



# Baldwin County Commission

## Legislation Text

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File #: 21-0936, Version: 1

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**Meeting Type:** BCC Regular Meeting

**Meeting Date:** 6/15/2021

**Item Status:** New

**From:** Matthew Brown, Interim Planning and Zoning Director

**Submitted by:** DJ Hart, Planning Technician/J. Buford King, Development Review Planner

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### ITEM TITLE

\*Case No. S-21047 Blackwater Farms Subdivision - Appeal from the Baldwin County Planning and Zoning Commission Denial of Subdivision Development Permit

### STAFF RECOMMENDATION

Discuss and grant public comments regarding Case No. S-21047, Blackwater Farms Subdivision, appeal from the Baldwin County Planning and Zoning Commission denial of a Development Permit for a proposed six lot subdivision in the Elsanor area and take one of the following actions **(please select one)**:

- 1) Affirm the decision of the Baldwin County Planning and Zoning Commission and deny the Development Permit for Case No. S-21047, Blackwater Farms Subdivision; **or**
- 2) Reverse the decision of the Baldwin County Planning and Zoning Commission and approve the Development Permit for Case No. S-21047, Blackwater Farms Subdivision; **or**
- 3) Modify the decision of the Baldwin County Planning and Zoning Commission as it relates to the Development Permit for Case No. S-21047, Blackwater Farms Subdivision.

### BACKGROUND INFORMATION

**Previous Commission action/date:** 03/02/2021 Last BCC action taken

#### **Background:**

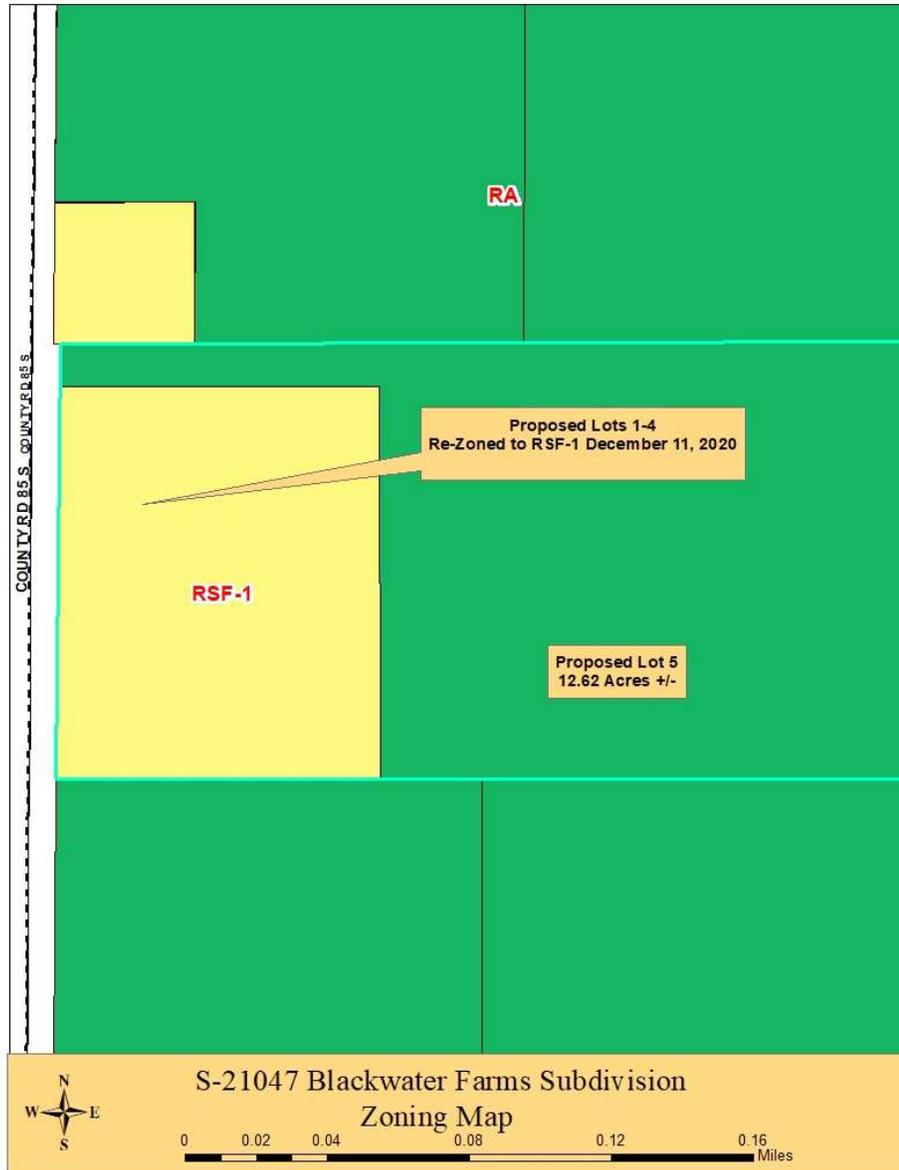
Staff reviewed the initial subdivision request, Case No. S-21005, a six (6) lot subdivision as part of the development permit review process and found no deficiencies. Staff recommended approval of the subdivision and the full staff report is attached. Two individuals spoke in opposition of the subdivision during the public hearing at the January 7, 2021, Planning and Zoning Commission meeting. The applicant was represented by Mr. David Shumer, P.E., the authorized agent. The Baldwin County Planning and Zoning Commission voted 5-1 to DENY the Development Permit related to Case No. S-21005, Blackwater Farms subdivision, a six (6) lot subdivision. The applicant

