

PLANNING COMMISSION

AGENDA REQUEST

TO: HONORABLE CHAIRMAN & MEMBERS OF THE PLANNING COMMISSION

THROUGH: Elliot Kampert, Director

FROM: Planning & Development Review Staff

SUBJECT: 400710-BCC-2016 and 400711-BCC-2016, Request for plan amendment and rezoning, Ed Cox Motor Company

DATE: July 14, 2016

BCC DISTRICT: (2) Commissioner Ketchel

PLANNING COMMISSION DISTRICT: (2) Larry Patrick

PUBLIC HEARING: Consideration of a request changing the use of land submitted by CPH, Inc. as agent for Ed Cox Motor Company, Inc. relating to property located along Middle Drive between South Avenue and First Avenue , Fort Walton Beach. The request is to change the Comprehensive Plan Future Land Use Map (FLUM) designation for the property from **Low Density Residential** to **Commercial (C)**, or a more restrictive FLUM designation. If the FLUM amendment is approved, request to rezone the property from **Residential - 1 (R-1)** district to **General Commercial (C-3)** district, or a more restrictive zoning district. Property contains 2.67 acres, more or less. ***THIS ITEM WAS CONTINUED FROM THE JUNE 9, 2016 MEETING.***

STAFF FINDINGS:

- The property involved consists of residential lots platted as part of the Bayview residential subdivision which was recorded in 1940. Based on the Parcel ID numbers and deeds provided in the application the subject property consists of Lots 11 through 19, Block 6.
- The applicants are requesting the changes for the expressed purpose of building a Wal-Mart Neighborhood Market.
- The requested change would enable a broad range of intense commercial uses which would not be limited to the expressed purpose of a neighborhood market.
- Attachment E 1990 FLUM shows a commercial FLUM designation for the subject property. Further research indicates this to be incorrect. The Future Land Use Map series apparently adopted as part of the 1990 comprehensive plan (Ord. No. 90-1) clearly shows a public alleyway to be the dividing line between the “Commercial” and “Residential” FLUM categories (Attachment J). This is further reflected in the original zoning map adopted in 1974 (Ord. No. 74-4) as well as the zoning map series from February, 1989 which also shows the alleyway as the dividing line between commercial and residential

zoning districts. Thus, the alleyway appears to be the well-established dividing line beginning with the original 1974 zoning ordinance.

- The applicant by separate request has asked the County to vacate the public alleyway.
- According to the deeds provided with the application Ed Cox Motor Company, Inc. acquired Lots 13 through 19 from Danny and Sylvia Cox in February, 2016. The property had been zoned “Residential Urban Single” (RUS) from 1974 to 2010 when the RUS category was changed to “Residential-1” (R-1). RUS and R-1 are both single-family dwelling zoning districts. The current owner should have, or could have, been aware of the property’s FLUM designation and zoning district with attendant residential restrictions prior to acquiring the property.
- The predominate land use pattern in this area is commercial fronting upon Eglin Parkway (SR 85) in the first tier of lots, then low density residential in the second tier of lots separated by a public alleyway. It is professionally accepted planning practice to designate properties fronting upon a major highway as commercial in a land use plan with separation from other designated uses using a readily identifiable feature such as a road or public alleyway.
- As shown aerial photos taken from Google Earth dating back to January, 1994 (Attachment K) very little has changed in the area from 1994 to 2016. Lots 11 through 19 appear to be the same as when originally subdivided into residential lots and are not peculiarly distinguishable or different from the other residential lots in the vicinity. There has been no natural or man-caused catastrophe to change the landscape, there have been no significant highway or infrastructure improvement projects, nor has there been any land use or zoning changes in the immediate vicinity. Unless facts are presented to the contrary, there is nothing to indicate that the property is unsuitable for single-family residential use in keeping with its existing FLUM and zoning classifications.
- The Comprehensive Plan, Administration Element, Policy 1.5 sets forth “governmental interests” the Plan is predicated upon and promotes, including the following.

Promote an orderly and logical pattern of land use and development.

Promote compatibility between land uses so as to avoid the potential for nuisances.

Protect viable residential areas and property values.

To the extent practicable, ensure that all persons have quiet use and enjoyment of their property.

