

ORDINANCE NO. 1655

AN ORDINANCE AMENDING ORDINANCE NO. 1253  
KNOWN AS THE ZONING ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE,  
ALABAMA as follows:

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, together with the Zoning Map of the City of Fairhope, be and the same hereby is changed and altered in respect to that certain property described below:

After the appropriate public notice and hearing of the Planning Commission of the City of Fairhope, Alabama has forwarded a favorable recommendation,

The property of Fairhope Single Tax Corporation and Provision Investments, LLC, generally located at 9979 Windmill Road, Fairhope, Alabama.

PPIN #: 77607

Legal Description: (Case number ZC 19.10)

LOT ONE (1), UNIT THREE (3), PECAN ORCHARD SUBDIVISION, AS PER ITS PLAT FILED FOR RECORD IN PROBATE RECORDS, BALDWIN COUNTY, ALABAMA IN MAP BOOK 11, PAGE 70; SECTION 15, TOWNSHIP 6 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA. LESS AND EXCEPT LANDS HERETOFORE CONVEYED TO BALDWIN COUNTY, ALABAMA BY THAT RIGHT-OF-WAY DEED, RECORDED IN DEED BOOK 149, PAGE 263, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA.

LANDS SURVEYED BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, UNIT 3, PECAN ORCHARD SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, RECORDED IN MAP BOOK 11, PAGE 70, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA AND RUN THENCE NORTH 00°26'40" EAST, A DISTANCE OF 208.62 FEET TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE RUN SOUTH 89°33'46" EAST, A DISTANCE OF 313.06 FEET TO THE NORTHEAST CORNER OF SAID LOT 1 AND THE WEST RIGHT-OF-WAY OF STATE HIGHWAY 181; THENCE RUN SOUTH 00°26'40" WEST, ALONG THE WEST RIGHT-OF-WAY OF SAID ALABAMA HIGHWAY 181, A DISTANCE OF 171.63 FEET; THENCE RUN SOUTH 56°24'43" WEST, A DISTANCE OF 66.20 FEET TO THE NORTH RIGHT-OF-WAY OF WINDMILL ROAD; THENCE RUN NORTH 89°33'05" WEST, ALONG THE NORTH RIGHT-OF-WAY OF SAID WINDMILL ROAD, A DISTANCE OF 258.20 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 1.48 ACRES, MORE OR LESS, AND LIES IN SECTION 15, TOWNSHIP 6 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

A map of the property to be rezoned is attached as Exhibit A

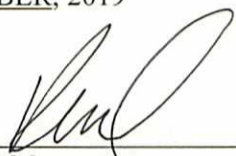
The property is hereby rezoned from R-2 Medium Density Single Family Residential District to B-4 Business and Professional District. This property shall hereafter be lawful to construct on such property any structures permitted by Ordinance No. 1253 and to use said premises for any use permitted or building sought to be erected on said property shall be in compliance with the building laws of the City of Fairhope and that any structure shall be approved by the Building Official of the City of Fairhope and that any structure be erected only in compliance with such laws, including the requirements of Ordinance No. 1253.

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Severability Clause - if any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Effective Date – This ordinance shall take effect immediately upon its due adoption and publication as required by law.

ADOPTED THIS 9TH DAY OF SEPTEMBER, 2019

  
\_\_\_\_\_  
Karin Wilson, Mayor

ATTEST:

  
\_\_\_\_\_  
Lisa Hanks,  
City Clerk

Ord. No. 1655 Published in  
FAIRHOPE COURIER  
on Wednesday, September 25, 2019  
Lisa Hanks City Clerk

DATE SURVEYED	
SHEET NO. 1 OF 1	
PROJECT NO.	
PROJECT NAME	
CITY OR TOWN AND COUNTY	
OWNER'S NAME	

**DeWberry**  
**PROVISIONS INVESTMENT, LLC**  
 BOUNDARY AND TOPOGRAPHIC SURVEY

**PROFESSIONAL LAND SURVEYOR**  
 No. 74143  
 State of Alabama

DATE: 4-09-2019  
 TIME: 11:00 AM  
 LOCATION: [unclear]  
 SCALE: 1" = 200'

STATE OF ALABAMA  
 COUNTY OF BALDWIN

**SURVEYOR'S CERTIFICATE:**

I, the undersigned, a duly licensed Professional Land Surveyor of the State of Alabama, hereby certify that this map is a true and correct representation of the boundary and topographic survey of the property described herein, as shown by the original survey records, and that the same are in accordance with the laws and regulations of the State of Alabama.

