions, you know?

6 Very good questions, very good analysis.

7 So here we are. And this is -- this is what
8 the Commission, in 2017, was thinking about; this
9 day, right now. When you have the citizens
10 united, concerned, coming out in numbers, writing
11 letters, saying, please don't set this precedent.
12 Please don't take that first step off the slope.
13 Please follow the recommendation not only of
14 your -- your staff, but of Vince, who actually
15 designed the HDR and is telling you this isn't
16 the right use of HDR.

17 We think this is so critical. You can tell
18 we're passionate about it. And I feel very good
19 about the Commission, based on the thought that
20 was put into this issue just to a couple years
21 ago.

22 So on this very first opportunity, I hope
23 y'all will -- will listen to our concerns
24 carefully and go back to the original purpose of
25 the HDR destination.

26 PLANNING AND ZONING COMMISSION CHAIRMAN

27 SAM DAVIS: Thank you. Let me see if there's any
28 questions for you.

BALDWIN COUNTY PLANNING AND ZONING COMMISSION REGULAR MEETING 09/05/2019

1 Anyone have any questions for Mr. Upchurch?

2 (No response.)

3 PLANNING AND ZONING COMMISSION CHAIRMAN

4 SAM DAVIS: Thank you, sir.

5 MR. MICHAEL UPCHURCH: Thank you.

6 PLANNING AND ZONING COMMISSION CHAIRMAN

7 SAM DAVIS: Next speaker.

8 THE COURT REPORTER: And state your
9 name, please.

10 MR. MATTHEW MOSTELLER: My name is
11 Matthew Mosteller. I am representing the four
12 hundred (400) members of the Point Clear Property
13 Owner's Association. And I'm here to express our
14 unanimous objection to the re-zoning to high
15 density.

16 My family and I have lived two doors north of
17 Grand Hotel for close to thirty (30) years.
18 We've had a great relationship with the hotel. I
19 think they're good neighbors.

20 And we need to respect the fact that RSA even
21 built the hotel back after Katrina. They could
22 have walked away, but they didn't. And we
23 respect them for that.

24 But we totally object to the incompatible
25 land use of converting this to a high-density,
26 high-rise condominium next to, adjacent to
27 single-family homes.

28 Scenic Highway 98 is about the only highway

1 that you can go for a walk, walk your dog, ride a
2 bicycle. Because we have Jill Hall Pathway.
3 We're part Eastern Shore Trail. We're part of
4 the Scenic Highway. We're in a historic district
5 of Battles in Point Clear. And we don't want to
6 change and ruin this area by establishing high
7 density residential.

8 We're not doing this just for the property
9 owners. We're doing it for all the citizens of
10 Baldwin County who use our highway for their
11 recreation.

12 They wouldn't dare go down Section Street.
13 There's five hundred (500) more houses going up.
14 You're not going to go down 13, 181. This is the
15 only area that we can still ride in and enjoy it.

16 There was an RSA representative that was
17 quoted in the Lagniappe newspaper the other day.
18 And he said, don't focus on the fear of the
19 possibility of the spread of high density through
20 this area. Only focus on the issue of this
21 application at hand.

22 Well, that fear and concern of the spread is
23 exactly why we're here. We're more concerned
24 about the spread of the designation as high
25 density than this one sliver of land on the
26 marina.

27 So when the -- you, as voters, decide on
28 this, I think you need to look at bigger than

1 just this application. You need to look at the
2 ramifications and the long-term consequences of
3 establishing an HDR in this area.

4 Finally, the Fairhope Planning Staff
5 recommended denial. The Baldwin County Planning
6 Commission Staff recommended denial. We have
7 four hundred (400) unanimously voting family
8 members who vote for denial.

9 You have over one hundred (100) letters of
10 opposition in your file for denial. By the way,
11 there was one letter for the construction, and
12 that came from the developer.

13 So, please, my request is that you would deny
14 this request and please keep Scenic Highway 98
15 scenic the way it is. Thank you.

16 PLANNING AND ZONING COMMISSION CHAIRMAN
17 SAM DAVIS: Thank you, sir.

18 Any question for Mr. Mosteller?

19 (No response.)

20 PLANNING AND ZONING COMMISSION CHAIRMAN
21 SAM DAVIS: Thank you, sir.

22 THE COURT REPORTER: And state your
23 name.

24 MR. DANNER FRAZER: I'm Danner Frazer.
25 My wife and I have a house that is eight houses
26 north of this proposed re-zoning site. I'm just
27 six houses north of Matt Mosteller.