- For the reasons stated herein, it is the staff opinion that: 1) the proposed FLUM amendment and rezoning does not promote an orderly and logical pattern of land uses appropriate to the area; 2) the requested action has the effect of introducing an incompatible commercial intrusion into a predominately single-family dwelling residential area, and; 3) the Commercial FLUM designation and C-3 zoning would allow a broad range of commercial activities that could have the potential to upset the integrity and residential character of the surrounding neighborhood which could diminish residents quiet use and enjoyment of their property.
- The Comprehensive Plan, Future Land Use Element, Policy 10.1, Table 1 expresses the purpose of the Low Density Residential future land use category as *To provide areas for the protection of residential neighborhoods and for future low density residential development.* Likewise, Subsection 2.03.02 of the Zoning Regulations states *The intent of the R-1 zoning district is to implement and to put into regulatory effect the provision of*

the “Low Density Residential” future land use category as established in the Comprehensive Plan.

- The Comprehensive Plan, Future Land Use Element sets forth policies regarding FLUM changes and rezonings as follow.

***Policy 4.4** Compatibility of adjacent zoning districts shall be considered during rezoning and land use plan amendments, considering potential maximum densities, intensities, and consistency of the potential land uses with surrounding districts, and the manner in which the land uses on the FLUM and zoning districts result in an appropriate transition of uses, densities, and intensities (also see Policy 10.13).*

***Policy 10.13** It is the intent of the County that the application of zoning districts for the implementation of the land use categories in this comprehensive plan provide for transition from more intense development to less intense development. Transition means that there is a gradual decrease in the allowable densities and intensities from one district to the next, with the most intense districts near municipal boundaries or areas of intense urban development. The consideration of the degree to which zoning districts accomplish transition between land uses shall be a part of the review process for land use plan amendments and changes to zoning.*

- The expressed intent of the Business-Office (C-1) zoning district is *The C-1 district is intended to implement and put into regulatory effect the provisions of the "commercial" future land use category. This district is further intended to provide transitional zoning between residential areas and more intense commercial uses.*
- It is staff opinion that maintaining the current LDR FLUM category and R-1 zoning is in furtherance of the governmental interests expressed in Administration Element, Policy 1.5, and the compatibility and transition statements expressed in Future Land Use Element, Policies 4.4 and 10.13. The requested C-3 zoning does not provide an adequate transition as stated in Policy 4.4 thereby increasing the potential for incompatibility nor does it provide for a transition form more intense development to less intense development as stated in Policy 10.13.

PUBLIC COMMENT/OPPOSITION: There have been emails, telephone calls and letters of opposition. Several local residents attended the June 9, 2016 meeting.

STAFF POSITION: Staff objects to the requested changes based upon the findings specified above. If it is decided to change the FLUM category to “Commercial” then it is staff opinion that the Business-Office (C-1) zoning district would be more appropriate than the requested “General Commercial” (C-3) zoning district. If the County denies the owner’s request for an amendment to the comprehensive plan which is applicable to the property of the owner, the local government must afford an opportunity to the owner for informal mediation or other alternative dispute resolution. The costs of the mediation or other alternative dispute resolution shall be borne equally by the County and the owner. If the owner requests mediation, the time for bringing a judicial action is tolled until the completion of the mediation or 120 days, whichever is earlier (ss.163.3181(4), Fla. Stat.).

BOARD OF COUNTY COMMISSIONERS HEARING: 6:30 P.M., or as soon thereafter on August 16, 2016 in the Commission meeting room, Okaloosa County Administration Complex - BCC Meeting Chambers 1250 Eglin Parkway North, Shalimar FL

RECOMMENDATION: It is recommended that the Board consider the facts presented herein, as well as any other facts that may be presented at the public hearing, and then make a recommendation to the Board of County Commissioners.

ATTACHMENTS:

- A – Location Map
- B – Aerial Photo
- C – Existing Land Use Map
- D – Future Land Use/Zoning Map
- E – 1990 FLUM
- F – Proposed Future Land Use/Zoning Map
- G – 1 Mile FLUM/Zoning Map
- H – Site Plan
- I – Opposition letters
- J – 1990 FLUM, 1974 and 1989 Zoning Map
- K – Google Earth Aerial Photos
- L – Bayview Subdivision

TJ/tj

GIS ANALYSIS RESULTS

Date: 5/17/2016

Project: 01-2S-24-0180-0006-0110/0130/0160/0180/0190

Permit: 400710-BCC-2016 & 400711-BCC-2016

Property Address: LOCATED ON MIDDLE DR SE, FWB FL 32547

Zoning: R-1

FLU: LDR

1990 FLU: C

Fire District: OCEAN CITY-WRIGHT **Commissioner District:** 2 **Census Tract:** 23300

Soil Type: 12 –Lakeland sand – 0 to 5% slope, excessively drained, permeability is rapid, the available water capacity is very slow, and runoff is slow.

