

**ORDINANCE NO. 1733**

**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 **Anthony Tkac and Kristin Kalmbacher** is generally located **at the east terminus of Gaston Avenue and on the east side of South Section Street, at 211 South Section Street**, Fairhope, Alabama.

**PPIN #: 41038**

**Legal Description: (Case number ZC 21.11)**

Lots 10 & 11, H.C. Oswalt Subdivision as per plat recorded in Map Book 1, page 42, Probate Records of Baldwin County, Alabama, being part of SW ¼ of SW ¼ of Section 17, Dinsmore Survey, 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-4 Low Density Multi-Family Residential District to R-3 TH High Density Single-Family Townhouse Residential 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.


**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.

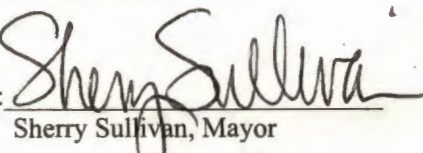
Adopted and approved this 15th day of November, 2021.


By:   
James Reid Conyers, Jr.,  
Council President

Attest:

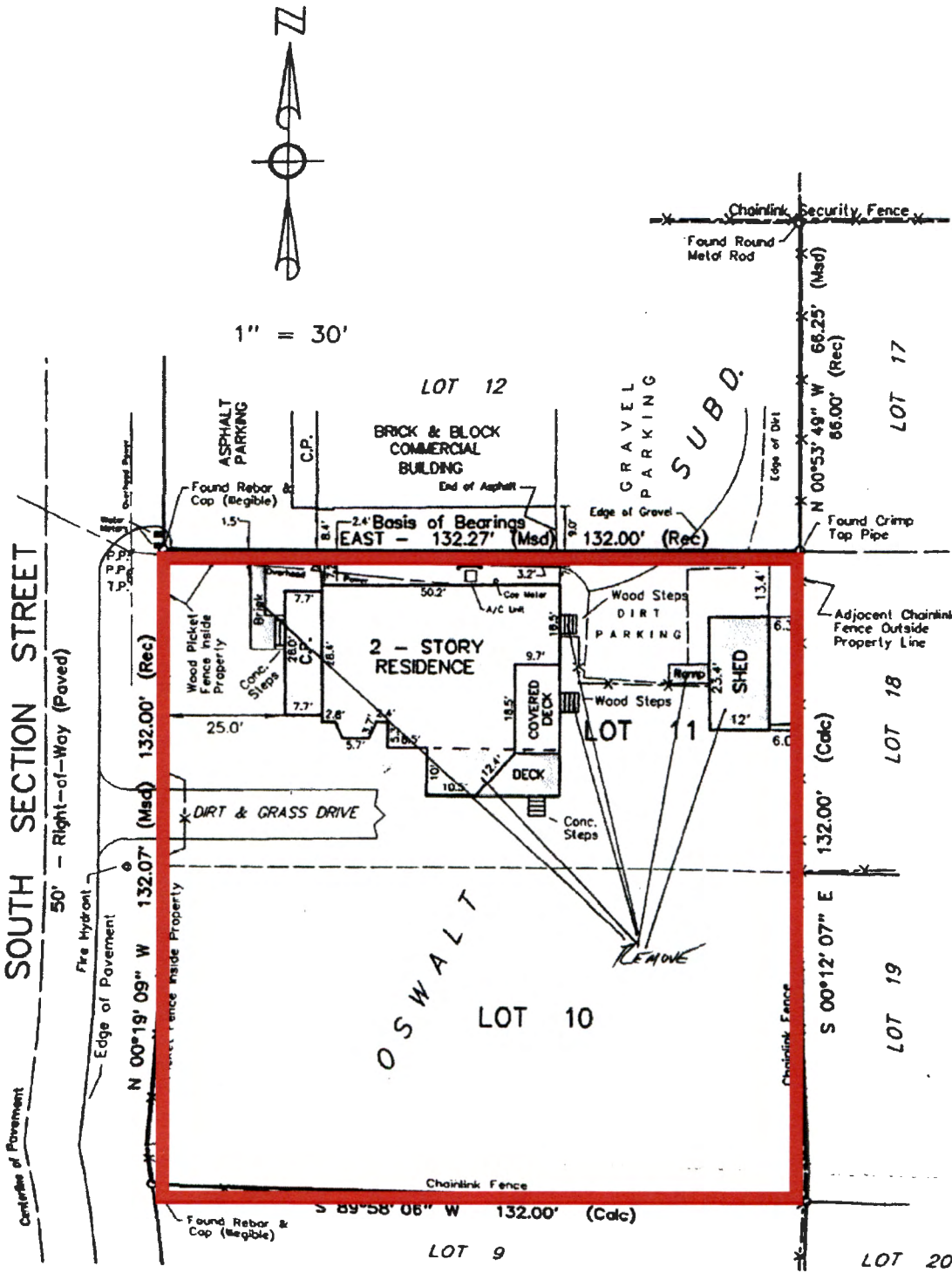
By:   
Lisa A. Hanks, MMC  
City Clerk

Adopted and approved this 15th day of November, 2021.

By:   
Sherry Sullivan, Mayor

Ord. No. 1733 Published in  
FAIRHOPE COURIER  
on Friday, November 16, 2021  
  
City Clerk

