

## BALDWIN COUNTY PLANNING AND ZONING COMMISSION REGULAR MEETING 10/06/2016

1 recommendation to the County Commission. Is there a  
2 motion to do so?

3 COMMISSION MEMBER DEWANE HAYES: I make a  
4 motion to approve.

5 CHAIRMAN SAM DAVIS: Is there a second?

6 COMMISSION MEMBER SPENCE MONROE: Second.

7 CHAIRMAN SAM DAVIS: All in favor, say aye.

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

9 CHAIRMAN SAM DAVIS: All opposed?

10 (No response.)

11 CHAIRMAN SAM DAVIS: Motion carries  
12 unanimously.

13 MR. ROBERT E. WATTS: Thank you.

14 CHAIRMAN SAM DAVIS: Thank you.

15

16 **8-E - CASE Z-16034 MATTHEWS PROPERTY**

17 CHAIRMAN SAM DAVIS: Okay. Matthews property,  
18 Z-16034.

19 MS. LINDA LEE: Good evening. The subject  
20 property is located at 2845 Ponce de Leon Court, on the  
21 north side of Ponce de Leon Court east of 3 Mile Road in  
22 Planning District 25.

23 The subject property is currently zoned RSF-1,  
24 Residential Single-Family district, and is occupied with  
25 one single-family dwelling. The requested designation is  
26 RSF-3, Residential Single-Family district.

27 According to the submitted information, the purpose  
28 of this request is to allow for family division of land

1 in order for the son to build a house.

2 The subject property is twenty thousand (20,000)  
3 square feet in area. The adjacent properties are zoned  
4 residential. The proposed zoning designation is a  
5 residential zoning classification that would allow for  
6 proposed lot sizes of ten thousand (10,000) square feet  
7 each.

8 As the Planning Director just stated, back when  
9 Planning District 25 was zoned in the early '90s, it is  
10 very likely that all of the zoning designations that are  
11 available today were not available at that time.

12 The subject property's future land use is  
13 categorized as residential in the Baldwin County Master  
14 Plan. The proposed zoning is consistent with the Master  
15 Plan.

16 The Fort Morgan Planning and Zoning Advisory  
17 Committee submitted comments stating that they have no  
18 objection to the re-zoning from RSF-1 to RSF-3. But they  
19 feel it should be restricted to a single-family dwelling.

20 Planning District 25 does not allow accessory  
21 dwellings. And the proposed zoning designation does not  
22 allow for two dwellings for multifamily. So the only  
23 thing they could build is a single-family dwelling.

24 The comments from the US Fish and Wildlife Service  
25 that I believe you-all were given this evening state that  
26 any impact to the existing parcel over a tenth (.10) of  
27 an acre would not qualify for their General Conservation  
28 Plan or Quick Permitting Program. The ability to obtain

1 an Incidental Take Permit should not have any bearing on  
2 the zoning designation.

3 Staff received one e-mail in opposition to the  
4 re-zoning request. Unless information to the contrary is  
5 revealed at public hearing, staff recommends approval of  
6 the re-zoning request. And I will answer any questions  
7 you may have for me.

8 CHAIRMAN SAM DAVIS: Any questions for Linda?

9 COMMISSION MEMBER DALE MARSTON: Just to clear  
10 up this letter from Bill Lynn, it says that, what, that  
11 we -- that we were given -- he's saying that -- You've  
12 got to explain his comments to me, if you don't mind,  
13 or give me a second to read it. Says here that:

14 *Any impacts going over 4,350 square feet or .10*  
15 *acre, will not qualify for our General*  
16 *Conservation Plan.*

17 Is that -- is that part of the record now?

18 MS. LINDA LEE: Yes. That is part of the  
19 record. That is what I just commented on a second ago  
20 when I was saying that his comments state anything over a  
21 tenth (.10) of an acre would not qualify.

22 Currently, they already have three thousand, three  
23 hundred and fifty (3,350) or less square feet of impact.  
24 So they are permitted, under that General Conservation  
25 Plan, four thousand, three hundred and fifty (4,350)  
26 square feet.

27 Now, if they build a dwelling that exceeds a  
28 thousand (1,000) square feet, he is saying they will have

1 to go through the Fish and Wildlife Service for the full  
2 process. They would have to submit a complete habitat  
3 conservation plan and provide sufficient offsite  
4 mitigation land.