27 – Urban Land – natural soil can not be observed

Wind Zone: GREATER THAN 150 IN THE WIND BORNE DEBRIS AREA

Flood Zone: X 500 Year Flood Plain **Map Number:** 12091CO 461H

Storm Surge Area: YES CAT 4 & 5

Urban Development Area: YES

Water Efficient Area: YES

Wells: None

Environmental Data: None

Historical Data: None

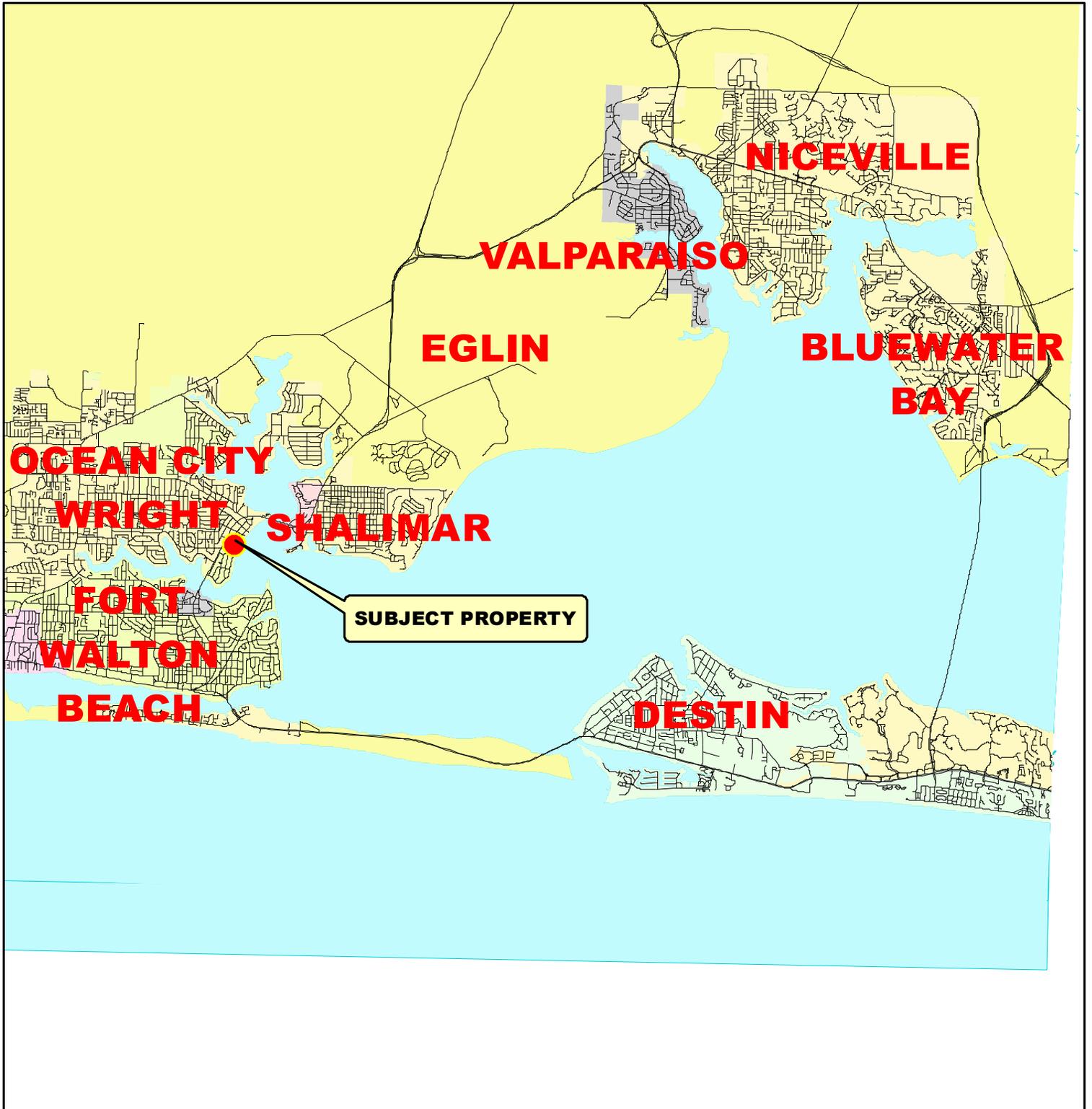
Wetlands: Uplands

Water and Sewer: OCWS

Within 3 mile of an Airport: NO

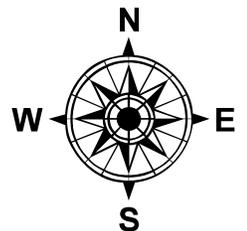
01-2S-24-0180-0006-0110/0130/0160/
0180/0190