requested an appeal of the Baldwin County Planning and Zoning Commission's decision to the Baldwin County Commission. On March 2, 2021, Case No. S-21005 was considered by the Baldwin County Commission. After referring with the County Attorney, the Commission postponed the item to the April 6, 2021, Commission meeting. In the time between the March 2, 2021, Commission meeting and the April 6, 2021, Commission meeting the applicant, via an e-mail dated March 26, 2021, withdrew the appeal request and advised a new, five (5) lot subdivision request would be submitted for consideration by the Baldwin County Planning Commission.

Staff reviewed a second subdivision request related to subject property, Case No. S-21047, a five (5) lot subdivision, as part of the development permit review process and found no deficiencies. Staff recommended approval of the subdivision and the full staff report is attached. Five individuals spoke in opposition of the subdivision during the public hearing at the May 6, 2021, Planning and Zoning Commission meeting. An additional five individuals signed up in opposition to the development but did not speak during the public hearing. The applicant was represented by Mr. David Shumer, P.E., the authorized agent. The Baldwin County Planning and Zoning Commission voted 2-1 to DENY the Development Permit related to Case No. S-21047, Blackwater Farms subdivision, a five (5) lot subdivision.

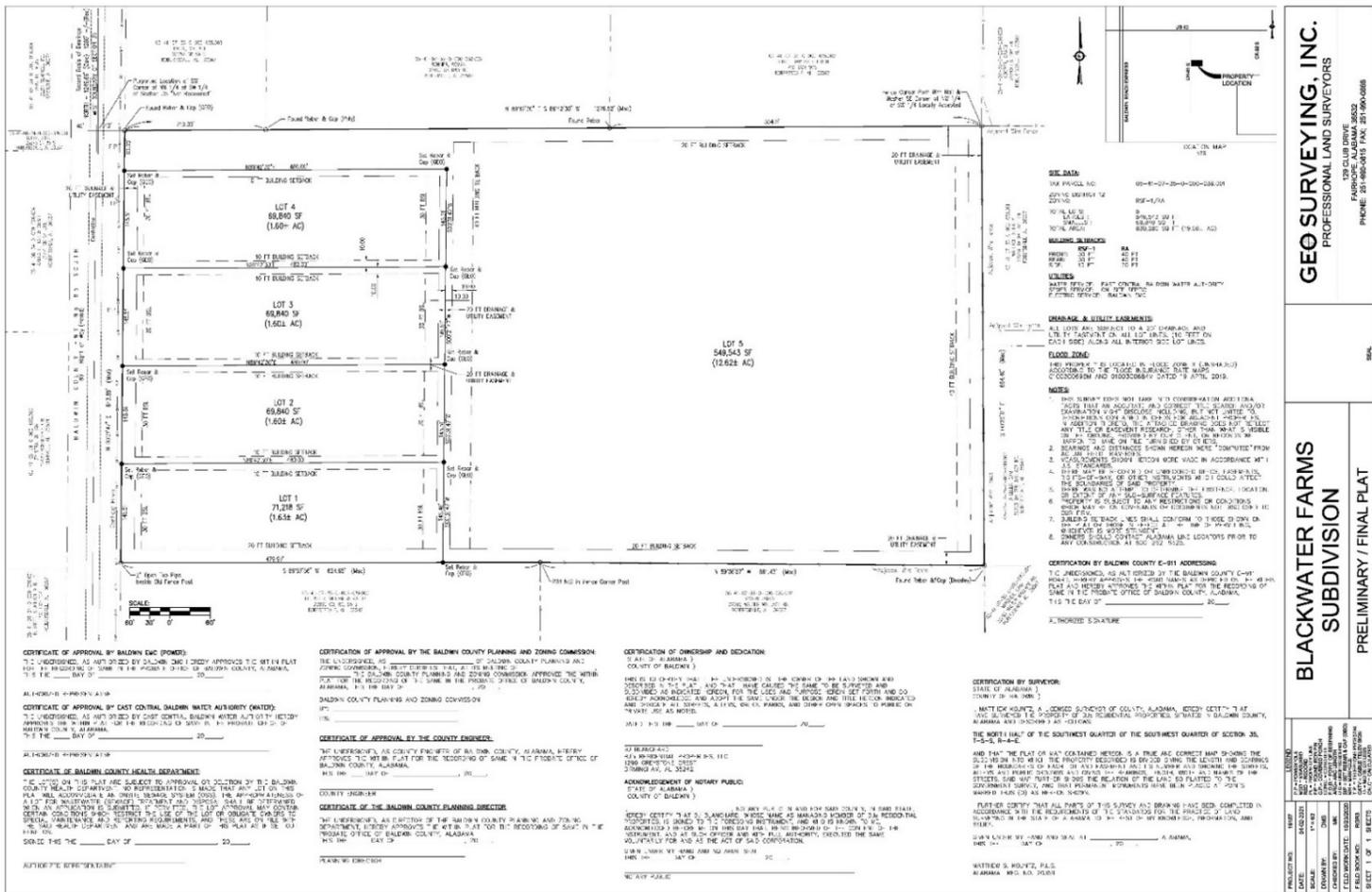
#### Existing Conditions:

Each of the two afore-mentioned subdivision requests share the same subject property parent parcel (Tax Parcel ID# 05-41-07-35-0-000-039.001 / PIN 31923) located on the east side of County Road 85 approximately ¼ mile south of US HWY 90 in the Elsanor Community east of Robertsdale. Subject property is approximately 19.06 acres (+/-) located within Planning District 12 and contains both RA Rural Agriculture and RSF-1 Single Family zoning classifications as seen in the image below.



**Proposed Subdivision:**

The owner is proposing to divide the 19.06 acre parcel into five lots, fronting on County Road 85 S. Four of the lots will be included in the area currently zoned RSF-1 and the fifth lot will include the remaining portion that is zoned RA. An excerpt of the proposed subdivision plat is included below:



**Geo Surveying, Inc.**  
PROFESSIONAL LAND SURVEYORS

100 COLLEGE DRIVE  
FAIRBURN, ALABAMA 36533  
PHONE: 334-662-4875 FAX: 334-662-9888

**BLACKWATER FARMS SUBDIVISION**

PRELIMINARY / FINAL PLAT

DATE: 12/31/2025  
SCALE: AS SHOWN  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
FIELD BOOK: [Name]  
SHEET 1 OF 4 SHEETS

Staff received a notice of appeal from the applicant on May 10, 2021, which is within the 30 days required for an appeal under the Subdivision Regulations. On May 20, 2021, Matthew Brown, Interim Planning and Zoning Director, submitted a copy of the file to the County Commission, County Administrator, County Attorney, and the County Engineer as required by the Subdivision Regulations.

The subdivision regulations dictate that appeals “shall be heard by the Baldwin County Commission at such regular or special meeting as the Baldwin County Commission shall determine, in its discretion.” And that, “[i]n the hearing of such appeals, the standard of review to be exercised by the Baldwin County Commission shall be de novo.”

In a de novo review, the Baldwin County Commission will review the decision of the Planning Commission as if it were a completely new case and as if the Planning Commission had not rendered a decision.

Staff mailed a notice of the public hearing for the appeal to adjacent property owners on June 4, 2021.

In this appeal, the Applicant is represented by engineer of record Mr. David Shumer, P.E. and attorney Mr. Larry Sutley.

### **FINANCIAL IMPACT**

**Total cost of recommendation:** N/A

**Budget line item(s) to be used:** N/A

**If this is not a budgeted expenditure, does the recommendation create a need for funding?**  
N/A

### **LEGAL IMPACT**

**Is legal review necessary for this staff recommendation and related documents?**  
N/A

**Reviewed/approved by:** N/A

**Additional comments:** N/A

### **ADVERTISING REQUIREMENTS**

**Is advertising required for this recommendation?** N/A

**If the proof of publication affidavit is not attached, list the reason:** N/A

### **FOLLOW UP IMPLEMENTATION**

**For time-sensitive follow up, select deadline date for follow up:** N/A

**Individual(s) responsible for follow up:** Commission Administration Staff

**Action required (list contact persons/addresses if documents are to be mailed or emailed):**

Mr. BJ Blanchard  
1299 Greystone Crest  
Birmingham, Alabama 35242

Mr. Laurence P. Sutley, PC  
Post Office Box 10  
Summerdale, Alabama 36580

Mr. David Shumer, P.E.  
Barton and Shumer Engineering  
3213 Midtown Park South  
Mobile, Alabama 36606

cc: Matthew Brown, Wayne Dyess, Buford King, DJ Hart

**Additional instructions/notes:** N/A