28 I'd hoped to be on the screen, but I couldn't

1 get it. I couldn't work the technology. So I've
2 just got a quick handout I'll give you.

3 *****

4 *ATTACHMENT 1 - HANDOUT PROVIDED BY MR. DANNER FRAZER*

5 *****

6 MR. DANNER FRAZER: I'm going to try to
7 be very brief. In looking at this, I focused on
8 some of what I defined as pertinent to it. And
9 the Baldwin County Commission mission and vision
10 statement talks about preserving the excellent
11 and unique quality of life of Baldwin County,
12 maintaining a family-friendly community for
13 residents and visitors, protecting the natural
14 assets for future generations.

15 And the Master Plan, it says that you will
16 not be willing to significantly compromise for
17 the benefit of growth itself. Growth on the
18 Eastern Shore will need to characteristically fit
19 with its history.

20 And then I looked on the Grand Hotel website.
21 And they advertise their beautiful property by
22 talking about the wonders of Fairhope and this
23 great community.

24 They quote Fannie Flagg, who's been here, and
25 talk about how Fairhope remains unchanged and
26 what a neat place it is. Of course, that was
27 before RSA decided to build those eight hundred
28 (800) houses that were mentioned last time we had

1 this meeting.

2 There's another article:

3 *Fairhope, and its surrounding area, is*
4 *one of those rare places that remains*
5 *deep within itself despite the world*
6 *changing around it.*

7 And then for a statement from the General
8 Manager of the hotel:

9 *The local community is so important to*
10 *this hotel.*

11 There is a big disconnect between what RSA is
12 thinking in Montgomery and what the local manager
13 of the hotel is thinking here. Because RSA,
14 obviously, doesn't care much about the community.

15 The next page in the handout is just
16 headlines that we pulled off the internet today,
17 reminding the Commission of the terrible
18 situation we had back in July when this Barry
19 storm came in. And we had two hundred fifty
20 thousand (250,000) gallons of raw sewage spill in
21 Mobile Bay; one hundred eighty thousand (180,000)
22 gallons spilled in Baldwin County. And I think
23 that's from Daphne and from Fairhope, maybe
24 another location as well.

25 But, you know, my grandchildren were coming
26 to my house that weekend. They couldn't swim in
27 the bay because of that. And, to me, that's just
28 absolutely outrageous.

1 And we can't solve that problem here tonight.

2 And that's not what we're here about. But one
3 thing for sure, building high-rise condominiums
4 is not going to help it.

5 I mentioned the Baldwin County zoning
6 ordinance and the requirements that one must meet
7 for re-zoning. I've got them listed here. Vince
8 put them in his report. They don't meet any one
9 of these tests.

10 And then the last thing is one of those
11 requirements for a zoning change specifically
12 states:

13 *Economic considerations pertaining to*
14 *the applicant shall not be a*
15 *consideration.*

16 So that's what we're about, not about helping
17 the community, but about the economic situation
18 for RSA, which should not even be a
19 consideration. Thank you.

20 (Applause.)

21 PLANNING AND ZONING COMMISSION CHAIRMAN

22 SAM DAVIS: Thank you.

23 MR. ALAN CHASON: Mr. Chairman and
24 Members of the Commission, I'm Alan Chason. My
25 wife and I have a house on Scenic 98, a short
26 distance south of the hotel. And I'm here also
27 representing the four hundred (400) members of
28 our association.

1 To me, the clearest reason that you should
2 recommend against this re-zoning is that Point
3 Clear is, more than any other place in this
4 county, a low-density community. It has always
5 been low density.

6 The two examples of the multifamily dwellings
7 that are there now were built before zoning. And
8 since zoning, we have uniformly been low density.

9 By low density, I mean if you look at a
10 zoning a map of District 26 -- which is where we
11 are, and I don't need to give you geography
12 lesson -- but District 26 runs along Scenic 98,
13 from the south city limits to Fairhope down to
14 the big mouth at Pelican Point on Weeks Bay.

15 I don't have a measurement, five, six, seven
16 miles, eight miles, whatever it is, and if you
17 look at however many thousands of properties
18 there are in that District 26, the overwhelming
19 majority of them are either RSF-1 or RSF-2.

20 RSF-1 requires a thirty thousand (30,000)
21 square foot lot, three-quarters of an acre.
22 RSF-2 requires a fifteen thousand (15,000) square
23 foot lot, almost a half acre. It's a large-lot
24 development.