ATTACHMENT - A



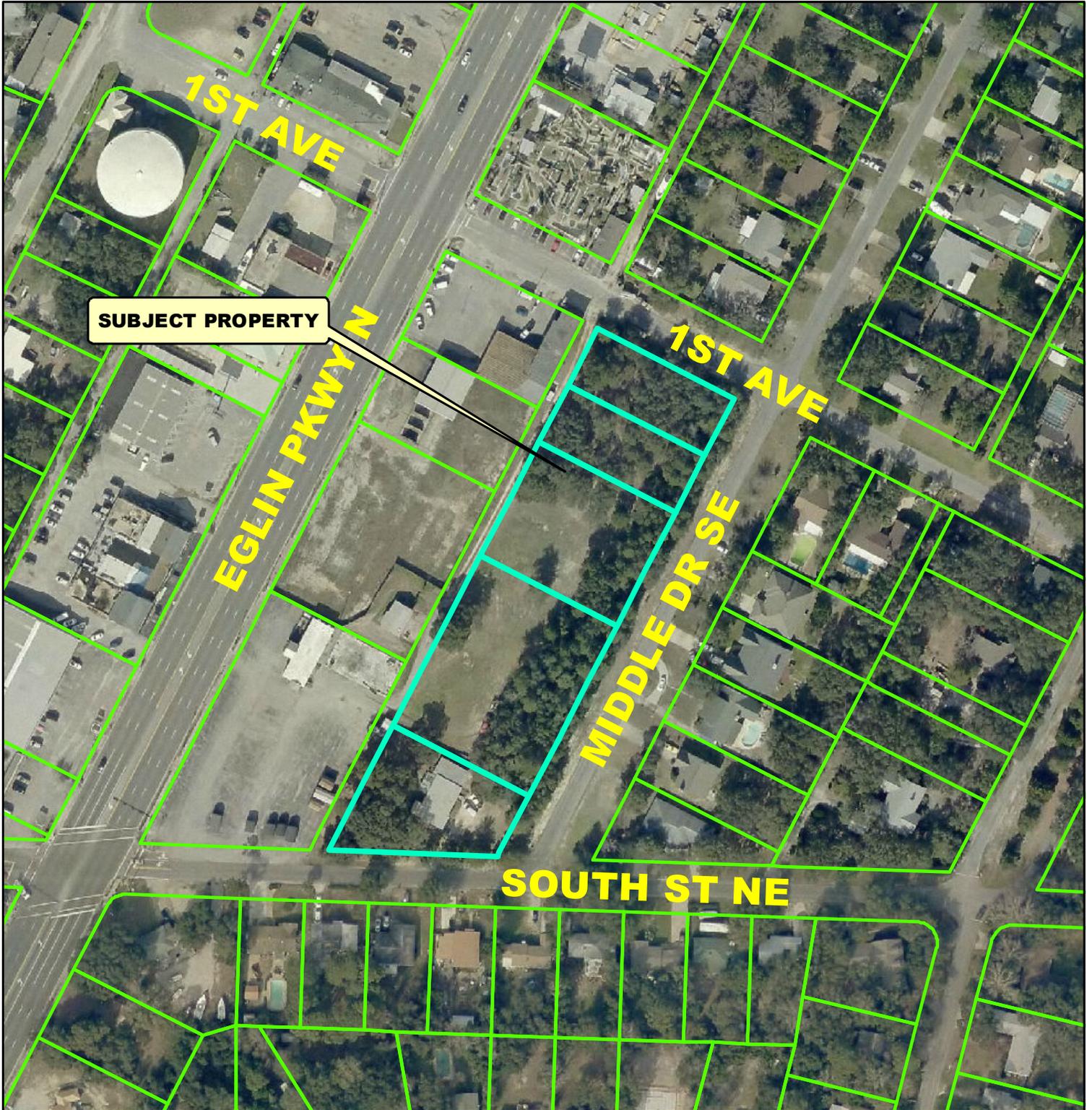
Legend

— Roads



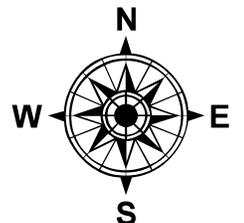
Location Map

01-2S-24-0180-0006-0110/0130/0160/