5 That really has nothing to do with the zoning  
6 designation on the property. That is just an issue  
7 they'll have to go through with Fish and Wildlife Service  
8 when they get ready to build on that property.

9 CHAIRMAN SAM DAVIS: Linda, in short, doesn't  
10 that mean if they were in compliance with that impact  
11 plan, that they could apply for a permit and go ahead and  
12 build, but because they're going to be over that minimum  
13 square footage, they've got to do the habitat study, the  
14 preserve the beach mouse's territory and so forth?

15 MS. LINDA LEE: Yes. They -- Some years ago,  
16 Fish and Wildlife did a General Conservation Plan. And  
17 they applied a certain amount of square footage to each  
18 parcel down there.

19 There may be cases where there are lots of record on  
20 one given parcel, but they were only looking at parcel  
21 numbers. So now anyone that comes back and wants to, you  
22 know -- the first person comes in, gets the general  
23 permit. It's a quick process.

24 If someone wants to subdivide or build another  
25 house, then they have to go through that longer process.  
26 It takes a longer time for them to get approval.

27 CHAIRMAN SAM DAVIS: Approval that they're not  
28 going to hurt a mouse.

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1 MS. LINDA LEE: Correct.

2 CHAIRMAN SAM DAVIS: Okay. Any other questions  
3 for Linda?

4 (No response.)

5 CHAIRMAN SAM DAVIS: All right. Thank you  
6 Linda.

7 MS. LINDA LEE: You're welcome.

8 CHAIRMAN SAM DAVIS: At this point, we'll open  
9 will public hearing. Mr. Bill Matthews has signed up,  
10 and Teresa Matthews, to speak for the request.

11 Do y'all have anything you'd like to say?

12 MR. BILL MATTHEWS: No, sir.

13 CHAIRMAN SAM DAVIS: Not at this point. All  
14 right. There are three signed up in opposition. Sharon  
15 Harrell --

16 MS. SHARON HARRELL: I would like --

17 CHAIRMAN SAM DAVIS: -- would you like to  
18 address --

19 MS. SHARON HARRELL: I would like to differ to  
20 the others.

21 CHAIRMAN SAM DAVIS: Do y'all have a  
22 spokesperson? And we can just cut to the chase with one  
23 person.

24 (An audience member indicates.)

25 CHAIRMAN SAM DAVIS: All right. What is your  
26 name?

27 MR. JIM LANOHA: Jim Lanoha.

28 CHAIRMAN SAM DAVIS: All right. Come on up to

1 the mic.

2 MR. JIM LANOHA: Okay.

3 CHAIRMAN SAM DAVIS: I appreciate y'all doing  
4 that. That will save us all some time.

5 MR. JIM LANOHA: There is nine of us, just so  
6 you'll know.

7 CHAIRMAN SAM DAVIS: Okay.

8 MR. JIM LANOHA: We're all immediate adjacent.  
9 Again, my name is Jim Lanoha. First of all, I'd like to  
10 thank y'all for your time and your contribution to the  
11 county.

12 We -- we all know about the infamous beach mouse and  
13 the environmental impact studies. But that's not what  
14 I'm going to talk to you about right now. My biggest  
15 concern here actually deals with infrastructure and  
16 safety, public safety.

17 One of the things that we still to this day, since  
18 Hurricane Ivan and Katrina, up on that end of the  
19 peninsula, if you've been out there, we have severe  
20 drainage problems.

21 And until just recently, when the County came  
22 through and graded the sides of Fort Morgan Road, it used  
23 to flood over bad to where you-all put the signs out  
24 there to warn people who are not from the area.

25 And it would just -- it -- the area is just  
26 horrible. Since they have done that work -- Thank you  
27 very much -- it's not an issue anymore on Fort Morgan  
28 Road like it has been since Katrina and Ivan.

1           However, Ponce de Leon and Sea Oats Drive both still  
2 flood to this day with just two inches of rain.  
3 Specifically, the Ponce de Leon Drive in front of the  
4 subject property, with just two inches of rain, floods  
5 severely and to the point to where the -- the volunteer  
6 fire department or fire chief out there actually comes  
7 around, checking the roads to see if there is a fire,  
8 where we can get through, where we can't.