25 Against that context, we're asked to be the
26 guinea pig for the first HDR zoning anywhere in
27 the county. It doesn't exist. And with a couple
28 minor exceptions, we don't even have any R-6 in

1 District 26.

2 I think it's particularly ironic that these
3 people are here from Fort Morgan tonight. And I
4 read the agenda. If I read it correctly, one of
5 the things they're asking you to do is to take
6 HDR completely out of Fort Morgan.

7 Now, if they're going to take it out, we
8 don't want to put it in. And, you know, I trust
9 that they'll make a persuasive case of that.

10 They -- the HDR that RSA is asking for would
11 give twelve (12) units an acre on this
12 one-point-two-five (1.25) acre parcel in a
13 community that's R-1 and R-2.

14 The Fairhope staff has recommended against
15 it. The County staff has recommended against it.
16 And we recommend against it.

17 As a couple other speakers said -- And I
18 won't belabor the point -- that we do not want
19 Scenic 98 to turn into a Highway 181.

20 And when you talk about density, it doesn't
21 take a rocket scientist to understand you're
22 talking about how many people can fit on a given
23 piece of land, and that's density.

24 Orange Beach allows forty-two (42) units a
25 acre on the Gulf, up until recently, when they
26 have gotten such a traffic problem that they have
27 had to shut off re-zoning completely.

28 They've got some single-family lots on the

1 Gulf surrounded by high-rises. And they told
2 those people, you can't re-zone your property,
3 because people can't get in and out of town,
4 can't move out of town.

5 Well, that decision was made after 1979, when
6 Frederick came through. And they went to
7 forty-two (42) units an acre on a lot of those
8 high-rises, that density.

9 Density equals traffic. Traffic equals
10 congestion on the highway. And we don't want
11 what that to happen to Highway Scenic 98.

12 As somebody said, we have Eastern Shore
13 Trail. And that trail is used. You wouldn't
14 believe how much it's used by people walking,
15 people jogging, people riding bicycles.

16 And a lot of professional bike riders like
17 to -- they ride on the highway. They don't like
18 the bump-a-de-bump on the trail, I guess. But
19 you put traffic with people on bicycles and
20 pedestrian all in the same place and it's a
21 formula for disaster.

22 The -- one of the letters in opposition that
23 you have is from the Bicycle Club in Fairhope. I
24 don't know if they're here tonight, but they
25 wrote you a letter.

26 And they pointed out that they have -- that
27 their bike club has a website with -- showing all
28 the public roads where you can ride a bicycle in

1 Baldwin County. And it grades them by how
2 desirable it is to ride a bike.

3 The highest rate they give is on Scenic 98.
4 And that's how come we've got so many people
5 riding bikes there.

6 They -- Mr. Lawley tried to make the point
7 that this piece of property is not too small.
8 Well, I don't know about his hotel plans.
9 There's not enough detail in that for us to
10 really pass judgment on it. But one of the
11 things our association has prided ourself on is
12 that if somebody wants to build something that is
13 authorized by the zoning ordinance, we're going
14 to stay quiet.

15 We're not here just complain about every
16 development. It's only when you try to change
17 the rules or break the rules that you'll hear
18 from us.

19 And I know this about that site. There's a
20 survey in your package, and it lacks some detail,
21 but it looks to me like the biggest piece of
22 property they can get out of that
23 one-point-two-seven (1.27) acres -- which is long
24 and thin -- is about a one hundred
25 twenty-five (125) feet square right in the
26 middle.

27 Well, it's in V Zone, a flood zone, V Zone.
28 With the V Zone, you have to have a fifty (50)

1 foot setback from the mean high tide line. I
2 take it that's going to be at the bulkhead. So
3 we're going to have to move back fifty (50) feet
4 from that.

5 They've got a twenty-five (25) foot setback
6 on the north side, up against the single-family
7 housing. So that's seventy-five (75) feet of
8 setbacks with one hundred twenty-five (125) feet
9 of width.

10 It looks to me like they only got fifty
11 (50) feet to build on. And I just don't think it
12 will work. They can draw all the pretty pictures
13 they want to.

14 And they say, well, we could build a hotel
15 over there, so y'all let us build a condominium.
16 What I say is if they think they can build a
17 hotel over there, what are we doing here talking
18 being about condominiums? Let them build a
19 hotel.