# Exhibit A



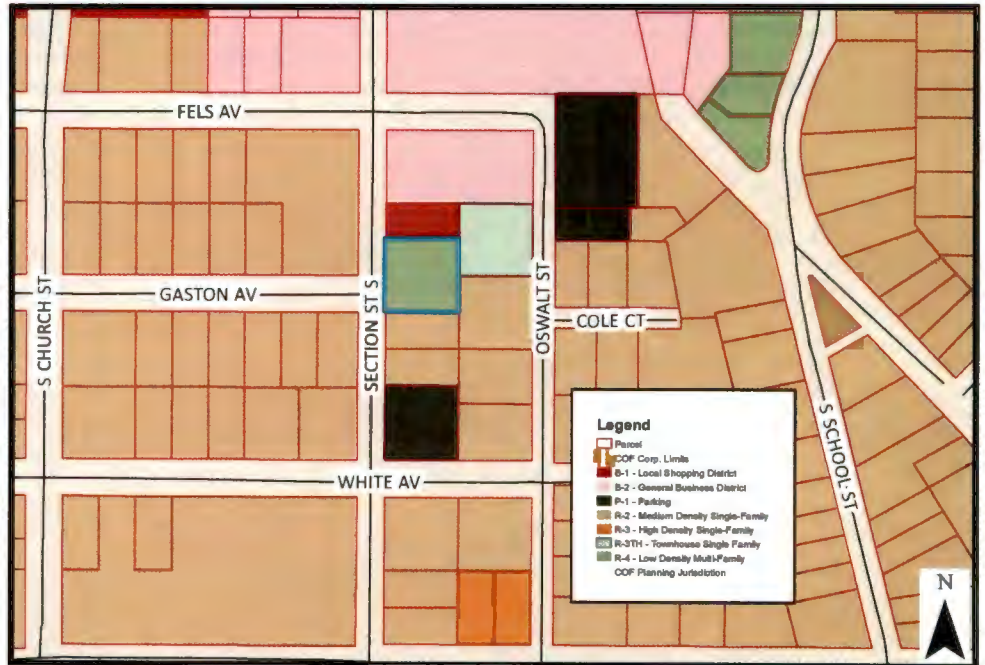
# City of Fairhope City Council

October 25, 2021



Planning Commission unanimously (5 Ayes-0 Nays-1 Abstain) voted to recommend approval of ZC 21.11

## ZC 21.11 - 211 S. Section St.



**Project Name:**

211 S. Section Street

**Site Data:**

0.40 acres

**Project Type:**

Rezoning

**Jurisdiction:**

Fairhope Corporate Limits

**Zoning District:**

R-4 to R-3 TH

**PPIN Number:**

41038

**General Location:**

East terminus of Gaston Ave. and on the east side of S. Section St.

**Surveyor of Record:**

**Engineer of Record:**

**Owner / Developer:**

Anthony Tkac and Kristin Kalmbacher

**School District:**

Fairhope Elementary School  
Fairhope Middle and High Schools

**Recommendation:**

Approval

**Prepared by:**

Samara Walley



*Kalubacher*

**APPLICATION FOR ZONING DISTRICT CHANGE**

**Property Owner / Leaseholder Information**

Name: *Anthony TRAC & Kristin Kalubacher* Phone Number: \_\_\_\_\_  
Street Address: *211 S. Section St, Fairhope*  
City: *Fairhope* State: *AL* Zip: *36532*

**Applicant / Agent Information**

*If different from above.*

*Notarized letter from property owner is required if an agent is used for representation.*

