



# Baldwin County Planning & Zoning Department

## Baldwin County Commission Staff Report

**Agenda Item**  
**Case No. Z-20002**  
**Foster Property**

**Rezone RSF-E, Residential Single Family Estate District to B-3, General Business District**  
**March 17, 2020**

### Subject Property Information

**Planning District:** 15  
**General Location:** North side of County Road 64, east of State Highway 181  
**Physical Address:** 10143 County Road 64 and 10145 County Road 64  
**Parcel Numbers:** 05-43-06-14-0-000-013.000 and 05-43-06-14-0-000-013.001  
**Existing Zoning:** RSF-E, Residential Single Family Estate District  
**Proposed Zoning:** B-3, General Business District  
**Existing Land Use:** Residential  
**Proposed Land Use:** Commercial (Proposed retail center)  
**Acreage:** 5 acres +/-  
**Applicants:** Sidney S. and Barbara A. Foster  
 10145 County Road 64  
 Daphne, Alabama 36526  
  
 Michael Edward Foster  
 686 River Route  
 Magnolia Springs, Alabama 36555  
  
**Owners:** Same  
**Lead Staff:** Vince Jackson, Planning Director  
**Attachments:** *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	B-3, General Business District
South	Residential, Commercial & Institutional	B-1, General Business & RSF-E
East	Residential	RSF- E, Residential Single Family Estate
West	Vacant	B-3, General Business District

### Summary

This application involves two parcels which together consist of approximately 5 acres. The subject properties are currently zoned RSF-E, Residential Single Family Estate District. The designation of B-3 General Business District, has been requested for the purpose of constructing a commercial retail center in conjunction with adjacent commercially zoned parcels.

**Section 4.1 RSF-E, Residential Single Family Estate District**

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

4.1.2 *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) Agricultural uses.
- (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.

4.1.3 *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.

4.1.4 *Special exception.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following use and structures designed for such use may be allowed as a special exception:

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

4.1.5 *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	40-Feet
Minimum Rear Yard	40-Feet
Minimum Side Yards	15-Feet
Minimum Lot Area	80,000 Square Feet
Minimum Lot Width at Building Line	165-Feet
Minimum Lot Width at Street Line	165-Feet
Maximum Ground Coverage Ratio	.35

4.1.6 *Area and dimensional modifications.* Within the RSF-E district, area and dimensional requirements may be reduced, as set forth below, where property is divided among the following legally related family members: spouse, children, siblings, parents, grandparents, grandchildren, or step-related individuals of the same status.

Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	40,000 Square Feet
Minimum Lot Width at Building Line	120-Feet
Minimum Lot Width at Street Line	120-Feet

## Proposed Zoning Requirements

### 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:

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>(a) All uses permitted by right under the B-2 zoning designation</li> <li>(b) Air conditioning sales and service</li> <li>(c) Amusement arcade</li> <li>(d) Animal clinic/kennel</li> <li>(e) Arboretum</li> <li>(f) Auto convenience market</li> <li>(g) Automobile service station</li> <li>(h) Bakery, wholesale</li> <li>(i) Ball field</li> <li>(j) Bicycle sales and service</li> <li>(k) Bowling alley</li> <li>(l) Business machine sales and service</li> <li>(m) Business school or college</li> <li>(n) Butane gas sales</li> <li>(o) Cemetery</li> <li>(p) City hall or courthouse</li> <li>(q) Country club</li> <li>(r) Department store</li> <li>(s) Discount/variety store</li> <li>(t) Drug store</li> <li>(u) Elevator maintenance service</li> <li>(v) Exterminator service office</li> <li>(w) Farmer's market/truck crops</li> <li>(x) Firing range</li> </ul> | <ul style="list-style-type: none"> <li>(y) Fitness center or gym</li> <li>(z) Florist</li> <li>(aa) Fraternity or sorority house</li> <li>(bb) Fruit and produce store</li> <li>(cc) Funeral home</li> <li>(dd) Golf course</li> <li>(ee) Golf driving range</li> <li>(ff) Grocery store</li> <li>(gg) Landscape sales</li> <li>(hh) Marine store and supplies</li> <li>(ii) Miniature golf</li> <li>(jj) Mini-warehouse</li> <li>(kk) Night club, bar, tavern</li> <li>(ll) Nursery</li> <li>(mm) Office equipment and supplies sales</li> <li>(nn) Park or playground</li> <li>(oo) Pawn shop</li> <li>(pp) Pet shop</li> <li>(qq) Plumbing shop</li> <li>(rr) Printing/publishing establishment</li> <li>(ss) Restaurant sales and supplies</li> <li>(tt) Riding academy</li> <li>(uu) Rug and/or drapery cleaning service</li> <li>(vv) Seafood store</li> <li>(ww) Sign shop</li> </ul> |
|--|--|