20 And I'm not saying we agree to it. I'm
21 saying we'll look at it. And if it complies with
22 the rules, you won't hear from us. I don't think
23 it'll comply, though.

24 The uses between HDR and TR are very
25 different. Mr. Lawley, I think, kind of spoke
26 fast when he was talking about all the things
27 they could do in a TR zone that they've got now.

28 He mentioned nightclubs and restaurants. I

1 don't think that's right. If you look at the
2 table of permitted uses in your ordinance, they
3 can only put a restaurant over there if they get
4 a special exception from the Board of
5 Adjustments, not the Planning Commission.

6 And the Board of Adjustment Number 2, I've
7 got feeling, ain't going to agree to restaurants
8 on that piece of property.

9 This is a very small project for RSA.
10 They're big. This is a David-and-Goliath kind of
11 a deal here.

12 We love the hotel. Our members are --
13 participate over there and go in the swimming
14 pool and play tennis over there. The hotel is a
15 terrific addition to our community.

16 But the real estate people have just gotten a
17 little bit out of bounds here. And that's --
18 your job is to hold them back.

19 They -- as somebody mentioned, they have
20 already been approved for some eight hundred
21 (800) houses, single-family houses, over -- most
22 of it is in the City of Fairhope, which we don't
23 have any say-so over that.

24 Eight hundred (800) houses over there at The
25 Columns, Battles Trace, and they're trying to
26 build twelve (12) more units, twelve (12) more in
27 our backyard. And we object to it. We don't
28 think it's right.

1 We appreciate your attention, for some of
2 y'all hearing this twice. But we've got three of
3 you that hadn't heard it the first time, and we
4 don't want to slight you.

5 So for the -- for the people who heard it
6 again, I apologize for you having to listen
7 through it again. But we feel sincerely about
8 this and hope you will, too.

9 PLANNING AND ZONING COMMISSION CHAIRMAN
10 SAM DAVIS: Thank you, sir.

11 (Applause.)

12 PLANNING AND ZONING COMMISSION CHAIRMAN
13 SAM DAVIS: I think that wraps up for opposition.
14 Is there anything else from the opposition?

15 THE COURT REPORTER: And state your
16 name, please.

17 MR. FRANCIS RIPP: Francis Ripp,
18 R-I-P-P. Francis Ripp.

19 You know, the hotel is not in Fairhope. They
20 chose not to be annexed in. But they take credit
21 for it anytime they can to bring customers there.
22 They could be annexed in, but they don't want to
23 be annexed in.

24 Now, this property was -- I remember when
25 this tourist zoning came up, and specific for
26 this area. Now, when you look at this piece of
27 property, and you say, tourist, what happens
28 there is tourist? Boating, the marina, the

1 harbor dock, and the gas station.

2 They took the gas station out prior to
3 tonight. So they altered the site from tourist
4 to what they wanted to before tonight.

5 Everybody on the Eastern Shore that lives up
6 there is going to be inconvenienced now with
7 fuel. And they've got a marina with thirty (30)
8 boats in it that can't buy fuel there. There's
9 no logic.

10 I don't understand it to begin with. The
11 Harbor Master is gone. The gas tanks are gone.
12 And the intent of that piece of property being a
13 tourist piece of property has been altered by
14 them. So I wouldn't even consider their
15 application until they put the gas tanks back in.

16 (Applause.)

17 PLANNING AND ZONING COMMISSION CHAIRMAN

18 SAM DAVIS: All right. With that, we're closing
19 the public hearing.

20 Staff got anything else to add?

21 MR. VINCE JACKSON: I don't have
22 anything else. I would ask if Mr. Lawley had any
23 response to the statements that were made.

24 PLANNING AND ZONING COMMISSION CHAIRMAN

25 SAM DAVIS: Excuse me, Vince. I'm sorry, I
26 missed that.

27 MR. VINCE JACKSON: I would ask if
28 Mr. Lawley had any responses to the statements

1 that were made during the public hearing.

2 PLANNING AND ZONING COMMISSION CHAIRMAN

3 SAM DAVIS: I've closed the public hearing
4 already. If I could get your advice.

5 MR. VINCE JACKSON: Typically, we allow
6 an applicant to rebut.

7 PLANNING AND ZONING COMMISSION CHAIRMAN

8 SAM DAVIS: If there's something to rebut. In
9 this case, it doesn't seem like there's anything
10 that you can legitimately rebut. But if you've
11 got something, come up. And I'm not going to
12 allow anything else from the opposition.