Name: *Roy F. Davis* Phone Number: *251-422-6000*  
Street Address: *2320 U.S. Highway 90, Suite A 5*  
City: *Fairhope* State: *AL* Zip: *36532*

Current Zoning of Property: *R 4*  
Proposed Zoning/Use of the Property: *R 3 TH Townhomes*  
Property Address: *211 S. Section - Fairhope*  
Parcel Number: *46-03-37-0-008-012-000*  
Property Legal Description: *lots 10 & 11 LLC owned subdivision*  
Reason for Zoning Change: *Site Plan*

Property Map Attached  YES  NO  
Metes and Bounds Description Attached  YES  NO  
Names and Address of all Real Property Owners within 300 Feet of Above Described Property Attached.  YES  NO

Character of Improvements to the Property and Approximate Construction Date: *9/21 - Rehab of existing house - add two (2) additional townhomes. Approx 2500 sq' each*

Zoning Fee Calculation:  
**Reference: Ordinance 1269**

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. \*If property is owned by Fairhope Single Tax Corp, an authorized Single Tax representative shall sign this application.

*Roy F. Davis - Agent*  
Property Owner/Leaseholder Printed Name

*[Signature]*  
Signature  
Fairhope Single Tax Corp. (If Applicable)

*06/22/21*  
Date

**RECEIVED**

**JUL 27 2021**

BY: *AK*

**Summary of Request:**

The applicant, Craig Dyas, is requesting to rezone the subject property from R-4 Low Density Multi-Family Residential District to R-3 TH High Density Single-Family Townhouse Residential District. The property is approximately 0.40 acres and is located at the east terminus of Gaston Avenue and on the east side of South Section Street, at 211 S. Section Street.

The applicant has provided a narrative to justify their request. They state the following:

*“It is the desire of the petitioner/developer to rezone the referenced property from R-4, Low Density Multi-Family Residential District to R-3TH High Density Single Family Townhouse Residential District for the just reason as the title portrays; single family v. multi- family. Petitioner produced the same product adjacent to the east of the subject property with a ‘rezoning’ petition from R-2 to R3-TH in approximately 2003/4, the subsequent development having made a nice compliment to the neighborhood for it was much like the current neighborhood re: zoning and use.*

*Petitioner wishes to restore the existing original ‘Fairhope’ townhome to current market conditions and construct two (2) additional townhomes of approximately 2000sq. ft – 2500 sq. ft. with elevations drawn to complement the existing ‘Fairhope’ architecture on the adjacent structure. The proposed site plan is included in this package and will be very close to the site plan developed in the 2003/4 at 204 Oswalt. The footprint of each new structure will be approximately 25’ x 50’ with ancillary appendages as a front porch and rear car shelter with the structure will likely being two (2) stories.*

*The benefit of changing the zoning as requested is primarily the reduced front setback from 30 feet to 20 feet. This will not only allow for the structures to set closer to the sidewalk (which developer intends to construct) but will allow for a comfortable placement of the car shelters onto the two (2) new townhomes. Further, this will allow for the keeping of a rapidly vanishing indigenous architecture (old Fairhope) in addition to placing two (2) new families to support the church district as well as the central business district, very probably by foot.*

*Lastly, to retain the space as developer agrees to develop it, developer proposes to deed restrict the proposed zoning perpetually via deed restriction so that no future real estate philosopher will have the ability to change use or density.*

*We appreciate the consideration of the both the Planning and Zoning Commission as well as the Fairhope City Council.”*

The above narrative was submitted by the applicant explaining the plans for future development if the subject property is rezoned.