- (xx) Skating rink
- (yy) Stone monument sales
- (zz) Swimming pool (outdoor)
- (aaa) Taxidermy

- (bbb) Teen club or youth center
- (ccc) Tennis court (outdoor)
- (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
- (b) Ambulance/EMS service
- (c) Amusement park
- (d) Armory
- (e) Auditorium, stadium, coliseum
- (f) Automobile parts sales
- (g) Automobile repair (mechanical and body)
- (h) Automobile storage (parking lot, parking garage)
- (i) Barge docking
- (j) Boat sales and service
- (k) Broadcasting station
- (l) Building materials
- (m) Bus and railroad terminal facility
- (n) College or university
- (o) Convalescent or nursing home
- (p) Correctional or penal institution
- (q) Dog pound
- (r) Electric power substations
- (s) Farm implements
- (t) Flea market
- (u) Freight depot, rail or truck
- (v) Home improvement center
- (w) Hotel or motel
- (x) Hospital
- (y) Landfill
- (z) Maintenance facility/storage yard for schools, government agencies, and telephone and cable companies
- (aa) Manufactured housing sales, service and repair
- (bb) Marina
- (cc) Motorcycle sales service and repair
- (dd) Movie theatre
- (ee) Radio/television tower
- (ff) Railroad facility
- (gg) Recreational vehicle park
- (hh) Recreational vehicle sales service, and repair
- (ii) Restaurant, drive-in
- (jj) Restaurant, fast-food
- (kk) Sewage treatment plant
- (ll) Taxi dispatching station
- (mm) Taxi terminal
- (nn) Telephone exchange
- (oo) Water or sewage pumping station
- (pp) Water storage tank
- (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 Highway Department:**

Vince,

Here are the comments we sent DJ regarding the rezoning request:

*The Highway Department is currently in the design phase of corridor improvements to CR 64 in this area. What type of commercial accesses are proposed for these properties? It appears that 10143 CR 64 is accessed via other parcels adjacent to CR 64 and Hwy 181. Will these accesses remain?*

After seeing the proposed conceptual layout for the larger piece, we offer the following:

- The proposed improvements will be considered along with the County's ongoing CR 64 corridor project. Conceptual plan has been forwarded to our design consultant.
- The proposed CR 64 traffic signal should be aligned with other drives accessing CR 64.
- A turnout permit would be required for accessing CR 64. This would include a drainage study and traffic impact study.
- Any connection to Hwy 181 would need to be coordinated with ALDOT.

Thanks,

**Tyler Mitchell, P.E.**

Construction Manager

Baldwin County Highway Department

o: 251-937-0371

c: 251-525-0497

**Planning & Zoning/Subdivisions (Mary Booth, Subdivision Coordinator):** No comments.

**ADEM:** No comments received.

**ALDOT:**

**From:** Smith, Michael [<mailto:smithmi@dot.state.al.us>]

**Sent:** Wednesday, February 5, 2020 2:57 PM

**To:** Tyler W. Mitchell <[TMITCHELL@baldwincountyal.gov](mailto:TMITCHELL@baldwincountyal.gov)>

**Cc:** Seth L. Peterson <[SPETERSON@baldwincountyal.gov](mailto:SPETERSON@baldwincountyal.gov)>; Denton, Samantha H. <[dentons@dot.state.al.us](mailto:dentons@dot.state.al.us)>; White, J.