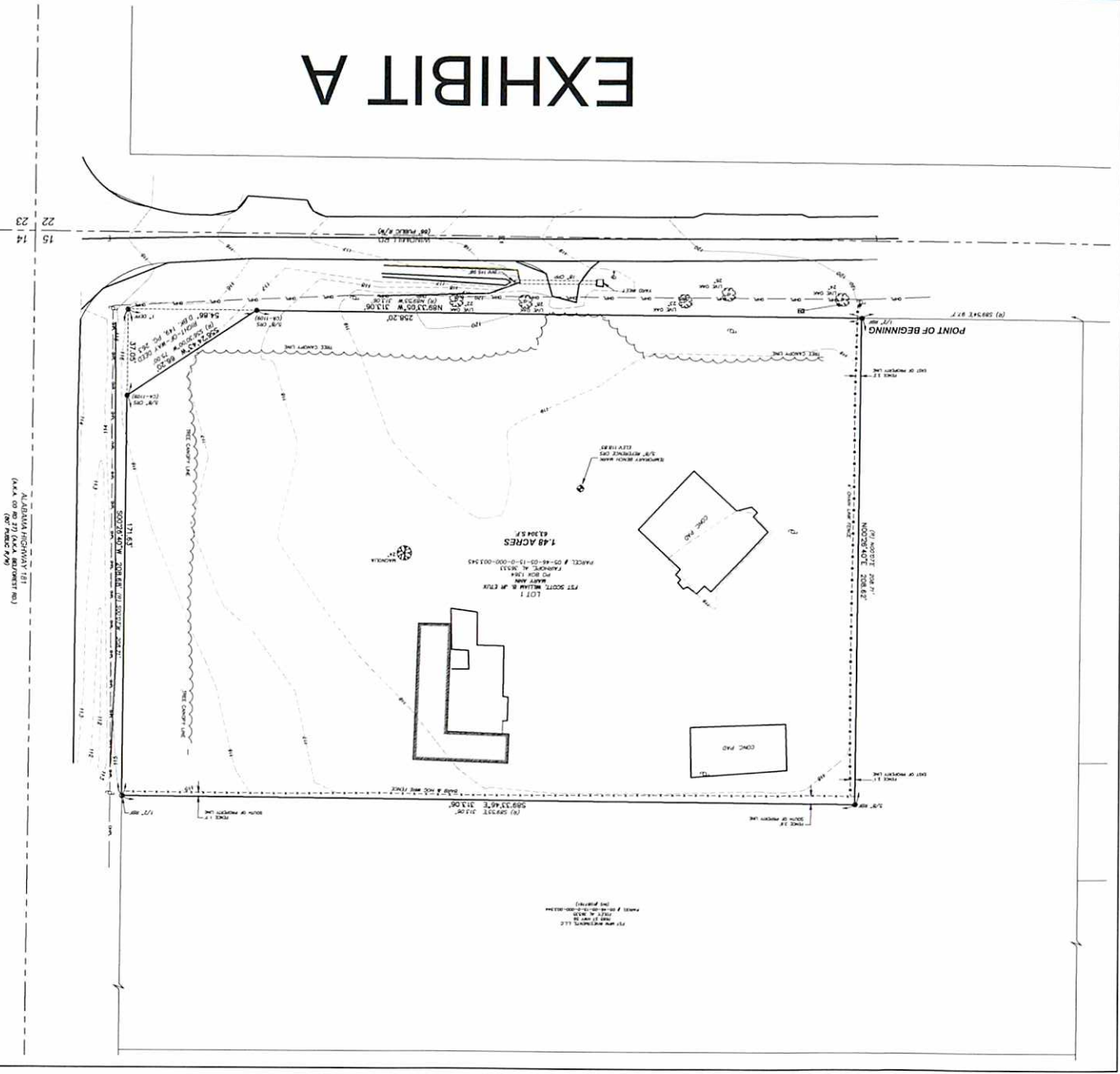
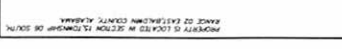
DATE: 4-09-2019  
 TIME: 11:00 AM  
 LOCATION: [unclear]  
 SCALE: 1" = 200'