0180/0190 **ATTACHMENT - B**



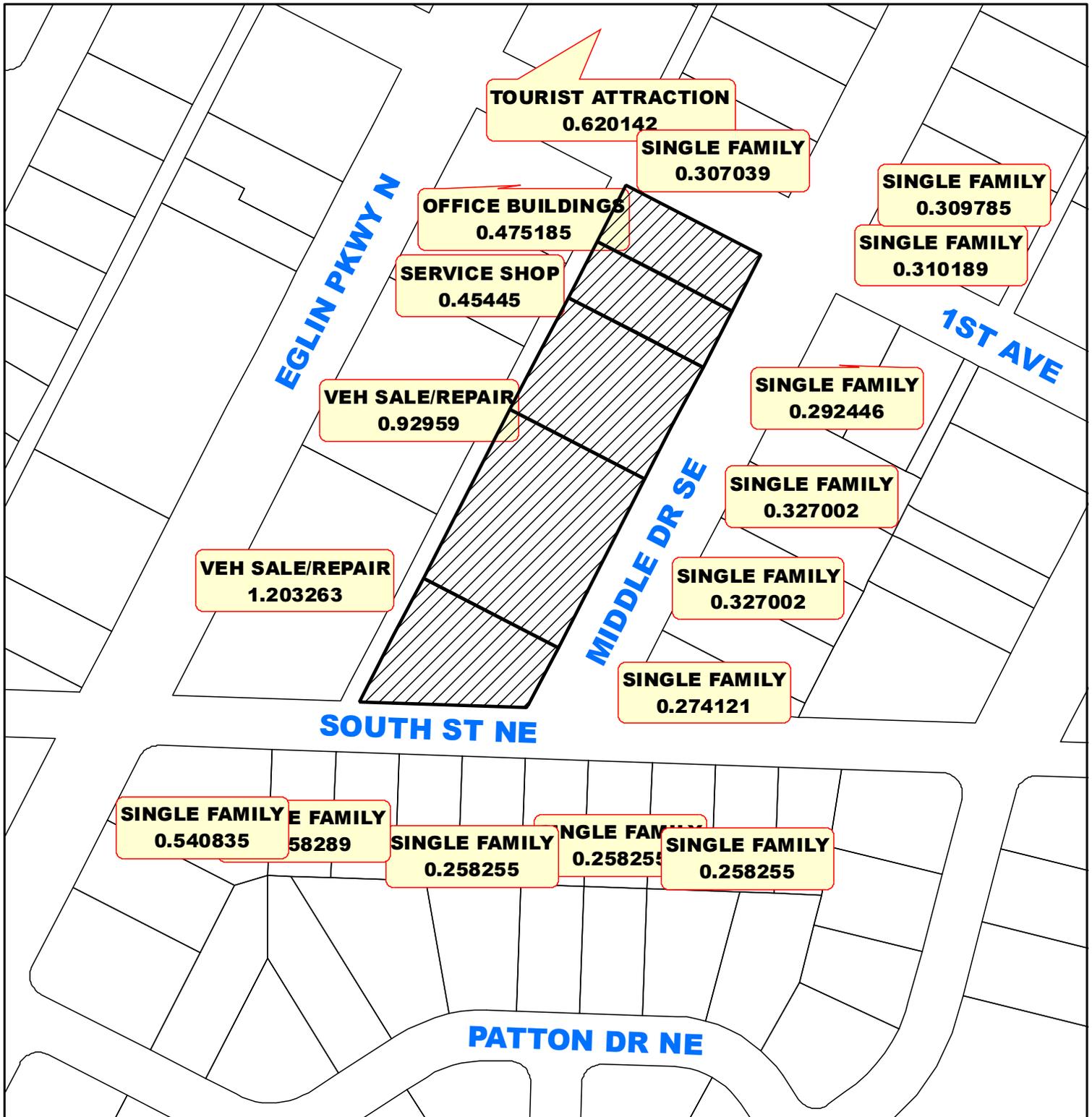
Legend

 Parcel Lines

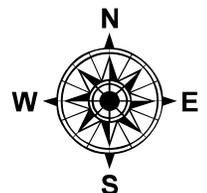


Aerial Photo

01-2S-24-0180-0006-0110/0130/0160/ 0180/0190 ATTACHMENT - C