Jason <[whitejoh@dot.state.al.us](mailto:whitejoh@dot.state.al.us)>

**Subject:** RE: Foster Rezoning

Good afternoon Tyler,

We have not seen this nor been approached by the developer. We have serious concerns about the proposed signal, whoever noted toe distances for a “required ALDOT minimum spacing” has seriously misunderstood the Access Management Manual. It is 660’ minimum frontage before a second access point is considered, signal spacing is considerably greater. The overall layout of the access points seem to constrict flow from CR 64 WB to SR 181 NB, not allowing room to maneuver. Though on the CR, the signal proposed at the access point also cause concern as to the impact of the traffic on the existing 181/ 64 signal/ timing/ delay. The potential overlap of queue for the SB left onto CR 64 from SB 181 may also be such that the full access into the development may cause issues. I think they have a good deal of redesign to do before we get acceptable access to 181. We can discuss at greater lengths or you can direct the developer to us for individual conversations and directions. Thank you for reaching out.

***MICHAEL SMITH***

***AREA PERMIT MNGR.***

OFFICE: 251- 470- 8273

CELL: 251 - 331 - 0104

**From:** Tyler W. Mitchell <[TMITCHELL@baldwincountyal.gov](mailto:TMITCHELL@baldwincountyal.gov)>

**Sent:** Thursday, January 30, 2020 3:10 PM

**To:** Smith, Michael <[smithmi@dot.state.al.us](mailto:smithmi@dot.state.al.us)>

**Cc:** Seth L. Peterson <[SPETERSON@baldwincountyal.gov](mailto:SPETERSON@baldwincountyal.gov)>

**Subject:** FW: Foster Rezoning

Michael,

I’m not sure if you’ve seen this yet, but FYI.

Thanks,

**Tyler Mitchell, P.E.**

Construction Manager

Baldwin County Highway Department

o: 251-937-0371

c: 251-525-0497

**City of Daphne (Adrienne Jones, Planning Director):** The rezoning case is near a commercial intersection and it would be reasonable to recommend approval.

## Staff Analysis and Findings

The following factors for reviewing zoning amendments are found in Section 19.6 of the *Baldwin County Zoning Ordinance*. These factors are to be considered when an application is being reviewed for rezoning.

### **1.) Is the requested change compatible with the existing development pattern and the zoning of nearby properties?**

The subject properties, which are currently residential are occupied with single family dwellings, accessory structures and a cellular communication tower. According to the information provided, the cellular tower will remain in place if the properties are rezoned and developed. The properties adjoin County Road 64 to the south. The adjoining properties to the north and west, which are zoned commercial, are residential and vacant. Properties to the south and east and zoned commercial and residential and are commercial, institutional and residential.

### **2.) Has there been a change in the conditions upon which the original zoning designation was based? Have land uses or conditions changed since the zoning was established?**

The zoning for Planning District 15 was adopted by the County Commission on August 1, 2006. The area has seen significant residential growth since that time. As a result, there is an increased demand for commercial development to serve the residents of the area.

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

The Baldwin County Master Plan, 2013, provides future land use designations for properties located within the zoned areas of the County. These categories represent the recommendations for the physical development of the unincorporated areas of the County. They are intended for planning purposes only and do not represent the adoption of zoning designations for areas which have not voted their desire to come under the zoning authority of the Baldwin County Commission. Although not legally binding, the future land use designations are evaluated in conjunction with criteria found in the Baldwin County Zoning Ordinance (Zoning Ordinance), the Baldwin County Subdivision Regulations, the Baldwin County Flood Damage Prevention Ordinance and any other ordinances and regulations which the County Commission may adopt.

A future land use designation of Residential is provided for the subject properties. This category is provided for residential dwelling units including single family dwellings, two family (duplex) dwellings, multiple family dwellings, manufactured homes, manufactured housing parks and Planned Residential Developments. Institutional uses, recreational uses and limited neighborhood commercial uses may be included subject to the provisions of the Zoning Ordinance. To the greatest extent possible, residential areas should be accessible to major thoroughfares connecting with work areas, shopping areas and recreational areas. Zoning designations may include RR, RA, CR, RSF-E, RSF-1, RSF-2, RSF-3, RSF-4, RSF-6, RTF-4, RTF-6, RMF-6, HDR, RMH and PRD.