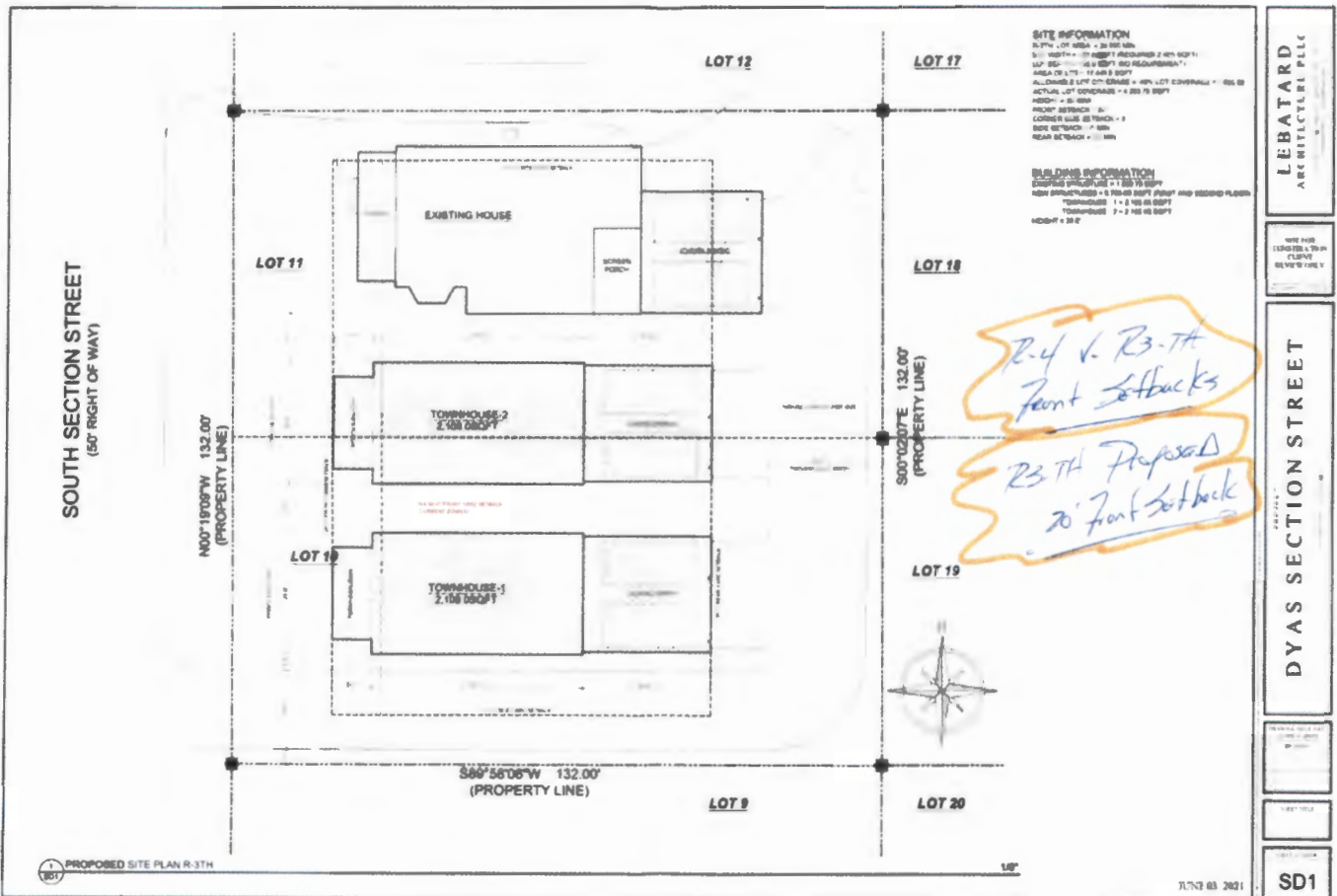
**Comments:**

The subject property is bounded to the North by B-1, Local Shopping District, to the West (across South Section Street), East and South by R-2, Medium Density Single Family Residential District and to the Northeast by R-3TH High Density Single-Family Townhouse Residential District.

The Zoning Ordinance defines R-3 TH High Density Single-Family Townhouse Residential District as follows:

"R-3 TH High Density Single-Family Townhouse Residential District: This district is intended to provide areas exclusively for the development of town houses on a high-density basis where no side yards are required."

The applicant submitted a site plan along with the application. It should be noted that this is not a site plan review, and a potential approval of the rezoning case does not constitute the approval of the site plan submitted with this application. Staff has, however, reviewed the site plan and has determined that the plan does not meet R-3 TH standards and would therefore require revisions prior to the issuance of a building permit.



An administrative replat will be required to create one lot. Additionally, a Multiple Occupancy Project (MOP) approval will be required for 3 units on one lot. The MOP process takes in consideration greenspace requirements and design standards.

**Criteria – The application shall be reviewed based on the following criteria:**

**(1) Compliance with the Comprehensive Plan;**

**Response:** It appears that the applicant has considered the overall density in the neighborhood, as addressed in the Comprehensive Plan. The applicant has also considered the overall character of the neighborhood. Specific calculations are not addressed during the rezoning request but may be further reviewed should the applicant request MOP approval.