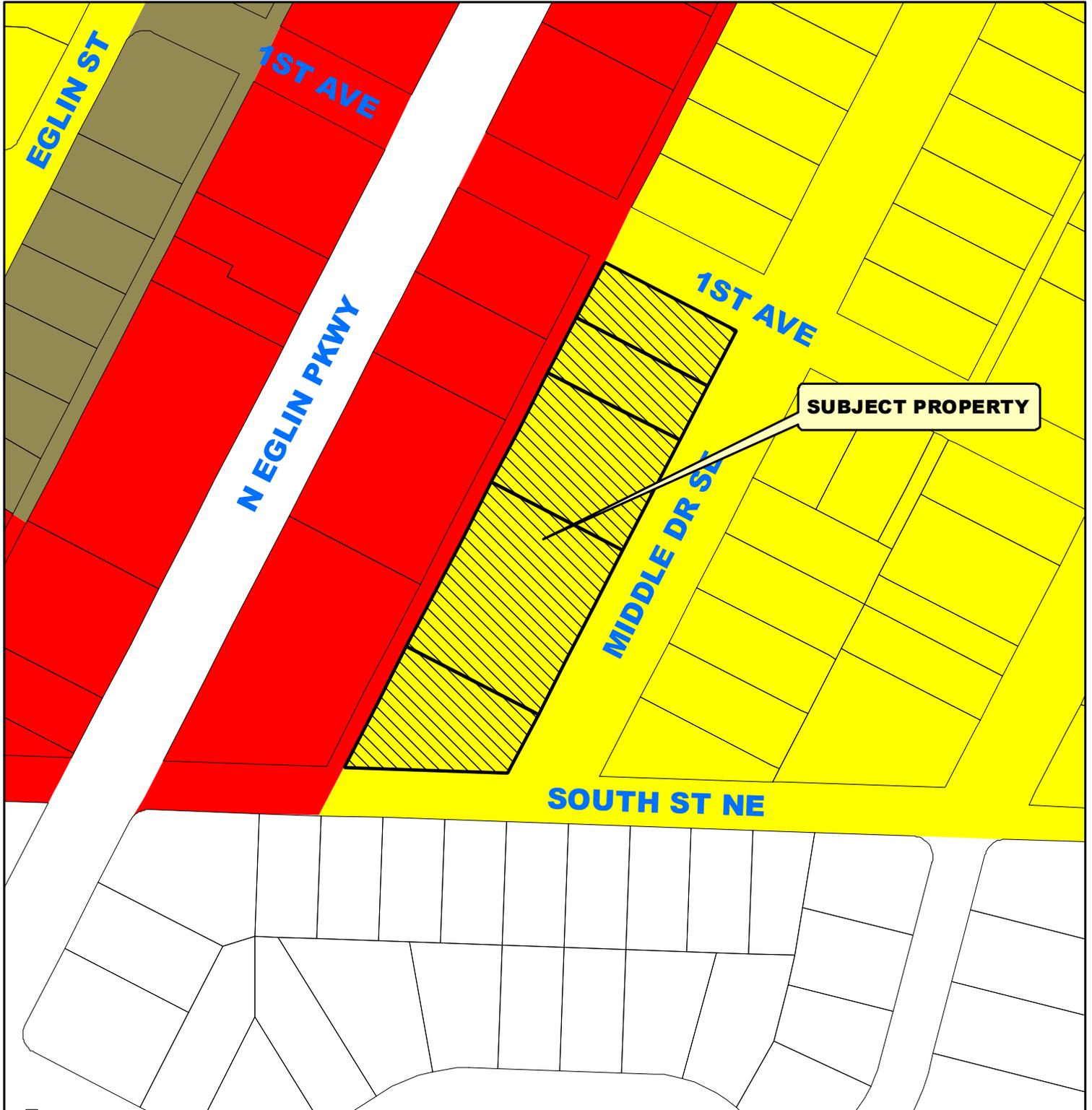


Existing Land Use Map



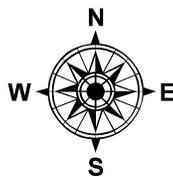
01-2S-24-0180-0006-0110/0130/0160/
0180/0190