If the rezoning is approved, the Future Land Use Map will be amended to reflect the designation of Commercial. This category provides for retail and wholesale trade facilities which offer convenience and other types of goods and services. Institutional uses, recreational uses, mixed-use developments and transportation, communication and utility uses may be included in accordance with the Zoning Ordinance. Multiple family developments may also be included. Commercial uses should be located on major streets so as to be accessible to the residential population. Zoning designations may include RR, B-1, B-2, B-3, B-4, LB, RV-1, RV-2, MR and TR.

The adjacent future land use designations to the north, south and west are commercial.

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

The Highway Department is currently in the design phase of corridor improvements to County Road 64 in this area. The preliminary site plan for the proposed development shows turn lanes, a proposed traffic signal on County Road 64 and a proposed traffic signal on State Highway 181. In the event that the property is rezoned and the development moves forward, access and required improvements will be addressed during the Land Use Certificate process. Since the development would be commercial, it would be classified as a major project. Based on the information provided, it appears that the developers have had some preliminary discussions with the Highway Department. Comments from the Highway Department and ALDOT are included under agency comments. Due to the fact that the corridor improvements are in the design phase, the Highway Department cannot say, at this time, if the proposed development will conflict with the planned improvements.

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

Traffic congestion is a major concern in this area. A development of the type proposed will certainly impact traffic patterns and congestion. The exact impact however, will be dependent upon the types of businesses which might be located in the development and is therefore difficult to ascertain. As stated previously, it appears that the developers have had some preliminary discussions with the Highway Department. Please see additional comments under Standard 4 and Agency Comments.

**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 primary surrounding land uses are residential, commercial and institutional. The subject properties are located to the east of a commercial intersection. Please also see the responses to Standards 1 and 2.

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

Adjacent property to the north and west is zoned B-3 which is the requested designation for the subject properties. Property across County Road 64, to the south is zoned B-1, Professional Business District. In addition, and as stated above, the property is located to the east of a commercial intersection. Property at the intersection is primarily zoned B-3, with two parcels zoned B-4, Major Commercial District, at the northwest corner.

**8.) Is the timing of the request appropriate given the development trends in the area?**

As stated previously, this area has experienced significant population growth which has led to a demand for commercial development. Timing, however, is not a factor with this request.

**9.) Will the proposed change adversely impact the environmental conditions of the vicinity or the historic resources of the County?**

Aerial photography shows a pond on one of the parcels which will need to be filled if the development is constructed as proposed. Staff knows of no other adverse impacts to environmental conditions or historic resources.

**10.) Will the proposed change adversely affect the health, safety and welfare of the County and the vicinity?**

As stated previously, traffic congestion is a major concern in this area. This would also be the primary concern in terms of health, safety and welfare. A development of the type proposed will certainly impact traffic patterns



and congestion. The exact impact, however, will be dependent upon the types of businesses which might be located in the development and is therefore difficult to ascertain. See Standard 4, Standard 5 and Agency Comments.

**11.) Other matters which may be appropriate.**

- If the properties are rezoned and developed, a 25' landscaped buffer will be required along the east property line where commercial property would abut residential property.
- The possibility of a requirement for sidewalks has been discussed and can be discussed further with the Commission.

**Staff Comments and Recommendation**

As stated above, this application involves two parcels which together consist of approximately 5 acres. The subject properties are currently zoned RSF-E, Residential Single Family Estate District. The designation of B-3 General Business District, has been requested for the purpose of constructing a commercial retail center in conjunction with adjacent commercially zoned parcels. As proposed, the development would include 64,250 square feet of retail space, along with six (6) out parcels. A 4500-square foot convenience store is proposed for out parcel number 3, and would be located at the northeast corner of the intersection of State Highway 181 and County Road 64. Of the 18.61 acres proposed for the development, approximately 13.61 acres are already zoned B-3. A copy of the preliminary site plan is included with this staff report.

As with any rezoning application in this area of the County, traffic congestion is a major concern, and the comments provided by ALDOT and the Highway Department should be considered. Staff, however, believes that approval of this request is warranted due to the fact that the properties in question are located near a commercial intersection and due also to the fact that the properties are adjacent to existing commercially zoned parcels. It should be noted that the site plan provided is preliminary and is subject to being changed. In addition, no permits will be issued, and no construction may commence without approval from ALDOT and the Baldwin County Highway Department.