***(2) Compliance with the standards, goals, and intent of this ordinance;***

**Response:** As stated by the applicant, the Zoning Ordinance allows for a reduced setback in an R-3TH zoning district. This would not otherwise be allowed in the current R-4 zoning classification. Staff finds that the applicant has taken a consideration to the surrounding properties when making the request for R-3 TH zoning.

***(3) The character of the surrounding property, including any pending development activity;***

**Response:** There is a variety of adjacent zoning types. The applicant has cited the adjacent property to the East as a precedent for the development on the subject property.

***(4) Adequacy of public infrastructure to support the proposed development;***

**Response:** Infrastructure was not addressed in this application. It should be noted that additional approvals will be required prior to any site work.

***(5) Impacts on natural resources, including existing conditions and ongoing post-development conditions;***

**Response:** Staff is unaware of any known natural features present on the site. Additional information will be required prior to any site work.

***(6) Compliance with other laws and regulations of the City;***

**Response:** There is no development proposed at this time. At the time of any redevelopment all applicable laws of the City will be applied.

***(7) Compliance with other applicable laws and regulations of other jurisdictions;***

**Response:** At the time of a redevelopment all applicable laws will be applied.

***(8) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values; and,***

**Response:** Staff cannot anticipate any significant issues relating to this criterion at this time. Buffers and landscaping may be required per the Zoning Ordinance. It is also important to note that if the property is recommended for approval by Planning Commission and approved by City Council, it is possible that there will not be another public hearing. Building permits would be reviewed by Staff prior to any construction.

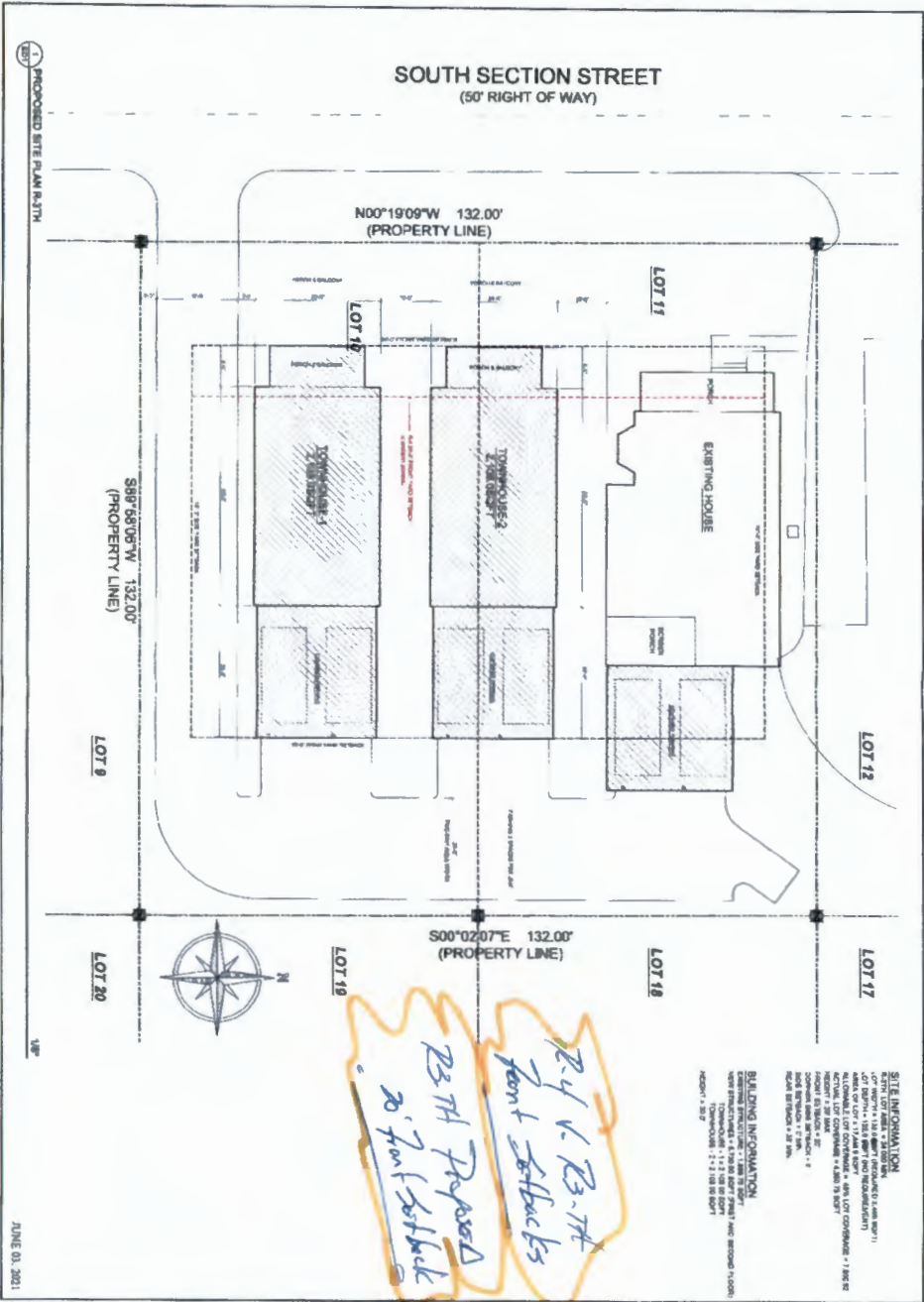
***(9) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.***