9           My driveway floods. My concern is this -- anytime  
10 you build a structure, anytime you pour concrete or  
11 asphalt, even if you put down filter cloth and rock, that  
12 drainage has got to go somewhere. This is going to add  
13 to this problem. And the -- the problem go well beyond  
14 just a lack of infrastructure out there.

15           I've been out there for over twenty years. And some  
16 of us, over the years, have actually applied to do this  
17 same thing. And we were told no because of density  
18 factors. We all have an appreciation at this time,  
19 fifteen years later. I have grandchildren and children,  
20 too. I have a lot -- All of our lots are the same size.  
21 We've all, at one time, thought about doing this.

22           But with the gray hair and the age comes wisdom. I  
23 don't think it's the right thing. We've got nine of us  
24 here, our entire neighborhood. We're all opposed to  
25 this.

26           Thank you for your time.

27           CHAIRMAN SAM DAVIS: All right. Hold on a  
28 second. Does anyone have any questions for this

1 gentleman?

2 COMMISSION MEMBER DALE MARSTON: I got a couple  
3 questions.

4 MR. JIM LANOHA: Sure thing.

5 COMMISSION MEMBER DALE MARSTON: You saw the  
6 case a while ago, the R-4 case?

7 MR. JIM LANOHA: Yes, sir.

8 COMMISSION MEMBER DALE MARSTON: There -- there  
9 was no R-4 around that property. And my question to you  
10 is, is there R-3 zoning destination anywhere around this?  
11 Because, you know, it didn't seem to matter in the last  
12 case. But -- but does that concern you --

13 MR. JIM LANOHA: Yes.

14 COMMISSION MEMBER DALE MARSTON: -- as a  
15 citizen that -- that there is no R-3 -- there is no R-3  
16 there?

17 MR. JIM LANOHA: It all goes back to public  
18 safety. First of all, where does our police come from?  
19 Fort Morgan.

20 I know y'all know all about this big property line  
21 between Fort Morgan and Gulf Shores. We do get service  
22 from Gulf Shores police. Thank you so much for that.

23 Our fire department is volunteer. The more density  
24 we get out there, the -- you know, the more difficult it  
25 is for these public servants to service the population  
26 properly.

27 COMMISSION MEMBER DALE MARSTON: So, again, my  
28 question is, are you aware of any other R-3 property

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1 zoning designation around there?

2 MR. JIM LANOHA: No, sir. Nothing.

3 MS. LINDA LEE: Mr. Marston, as I stated  
4 earlier, back when Planning District 25 was zoned, there  
5 probably was not an R-3 destination available. That's  
6 why all these smaller lots and everything in this area  
7 was zoned RSF-1.

8 There are numerous lots that are probably about ten  
9 thousand (10,000) square feet or a little bit more. And  
10 I was explaining to you why you would not see --

11 COMMISSION MEMBER DALE MARSTON: Well --

12 MS. LINDA LEE: -- RSF-3 in that area.

13 COMMISSION MEMBER DALE MARSTON: I understand.  
14 But, like he said, the -- the talk was about this before,  
15 and nothing happened. So --

16 MS. LINDA LEE: No.

17 COMMISSION MEMBER DALE MARSTON: -- here we  
18 are, same thing --

19 MS. LINDA LEE: Well --

20 COMMISSION MEMBER DALE MARSTON: -- same as  
21 last time that may have been swirling around. Same  
22 thing's happening again.

23 MS. LINDA LEE: No, I'm not --

24 COMMISSION MEMBER DALE MARSTON: But I --

25 MS. LINDA LEE: I'm not arguing with you. I'm  
26 explaining to you why you would not see any R-3. It was  
27 not available --

28 COMMISSION MEMBER DALE MARSTON: My --

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1 MS. LINDA LEE: -- years ago when it was first  
2 zoned.

3 COMMISSION MEMBER DALE MARSTON: I understand.  
4 My question was to the person who signed up against this,  
5 if we knew of any other R-3 around there. That's a  
6 simple -- simple question.

7 MR. JIM LANOHA: The answer is no, sir.

8 CHAIRMAN SAM DAVIS: Any other questions for  
9 this gentleman?

10 (No response.)