Unless information to the contrary is revealed during the public hearing, this case should be **APPROVED**. \*

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

Property Images













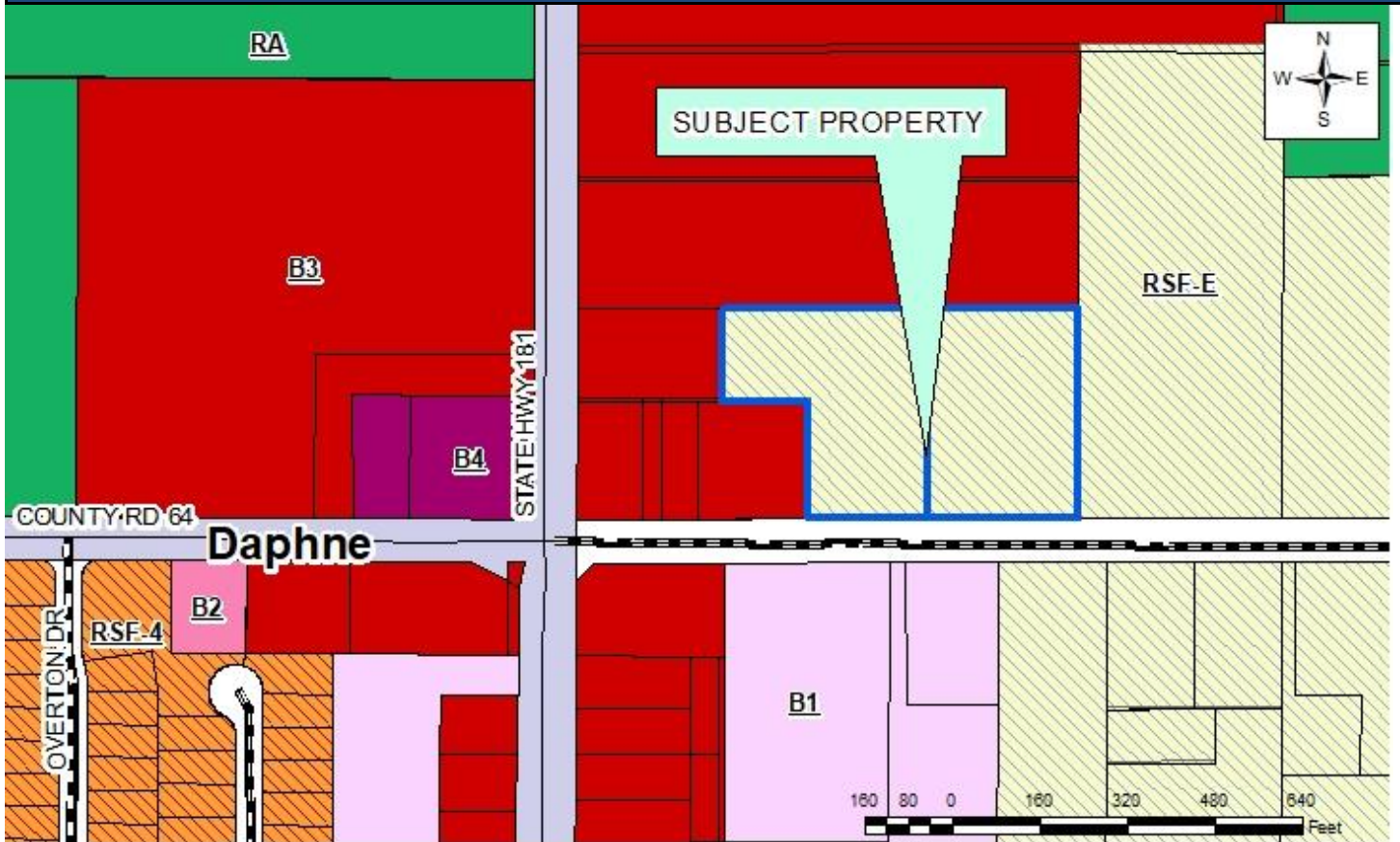


**ADJOINING PROPERTY  
TO THE SOUTH**

01/09/2020



### Locator Map



### Site Map

