



# Baldwin County Commission

## Legislation Text

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File #: 22-1523, Version: 2

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**Meeting Type:** BCC Regular Meeting

**Meeting Date:** 9/20/2022

**Item Status:** Replacement

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

**Submitted by:** Matthew Brown, Planning and Zoning Director

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### ITEM TITLE

\*Proposed Planning (Zoning) District 38 - Certification of Petition and Request for Zoning Election

### STAFF RECOMMENDATION

Pursuant to Alabama Code §45-2-261.07, take the following actions:

- 1) Adopt Resolution #2022-172 which certifies the accuracy of the petition for the Proposed Planning (Zoning) District 38; and
- 2) Instruct the Judge of Probate to provide a Zoning Election for Proposed Planning (Zoning) District 38, to be held no later than December 20, 2022.

### BACKGROUND INFORMATION

**Previous Commission action/date:** Replacement Item: Information corrected throughout document to reflect the correct date of Dec. 20th deadline for election to be held.

05/17/2022 - Item was pulled from the agenda to allow time to expand the district in order to find a feasible polling location.

06/07/2022 - Pursuant to Alabama Code §45-2-261.07, took the following actions: 1) Accept the notice of intent to form a Planning (Zoning) District and request a referendum for Planning and Zoning purposes for the proposed Planning District to be known as Planning (Zoning) District 38; and 2) Make a determination that it is not feasible to utilize the Voting Precinct boundaries of Precinct 50 as the proposed Planning (Zoning) District 38 boundary; and 3) Accept the proposed Planning District 38 boundaries subject to a subsequent affirmative referendum vote pursuant Alabama Code §45-2-261.07.

**Background:** Citizen Lisa Marie Atchley, residing at 14202 County Road 3, in the Barnwell Community and east of current Planning District 26, approached Planning and Zoning staff regarding the formation of a new Planning (Zoning) District and requested a referendum for zoning in this new district.

Coming under the Planning and Zoning Jurisdiction of Baldwin County is a citizen driven effort. The process must be initiated and led by the citizens. Alabama Code §45-2-261.07, requires that a new planning district “correspond to a voting precinct or precincts in the county unless the county’s governing body determines that the use of voting precinct boundaries is not feasible.”

The requesting citizen, Lisa Marie Atchley, resides at 14202 County Road 3 which is located in Precinct 50. However, it is not feasible to utilize Precinct 50 for new Planning (Zoning) District for the following reasons:

- Precinct 50 contains Fairhope corporate limits, which would automatically be excluded from the new district and require a redrawing of the boundary.
- Precinct 50 contains portions of Planning (Zoning) District 26, which would automatically be excluded from the new district and require a redrawing of the boundary.

Because Precinct 50 does not provide a feasible boundary, Planning and Zoning staff worked with Ms. Atchley and considered other factors to establish an appropriate boundary for the proposed Planning District 38. These factors included:

- The north boundary is the corporate limits of the City of Fairhope, the new Planning (Zoning) District 8, and US 98.
- The east boundary is the new Planning District 8, Greeno Road, the City of Fairhope Airport Property, and Weeks Bay.
- The west and south boundary is Planning District 26.
- The new proposed district collectively represents an area of the Barnwell community with an abundance of sensitive wetland areas and prominent equestrian uses.

Based on these factors, Planning and Zoning staff recommended the County Commission accept the proposed Planning District 38 boundaries subject to the subsequent affirmative referendum vote Alabama Code §45-2-261.07.

A map showing the boundaries of the proposed district (cyan color area) is attached to this agenda item. The proposed district contains approximately 1145 registered voters and will required approximately 115 signatures. A final number will be provided by the Probate Judge’s office.

The steps for exercising Planning and Zoning authority are found in Alabama Code §45-2-261 and the proceeding sections.

- 1) A party or parties seeking to file a petition shall notify the County Commission in writing that the parties will petition for the formation of a Planning District and the proposed boundaries of the district.
- 2) Within 15 days of notice to the County Commission, the Judge of Probate shall give a preliminary estimate of the number of signatures needed to call the election. Ten percent of the qualified electors residing within the proposed planning district will need to sign the petition. Planning and Zoning staff will notify the Judge of Probate.
- 3) The County Commission shall notify the principal party in writing, within 30 days of written notification of intent to request a referendum, that the proposed district is acceptable for planning,

zoning and voting purposes, and shall furnish forms for use in seeking the required signatures.

4) The party or parties will have 120 days to gather the signatures and file the petition. Upon receipt, the County Commission and Judge of Probate will have 45 days to certify or reject the accuracy of the petition. If the number of signatures is not sufficient, the party or parties will have an additional 60 days in which to obtain signatures and have the petition certified. (PURPOSE OF THIS AGENDA)

5) Upon certification, the County Commission shall instruct the Judge of Probate to provide for an election within the district no later than 90 days after certification. If the petition is not certified, a new petition cannot be refiled for two years. (PURPOSE OF THIS AGENDA)

Based on information provided by the Probate Office and the Board of Registrars, there are approximately 1,144 active registered voters in proposed Planning District 38. As a result, 115 signatures (10 percent of the qualified electors) were needed for the petition.

On August 1, 2022, the parties seeking a zoning referendum submitted a petition. Of the signatures submitted, 133 have been verified by the Probate Office. On this basis, the petition is accepted and certified. Planning staff now respectfully requests that the County Commission instruct the Judge of Probate to provide for an election, in Proposed Planning (Zoning) District 38, to be held no later than December 20, 2022.

### **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):**  
Have resolution signed and send correspondence instructing the Judge of Probate to provide for a Zoning Election in Proposed Planning (Zoning) District 38, to be held no later than December 20, 2022.

The Honorable Harry D'Olive  
Judge of Probate  
Baldwin County, Alabama  
Post Office Box 459  
Bay Minette, Alabama 36507

cc: Ron Cink  
Matthew Brown  
Buford King  
Celena Boykin

**Additional instructions/notes:** A polling place for Planning District 38 has been tentatively identified and final approval is being coordinated with the Probate Office.

Admin - add to tickler that notification letter to polling place is needed, as well as update to the voting location files once a location is assigned.

Planning and Zoning Department - Provide support as needed, including required mailings and preparation of ballots.