11 CHAIRMAN SAM DAVIS: Thank you, sir.

12 MR. JIM LANOHA: Thank you.

13 CHAIRMAN SAM DAVIS: Staff, do you have  
14 anything else you'd like to add?

15 MS. LINDA LEE: No, sir.

16 CHAIRMAN SAM DAVIS: Vince, it looked like you  
17 were thinking.

18 MR. VINCE JACKSON: I just wanted to reiterate  
19 what Linda said. There wasn't R-3 available in Planning  
20 District 25 until 2004. And we simply haven't had any  
21 requests for it.

22 There are lots throughout that planning district  
23 that probably would be better zoned RSF-3. But when --  
24 when the zoning came in, they picked the destinations  
25 they wanted. And they usually --

26 AN AUDIENCE MEMBER: We can't hear you back  
27 here.

28 CHAIRMAN SAM DAVIS: I don't think your -- I

1 don't know if the mic is working, Vince.

2 MR. VINCE JACKSON: Okay. I lost my train of  
3 thought.

4 MR. JIM LANOHA: Closer to the mic.

5 AN AUDIENCE MEMBER: We can't hear you.

6 MR. VINCE JACKSON: Okay.

7 CHAIRMAN SAM DAVIS: There you go.

8 MR. VINCE JACKSON: You all know I don't  
9 project. So, I'm sorry. And I'm sorry I'm getting a  
10 little rattled up here.

11 There was no RSF-3 in Planning District 25 prior to  
12 2004. There have been no requests for RSF-3 in Planning  
13 District 25 until now. So that's why we're considering  
14 it.

15 You know, when we look at re-zoning applications,  
16 you know, one of the things that we do look for is  
17 whether or not the requested destination is an extension  
18 of adjacent destinations.

19 However, what you're also looking at in terms of  
20 that is the use of the property. It -- it becomes more  
21 of a concern if you're talking about changing the use of  
22 the property, which they're not doing in this case.

23 But there are -- all through this planning district,  
24 because there were so many lots of record at the -- at  
25 the time zoning was adopted, lots of record that had been  
26 there for years and years before anyone ever thought  
27 about zoning down there, a lot of those lots don't meet  
28 RSF-1 standards.

1 But you see more RSF-1 down there than anything,  
2 because when zoning came in years ago, that was the  
3 residential destination that they picked. And, so,  
4 that's why.

5 And then not to rehash the previous request,  
6 Planning District 16 is -- is kind of the same situation.  
7 It was -- it was probably the first planning district to  
8 be zoned.

9 And they were somewhat limited in the beginning as  
10 far as the -- the destinations that they had available,  
11 but -- and, again, lots of records that have been there  
12 many, many years prior to the adoption of zoning. And  
13 they didn't necessarily fit with the zoning scheme that  
14 was adopted, but that was what was chosen.

15 Now we have all of the destinations available to all  
16 planning districts. That was a change that we made  
17 several years ago. Because we felt like we were  
18 getting -- as we got more and more planning districts,  
19 what we were seeing was some inequality, where you had  
20 things that were available in one that weren't available  
21 in others.

22 So, we tried to, you know, bring some simplification  
23 to the situation and make everything available. And, so,  
24 that's why when you have those requests coming in for the  
25 first time, it looks a little odd sometimes.

26 Because, to my knowledge, this the first time we've  
27 ever had an RSF-3 requested in this planning district.  
28 But it wasn't available previously. And I just -- I just

1 wanted to make sure that y'all understood that, that it's  
2 not, you know -- it's not just some off-the-wall thing.

3 The reason there is not any -- anything around there  
4 is because in beginning -- in the beginning, it wasn't  
5 there. It wasn't available. And then up until now, no  
6 one has asked for it.

7 ATTORNEY DAVID CONNER: Just for  
8 clarification's sake -- And, Vince, you may have said  
9 this, too. I just want to make sure it's clear from the  
10 discussion.

11 Whether or not the County Commission ultimately  
12 decides to re-zone this property or not, it's a  
13 recommendation from the Planning Commission that goes  
14 there. But to accentuate what you're saying about this  
15 district not being available to RSF-3 this way, this lots  
16 is approximately twenty thousand (20,000) square feet,  
17 you said?

18 MR. VINCE JACKSON: Right.

19 ATTORNEY DAVID CONNER: And RSF-1, the minimum  
20 lot size of the property is thirty thousand (30,000)  
21 square feet.