**Response:** Staff cannot not anticipate any significant issues relating to this criterion.

In conclusion, approval of the rezoning case does not constitute the approval of the site plan. If the applicant seeks to develop 3 units as shown on the site plan, an administrative replat will be required to create one lot so that no structure will be situated across a lot line. Additionally, MOP approval will be required for the proposed 3 units on one lot.

**Recommendation:**

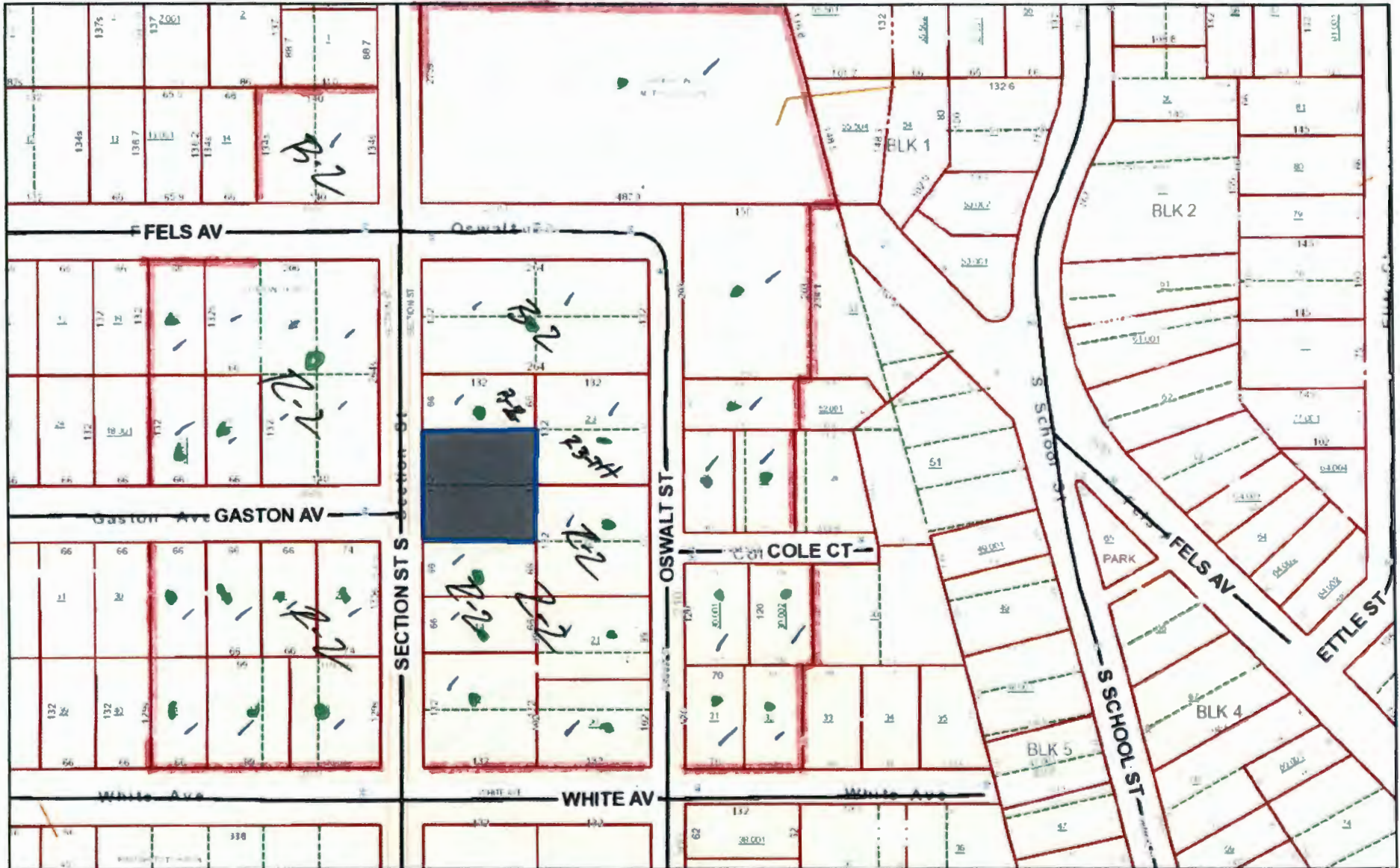
Staff recommends **APPROVAL** for Case: ZC 21.11 rezoning from R-4, Low Density Multi-Family Residential District to R-3 TH, High Density Single Family Townhouse Residential District.