13 (Mr. Tim Lawley approached the podium.)

14 MR. TIM LAWLEY: Thank you for the
15 opportunity to speak again. I'm going to keep it
16 real short. Just have a couple of items I wanted
17 to touch on.

18 Regarding the setbacks, as Vince stated in
19 his presentation and as presented to you in the
20 two drawings, both drawings, for the hotel as
21 well as the condominiums meet the required
22 setbacks, fifty (50) foot from the V Zone.

23 Could y'all put that back up there?

24 AN AUDIENCE MEMBER: Can you slow it
25 down just a little?

26 MR. TIM LAWLEY: Yes, sir, I can. But
27 both layouts -- both the proposed layout for the
28 condominiums as well as the alternate layout for

1 the hotel meet the required setbacks for the
2 Baldwin County Zoning Ordinance, which would be
3 fifty (50) feet from the V Zone, twenty-feet (25)
4 foot from the north property line.

5 Regarding the allowable uses on the property,
6 he is correct. I did state what some other uses
7 were with special exceptions. But you can have a
8 restaurant as a permitted use if it is part of
9 the hotel building and maintenance and serves the
10 hotel. It is considered an accessory use to that
11 structure.

12 And then, finally, to me, I don't know what
13 the word I'm looking for is, but it's almost
14 uncomprehensible [sic] to -- for people to say
15 that the traffic congestion, sewer, all of these
16 comments are going to be worse from this twelve
17 (12) unit condominium than whatever commercial
18 use we could be developing on the property.

19 As you can see, the gas tanks have already
20 been removed. And RSA is preparing for doing
21 something on this property. It will be
22 developed.

23 And I'm not saying that as a threat. I'm
24 just saying that if I were an adjacent property
25 owner, I'd think I'd prefer a twelve (12) unit
26 condominium versus sixteen (16) hotel rooms. But
27 that may not be the --

28 PLANNING AND ZONING COMMISSION CHAIRMAN

1 SAM DAVIS: You're getting into opinion now
2 instead of rebuttal. Our attorney's got
3 something he wants to ask of you.

4 ATTORNEY DAVID CONNER: Are you finished
5 with your comments? I wanted to --

6 MR. TIM LAWLEY: Yeah, I'm done.

7 ATTORNEY DAVID CONNER: I just want to
8 say something, I guess, in support -- in support
9 of staff. You know, it's part of the analysis,
10 when doing an analysis of zoning and what's
11 appropriate, you do look what the can be done on
12 that piece of property by right.

13 MR. TIM LAWLEY: Right.

14 ATTORNEY DAVID CONNER: But that's not
15 the only issue that you look at. Y'all may be
16 able to -- RSA may be able to build some type of
17 development out there, as long as it's in
18 accordance with the underlying zoning
19 classifications or whatever. If it's determined
20 that it can be re-zoned, then that would be the
21 right.

22 But in this case in particular, because of
23 the high-density district's purpose and intent,
24 you can't just look at that one particular site.
25 You have to look at the impact that it may have
26 on future re-zoning requests in that area.

27 It's clear that there's been a policy stated
28 as a part of the zoning in that area that they

1 wanted to discourage multifamily dwellings, at
2 least up to this point in time, even in recent
3 annex -- recent zoning requests, to make sure
4 that the zoning requests were consistent with the
5 area.

6 And most of those properties in there are
7 RSF-1 and RSF-2. And many of those don't meet
8 the requirements of that and were grandfathered
9 in under the zoning ordinance just to make sure
10 that future density would not be higher than what
11 was projected in that area.

12 And so creating an HDR, a High Density
13 Residential District down there is something of
14 concern for whatever precedent it might set in
15 the area.

16 Now, I don't know what else the Planning
17 Commission will do or the County Commission will
18 do, because it's in their prerogative to make
19 that decision. But that is something that we
20 should weigh and balance heavily, based on the
21 purpose and intent of that district, as Vince
22 mentioned earlier.

23 Also, you know, I don't know exactly how and
24 under what circumstances a hotel can be developed
25 on that site, because nobody can see them. But
26 I'm assuming some type would be. But whether or
27 not it's to the scale of what y'all presented
28 could be based on setback requirements or parking

1 requirements.

2 So, really, it's a question of whether or not
3 that particular zoning classification that you
4 are requesting is appropriate for that site.

5 I know that sounds simple. And I say it a
6 lot. But it really does do away with a lot of
7 extraneous things that you look at.