**FLOOD CERTIFICATE:**

This property is located in a flood zone as shown on the Flood Insurance Rate Map (FIRM) for the State of Alabama, and is subject to flooding. The property owner is advised to consult with the local flood control authority for more information regarding flood insurance and flood damage prevention measures.

**SURVEYOR'S NOTES:**

1. This survey was made in accordance with the laws and regulations of the State of Alabama.
2. The boundary and topographic survey was conducted on the ground by the surveyor and his assistants.
3. The survey was made in accordance with the laws and regulations of the State of Alabama.
4. The boundary and topographic survey was conducted on the ground by the surveyor and his assistants.
5. The survey was made in accordance with the laws and regulations of the State of Alabama.
6. The boundary and topographic survey was conducted on the ground by the surveyor and his assistants.
7. The survey was made in accordance with the laws and regulations of the State of Alabama.
8. The boundary and topographic survey was conducted on the ground by the surveyor and his assistants.
9. The survey was made in accordance with the laws and regulations of the State of Alabama.
10. The boundary and topographic survey was conducted on the ground by the surveyor and his assistants.



# EXHIBIT A





# City Council

August 2019

Zoning Change

Case: ZC 19.10 9979 Windmill Road

**Project Name:**

9979 Windmill Road

**Project Type:**

Rezoning:

**R-2 Medium Density Single Family Residential District**

to

**B-4 Business and Professional District**

**Jurisdiction:**

Corporate Limits

**PPIN Number:**

77607

**General Location:**

Northwest corner of the intersection of St. Hwy 181 and Windmill Road

**Engineering Firm:**

S E Civil Engineering, LLC

**Owner:**

Provision Investments, LLC

**School District:**

Fairhope Elementary, Intermediate, Middle, and High School

**Staff Recommendation:**

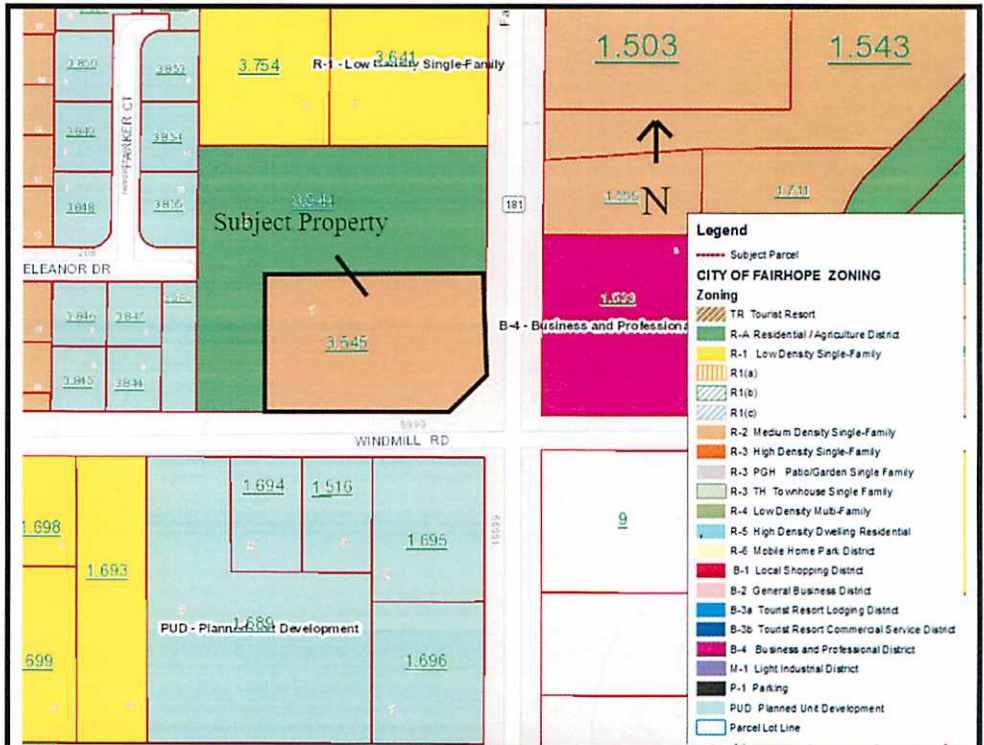
Approve

**PC Recommendation:**

Approve

**Prepared by:**

Mike Jeffries, QCI  
City Planner



**Summary of Request:**

Public hearing to consider the request of Provision Investments, LLC to rezone property from R-2 Medium Density Single Family Residential District to B-4 Business and Professional District. The property is located at the northwest corner of the intersection of State Highway 181 and Windmill Road.

**Comments:**

The subject property is approximately 1.48 acres in size. The subject property is zoned R-2 (Medium Density Single-Family Residential).

***R-2 Medium Density Single-Family Residential District: This district is intended as a medium density single family urban residential district, with lots of moderate size.***

Article III. C. Dimension Standards

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by principle structure	Max. height
			Front	Rear	Side	Street side		
R-2	10,500 s.f./ -	75'	35'	35'	10' <sup>b</sup>	20'	37%	30' <sup>a</sup>

The requested zoning for the subject property is B-4.

***B-4 Business and Professional District: This district is intended to provide opportunity for business establishments of a professional nature and is restricted to offices and businesses, which provide specific corporate functions or professional services to the general public.***

Article III. C. Dimensional Standards

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by principle structure	Max. height
			Front	Rear	Side	Street side		
B-4	None/ -	none	20'	20'	10'		30' <sup>i</sup>	



The allowable uses in the B-4 Business and Professional District are as follows:

Zoning District	
Uses Categories / Specific Uses	Y B
<b>Dwelling</b>	
Single-family	●
Two-family	
Townhouse	Ⓢ
Patio Home	
Multiple-family / Apartment	
Manufactured Home	
Mixed-use	●
Accessory Dwelling	Ⓢ
Estate	
<b>Civic</b>	
Elementary School	●
Secondary School	●
Education Facility	●
Library	●
Place of Worship	
Cemetery	
Hospital	○
Public Open Space	●
Common Open Space	●
Community Center or Club	
Public Utility (??)	
<b>Office</b>	
General	●
Professional	●
Home Occupation	Ⓢ
<b>Retail</b>	
Grocery	
Convenience Store	
General Merchandise	
Shopping Center	
Automobile Service Station	
Outdoor Sales Limited	
Outdoor Sales Lot	
Garden Center	

Service	Y B
Convalescent or Nursing Home	○
Clinic	
Outdoor Recreation Facility	○
Day Care	○
General Personal Services	
Mortuary or Funeral Home	○
Automobile Repair	
Indoor Recreation	
Dry Cleaner / Laundry	
Personal Storage	Ⓢ
Bed & Breakfast	
Hotel / Motel	
Boarding House or Dormitory	●
Recreational Vehicle Park	
Restaurant	
Bar	
Entertainment Venue	
Marina	
Kennel or Animal Hospital	
Warehouse	
Junk Yard or Salvage Yard	
<b>Manufacturing</b>	
Limited	○
Light	
General	
Food Processing	
<b>Rural</b>	
Agriculture	
Rural Market	
Plant Nursery	

- Permitted subject to general ordinance standards and conditions.
- Ⓢ Permitted subject to special conditions listed in the ordinance
- Permitted only on appeal and subject to special conditions



The surrounding properties are zoned as follows:

- North: R-A Residential/Agriculture District
- South: PUD, (with office use)
- East: B-4 Business and Professional District
- West: R-A Residential/Agriculture District

Other zoning designations within the immediate vicinity include: R-2 and R-1 (Low Density Single-Family Residential District). The southeast corner of the intersection predominantly unzoned Baldwin County.