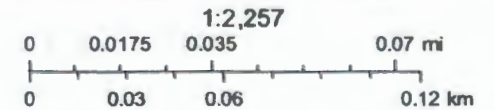


# 300' Map of 211 S. Section



June 18, 2021

- Misc
- Parcels
- Centerlines
- Coastal Control Line
- Lot Lines
- County Boundary



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand).

# DYAS, L.L.C.

COMMERCIAL REAL ESTATE & DEVELOPMENT

## MEMORANDUM

TO: Fairhope Planning & Zoning  
FROM: Craig F. Dyas,   
Date: 081021  
RE: Re-zoning Request of 211 S. Section, B.C. PPIN 41038

It is the desire of the petitioner/developer to rezone the referenced property from R-4, Low Density Multi-Family Residential District to R3-TH High Density Single-Family Townhouse Residential District for just the reason as the title portrays; single family v. multi-family. Petitioner produced the same product adjacent to the east of subject property with a 'rezoning' petition from R-2 to R3-TH in approximately 2003/4, the subsequent development having made a nice compliment to the neighborhood for it was much like the current neighborhood re: zoning and use.

Petitioner wishes to restore the existing original 'Fairhope' townhome to current market conditions and construct two (2) additional townhomes of approximately 2000sq. ft. – 2500 sq. ft. with elevations drawn to *compliment* the existing 'Fairhope' architecture on the adjacent structure. The proposed site plan is included in this package and will be very close to the site plan developed in 2003/4 at 204 Oswalt. The footprint of each new structure will be approximately 25' x 50' with ancillary appendages as a front porch and rear car shelter with the structure will likely being two (2) stories.

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Lastly, to retain the space as developer agrees to develop it, developer proposes to deed restrict the proposed zoning perpetually via *deed restriction* so that no future real estate philosopher will have the ability to change use or density.

We appreciate the consideration of the both the Planning and Zoning Commission as well as the Fairhope City Council.

RECEIVED

JUL 27 2021

BY: alc

# AGENT AUTHORIZATION

This letter serves as authorization for Craig F. Dyas, DYAS Development, L.L.C., to represent me/us (Owners) in the petitioning of the City of Fairhope for the change of zoning of my/our property located at 211 S. Section Street & further described as:

PPIN - 41038

BC Tax Parcel # - 46-03-37-0-008-012.000

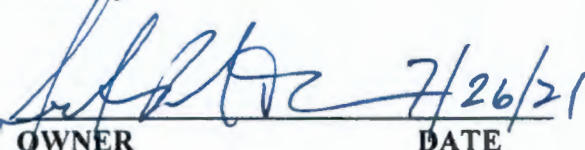
Legal - Lots 10 & 11, HC Oswalt Subdivision

Current Zoning - R4

Requested Zoning - R3 TH

You may contact me at any time with any questions.

Thank you.

	7/26/21	_____	_____
OWNER	DATE	OWNER	DATE

NOTARY

STATE OF ALABAMA \*

COUNTY OF BALDWIN \*

Subscribed and sworn to before me on this the 26<sup>th</sup> day of July 2021 ~~June, 2021~~

  
NOTARY PUBLIC

My Commission Expires:  
March 23, 2025



**CERTIFICATION OF PROPERTY OWNER NOTIFICATION LIST**  
As Required by the City of Fairhope

Hearings on Zoning Change applications require notification to all property owners within 300 feet of the property under consideration for the change. This list must be the most current property owners' records available from the Baldwin County Revenue Office.