8 For example, somebody might could say, well,
9 look who's asking for the re-zoning request. It
10 really doesn't matter. What is appropriate for
11 that site?

12 And I think that is something that -- that
13 the Planning Commission needs to consider and the
14 County Commission needs to consider as well,
15 about the extent in which and whether it would be
16 used.

17 And this would be a substantial change in the
18 movement and zoning in that area. I'm not saying
19 it couldn't happen, but that'd be something that
20 you would need to take very seriously in
21 reviewing the process.

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

24 Vince, any other comments?

25 MR. VINCE JACKSON: My only other
26 comment is just to reiterate that the staff
27 recommendation is for denial, a recommendation to
28 deny to the County Commission. And unless there

1 are any other questions, those are my comments.

2 PLANNING AND ZONING COMMISSION CHAIRMAN

3 SAM DAVIS: Any questions for Vince?

4 COMMISSION MEMBER BONNIE LOWRY: I have
5 one question, Vince. Is this one -- is this
6 one-point-two-seven (1.27) acres part of all the
7 other TR that's twenty-seven (27) total acres?

8 MR. VINCE JACKSON: Yes.

9 COMMISSION MEMBER BONNIE LOWRY: It's
10 all owned by RSA; right?

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

12 COMMISSION MEMBER BONNIE LOWRY: Okay.
13 Thank you.

14 PLANNING AND ZONING COMMISSION CHAIRMAN

15 SAM DAVIS: Any other questions for Vince?

16 ATTORNEY DAVID CONNER: Just one other
17 thing for the record. We talked a little bit
18 about in analyzing an application that was to
19 come, that that building would have to be careful
20 to make sure that it met its own parking
21 requirements and other requirements and not try
22 to borrow from other sites or locations on the
23 site, especially if that building is
24 nonconforming already.

25 So it'd be a little premature for any of us
26 to state that they could absolutely build a hotel
27 there, or at least to the extent that they're
28 asking.

1 Certainly, it's an option that's allowed
2 under TR, but whether or not they could fill up
3 that site the way it's drawn, we won't know until
4 we actually get an application and do that
5 analysis. And so I just want to make sure we're
6 clear on that as well.

7 PLANNING AND ZONING COMMISSION CHAIRMAN
8 SAM DAVIS: All right. Any other questions for
9 Vince?

10 (No response.)

11 PLANNING AND ZONING COMMISSION CHAIRMAN
12 SAM DAVIS: All right. Staff has recommended
13 denial. And y'all have heard pros and cons. Is
14 there a motion to recommend denial? This would
15 be a recommendation to the County Commission.

16 COMMISSION MEMBER BONNIE LOWRY: I move
17 to deny.

18 PLANNING AND ZONING COMMISSION CHAIRMAN
19 SAM DAVIS: There is a motion to recommend denial
20 on the table. Is there a second?

21 COMMISSION MEMBER ARTHUR OKEN: Second,
22 Mr. Chairman.

23 PLANNING AND ZONING COMMISSION CHAIRMAN
24 SAM DAVIS: Okay. There is a second. All those
25 in favor, say aye.

26 (Commission Members say "aye" in unison.)

27 PLANNING AND ZONING COMMISSION CHAIRMAN
28 SAM DAVIS: Any opposition?

(No response.)

PLANNING AND ZONING COMMISSION CHAIRMAN

SAM DAVIS: Passed unanimously.

(Applause.)

PLANNING AND ZONING COMMISSION CHAIRMAN

SAM DAVIS: Let me ask you to keep the noise down
so we can go ahead with the meeting.

9 - TEXT AMENDMENTS

**9A - TA-19001, ARTICLE 2, SECTION 2.3.25 LOCAL
PROVISIONS FOR PLANNING DISTRICT 25**

PLANNING AND ZONING COMMISSION CHAIRMAN

SAM DAVIS: Next case is TA-19001. Staff report?

Folks, folks, I'll ask again -- If you could
clear them on out of here. If you could ask
people to go on outside.

MR. VINCE JACKSON: Okay. Moving on.

Our next items involve some amendments to the
text of the zoning ordinance. You actually have
three case numbers. The first case number --

PLANNING AND ZONING COMMISSION CHAIRMAN

SAM DAVIS: DJ, could you ask -- could you help
them move on outside to the lobby?

MR. VINCE JACKSON: Case TA-19001 would
be an amendment to the Article 2, Section 2.3.25.
These are the local provisions for Planning
District 25. And we have a series of amendments