22 MR. VINCE JACKSON: Correct.

23 ATTORNEY DAVID CONNER: This -- this lot  
24 doesn't meet the underlying zoning for that district.  
25 However, because it's grandfathered in, the use is  
26 allowed to continue, all that kind of stuff.

27 So the question would be whether or not the  
28 Commission wants to move toward changing the zoning

1 classifications in that area to more accurately fit the  
2 lot size requirements that exist, or just to leave it  
3 like it is.

4 That's why this public hearing is so important, for  
5 people to express their concerns about that. And then  
6 the County Commission also will have another public  
7 hearing to hear those concerns as well before that  
8 decision is ultimately made.

9 MR. VINCE JACKSON: This is only the first  
10 step. We'll probably have a -- a hearing before the  
11 County Commission mid-November, which will take place in  
12 Bay Minette.

13 And, you know, that will be advertised. There --  
14 there won't be additional certified notices going out,  
15 but the sign will remain on the property until the  
16 re-zoning is finally voted upon by the County Commission.

17 And there will be some additional advertising that  
18 takes place in the -- the legal sections of Gulf Coast  
19 newspapers.

20 COMMISSION MEMBER DALE MARSTON: It would  
21 qualify under R-2, though, right, not R-3?

22 MR. VINCE JACKSON: It could -- it could be --  
23 it could be RSF-2 as a single lot. But that -- that  
24 doesn't --

25 COMMISSION MEMBER DALE MARSTON: The way it  
26 exists right now?

27 MR. VINCE JACKSON: Yeah. I mean --

28 COMMISSION MEMBER DALE MARSTON: It fits under

1 R-2; right?

2 MR. VINCE JACKSON: Fifteen -- fifteen thousand  
3 (15,000) is the minimum for RSF-2.

4 ATTORNEY DAVID CONNER: And -- and just to  
5 accentuate, the -- the County Commission also has the  
6 right to go to a more restrictive zoning request. They  
7 can --

8 MR. VINCE JACKSON: Yes, sir.

9 ATTORNEY DAVID CONNER: -- go up, but not down.  
10 So that -- that is a tool that the County Commission, if  
11 they decided they wanted to use it, can do.

12 MR. VINCE JACKSON: Yes, sir. They -- RSF-3 is  
13 what has been advertised. But they could choose to  
14 re-zone to RSF-2. They would have that discretion.

15 CHAIRMAN SAM DAVIS: Any other questions for  
16 staff?

17 (No response.)

18 CHAIRMAN SAM DAVIS: Okay. Thank you.

19 We'll close the public hearing at this point. Staff  
20 has recommended an approval recommendation from this  
21 Commission. Is there a motion to do so?

22 (No response.)

23 CHAIRMAN SAM DAVIS: All right. If there is  
24 not a motion to recommend approval to the County  
25 Commission, is there a motion to do otherwise?

26 COMMISSION MEMBER DALE MARSTON: I make a  
27 motion we recommend denial of R-3.

28 CHAIRMAN SAM DAVIS: All right. There is a

1 motion to recommend -- to recommend denial of the R-3.

2 COMMISSION MEMBER MICHAEL KAISER: Second.

3 CHAIRMAN SAM DAVIS: There is a second. All in  
4 favor, say aye.

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

6 CHAIRMAN SAM DAVIS: All opposed?

7 (No response.)

8 CHAIRMAN SAM DAVIS: Motion carries  
9 unaniously.

10

11 **B-F - CASE Z-16036 P K GARG FAMILY, LLC PROPERTY**

12 CHAIRMAN SAM DAVIS: All right. It looks like  
13 the final case.

14 MR. VINCE JACKSON: Yes, sir. This property is  
15 located in Planning District 12, the east side of County  
16 Road 49, south of Flying K Road and north of Nandina  
17 Road.

18 The subject property consists three-point-nine-four  
19 (3.94) acres currently zoned RA, Rural Agricultural. And  
20 the request is to re-zone this property to B-4, Major  
21 Commercial district, for the purpose of establishing a  
22 truck parking lot for the adjacent Love's Truck Stop.

23 If you look at your locator map, you will see that  
24 the property to the west, which is the location of  
25 Love's, is within the city limits of Loxley. Having said  
26 that, a use of that type is consistent with the B-4,  
27 which has been requested for this application.

28 Property to the north is the location for a motel,