By signing below, I [Signature] (applicant) do hereby certify that the property owner list attached to this application was obtained from the Baldwin County Revenue Office and is a complete list of all real property owners/lessees within 300 feet of the parcel submitted for consideration by the Planning & Zoning Commission.

[Signature]  
Signature of Applicant or Authorized Agent

062221  
Date of Application

RECEIVED  
JUL 27 2021  
BY: dk

PROPERTY OWNER NOTIFICATION LIST for . . .

REZONING REQUEST FOR: 211 S. Section Street  
 BC TAX PARCEL #: 46-03-37-0-008-012.000

R4 - R3 TH

PPIN	PARCEL #	OWNER	ADDRESS	CITY	STATE	ZIP
1	12784	46-03-37-0-008-009.000	Fairhope United Methodist Church	155 S. Section St.	Fairhope	AL 36532
	3351	46-03-37-0-008-024.000	"	"	"	"
	37378	46-03-37-0-008-025.000	"	"	"	"
2	26238	46-03-37-0-008-027.000	Robert & Sandra McGough	453 Cole Ct.	"	"
3	10651	46-03-37-0-008-026.000	Liisa Flourney	P.O. Box 2162	"	36533
4	16338	46-03-37-0-008-030.002	Joyce R. Jones	454 Cole Ct.	"	36532
5	6851	46-03-37-0-008-030.001	Kara L. Haley	452 Cole Ct.	"	"
6	31558	46-03-37-0-008-032.000	Lori D. Leff	415 White Ave.	"	"
7	14177	46-03-37-0-008-031.000	John R. & Linda Brock	122 Confederate Dr.	Sp Ft.	36527
	44508	46-03-37-0-008-021.000	" " "	" " "	"	"
8	37895	46-03-37-0-008-020.000	James & Karen Morris	P.O. Box 426	Industry	TX 78944
9	22296	46-03-37-0-008-022.000	Daniel & Beth Maute	311 Gayfer Ct.	Fairhope	AL 36532
10	47401	46-03-37-0-008-023.000	204 Oswalt Condo Assoc	204 Oswalt	"	"
11	69983	46-03-37-0-008-010.000	South Central Bell Telephone Co.	P.O. Box 7207	Bedminster	NJ 7921
12	41037	46-03-37-0-008-011.000	Andreas Properties, L.L.C.	211 S. Section St.	Fairhope	AL 36532
13	41036	46-03-37-0-008-013.000	Michael & Evely Reinhart	251 S. Section St.	"	"
14	44507	46-03-37-0-008-014.000	Will D. Carlton, Sr.	255 S. Section St.	"	"
15	44126	46-03-37-0-008-015.000	First Baptist Church of Fairhope	300 S. Section St.	"	"
	40323	46-03-37-0-009-043.000	" " " " " "	" " " "	"	"
16	17347	46-03-37-0-009-042.000	E. Anne Crosby	313 White Ave	"	"
17	8104	46-03-37-0-009-041.000	Ronald & Deborah Wynne	P.O. Box 338	Gulf Breeze	FL 32562
18	18845	46-03-37-0-009-029.000	David & Jennifer Lawrence	4807 Washington Blvd.	Orange Beach	AL 36561

19	40330	46-03-37-0-009-028.000	John P. Stapleton Trust	24361 Woodsage Dr.	Bonita Springs	FL	34134
20	13011	46-03-37-0-009-027.000	Raymond R. & Hilda Fletcher	P.O. Box 121	Fairhope	AL	36533
21	15734	46-03-37-0-009-026.000	Paul & Nancy Fontenot	252 S. Section St.	"	"	36532
22	39807	46-03-37-0-009-016.000	Redeemer Evangelical Lutheran Church	P.O. Box 411	"	"	36533
23	29773	46-03-37-0-009-025.000	Lee & Rebecca Erickson	361 Gaston	"	"	36532
24	28235	46-03-37-0-009-024.000	Michael T. & Nicole B. Boothe	359 Gaston	"	"	"
25	41379	46-03-37-0-009-017.000	Debra L. Murray	825 Guy Lee Lake Rd.	Rainbow City	AL	35906
26	28221	46-03-37-0-009-015.000	Rambo, Inc.	152 S. Setion St.	Fairhope	AL	36532