**Site Photos:**



View of the subject property from the northeast corner of HWY 181/Windmill Road

**Current businesses in the area:** The businesses in the general area include a restaurant (BILL-E's), personal storage units, law and business offices on the southwest corner of the intersection, business office on the northeast corner of the intersection and surrounding residential properties R-1, R-2 and R-A.

**Zoning History:** Just south of Wal-Mart, a parcel was re-zoned to B-4 on February 23, 2014, for the purposes of a dental office, Advanced Dental Office. The site plan was approved in August 2015.

The property on the southwest corner of Windmill Road was rezoned PUD (Moorehaven PUD) in 2003. The PUD was initially addressed as an informal review and received positive feedback from Planning Commission. According to the minutes from Planning Commission meeting regarding this development, multi-family and only B-4 uses will be allowed. The PUD approved included a gravel parking lot, two offices on front and 7 duplex units in the rear. The two office buildings were required to have a 2-sided front so the back of the building did not face Windmill Road. The building height was limited to a maximum building height of 30 feet measured as defined in the Zoning Ordinance. The Lot coverage was limited as follows: Lot 1 impervious area to be 13.2%. Lot 2 impervious area to be 13.1%. Duplex lot impervious area to be 17.8%. The application passed unanimously through Planning Commission on September 2, 2003 and through City Council on Monday October 13, 2003.

Another PUD, Ellington Place was located at Parker Court, near Eleanor Drive. This PUD was approved in August 2003. It is a residential PUD with reduced setbacks and a higher building footprint than typically allowed in an R-2 residential zone. Discussion in the staff cover letter states that the "Density allowed at this location may not be a bad buffer from the impacts of 27, if it develops residentially or commercially." The original PUD (approved on September 22, 2003) was proposed with storm water injection wells. ADEM would not approve this method of handling storm water so the applicant came back before Planning and Zoning in 2004 for a PUD amendment change to alter the layout of the subdivision to reduce the number of lots, and to move the storm water pond to the common area. The PUD amendment was passed through Planning Commission on October 11, 2004.

**Fairhope Comprehensive Plan Guidance:** The subject property is located between the Fairhope Avenue/Hwy 181 Village Node and the commercial node at Twin Beech Road and Hwy 181. The property is located approximately one-quarter of the way between Walmart (Hwy 181 Village Node) and the commercial node at the intersection of Twin Beech Road and Highway 181. Highway 181 is a classified as a minor arterial road. There are currently commercial activities on three of the existing street corners. The Implementation Matrix on page 48 of the Comprehensive plan supports approval of commercial growth that is contiguous to existing commercial activity, thereby eliminating leapfrog commercial development. The subject property is being proposed as B-4 zoning which is contiguous to an existing B-4 commercial parcel and business PUD, which would not present any leapfrog commercial development. Therefore, the application is consistent with the Comprehensive Plan.

**Staff Recommendation:**

Staff recommends approval of the rezoning from R-2 Medium Density Single Family Residential District to B-4 Business and Professional District.

**Planning Commission Recommendation:**

The Planning Commission of the City of Fairhope, at its July 1, 2019 regular meeting, recommended **APPROVAL** of the rezoning from R-2 Medium Density Single Family Residential District to B-4 Business and Professional District with the following vote: AYE – Art Dyas, Rebecca Bryant, Harry Kohler, Lee Turner, Hollie MacKellar, Richard Peterson, Clarice Hall-Black, and Robert Brown. NAY – none.