ATTACHMENT - D



FLUM Legend

-  LDR
-  C

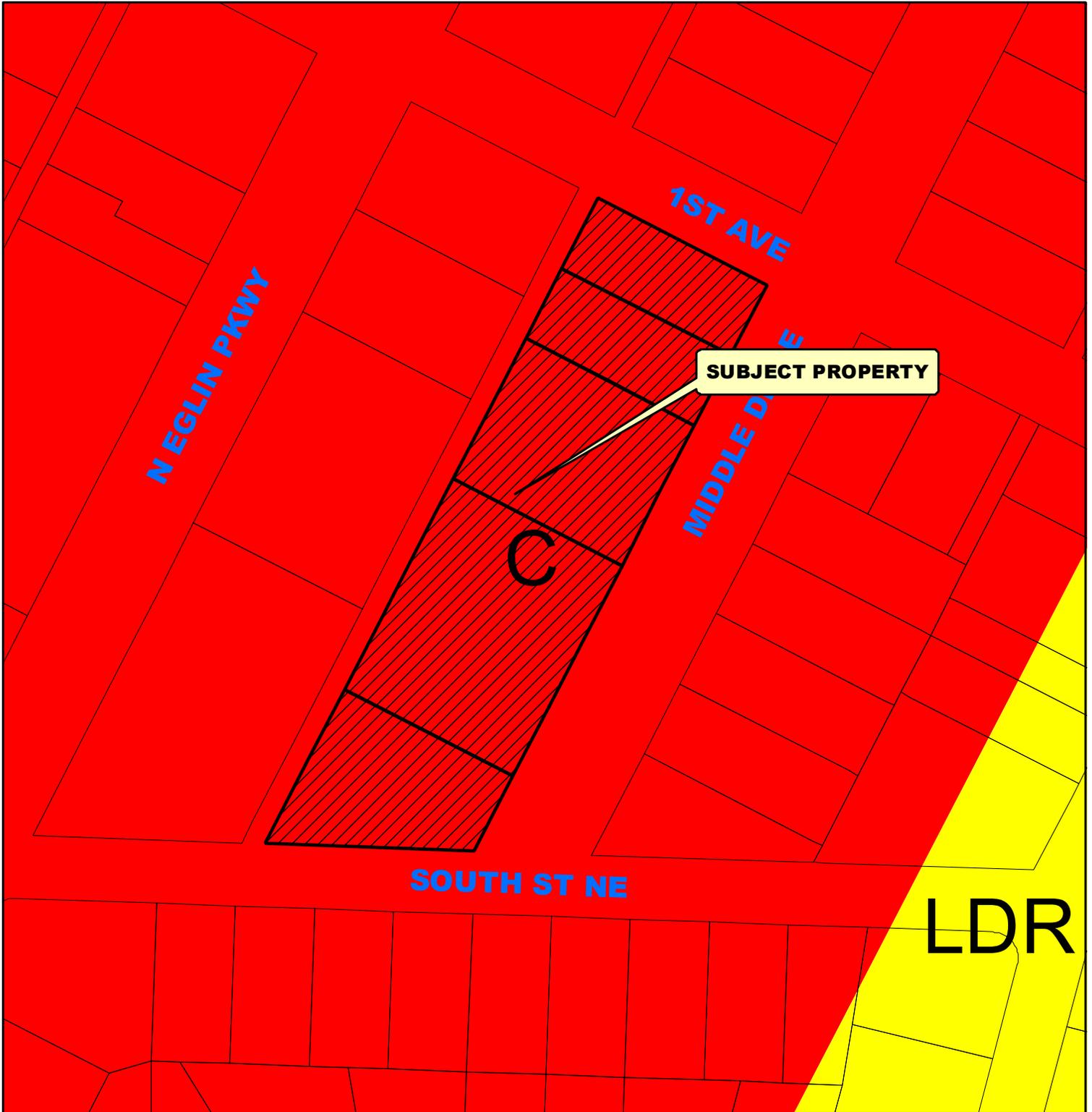


ZONE Legend

-  R-1
-  C-3

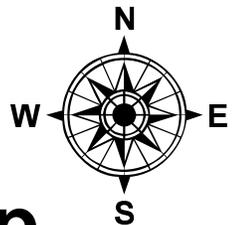
FLUM & Zoning Map

01-2S-24-0180-0006-0110/0130/0160/
0180/0190 ATTACHMENT - E

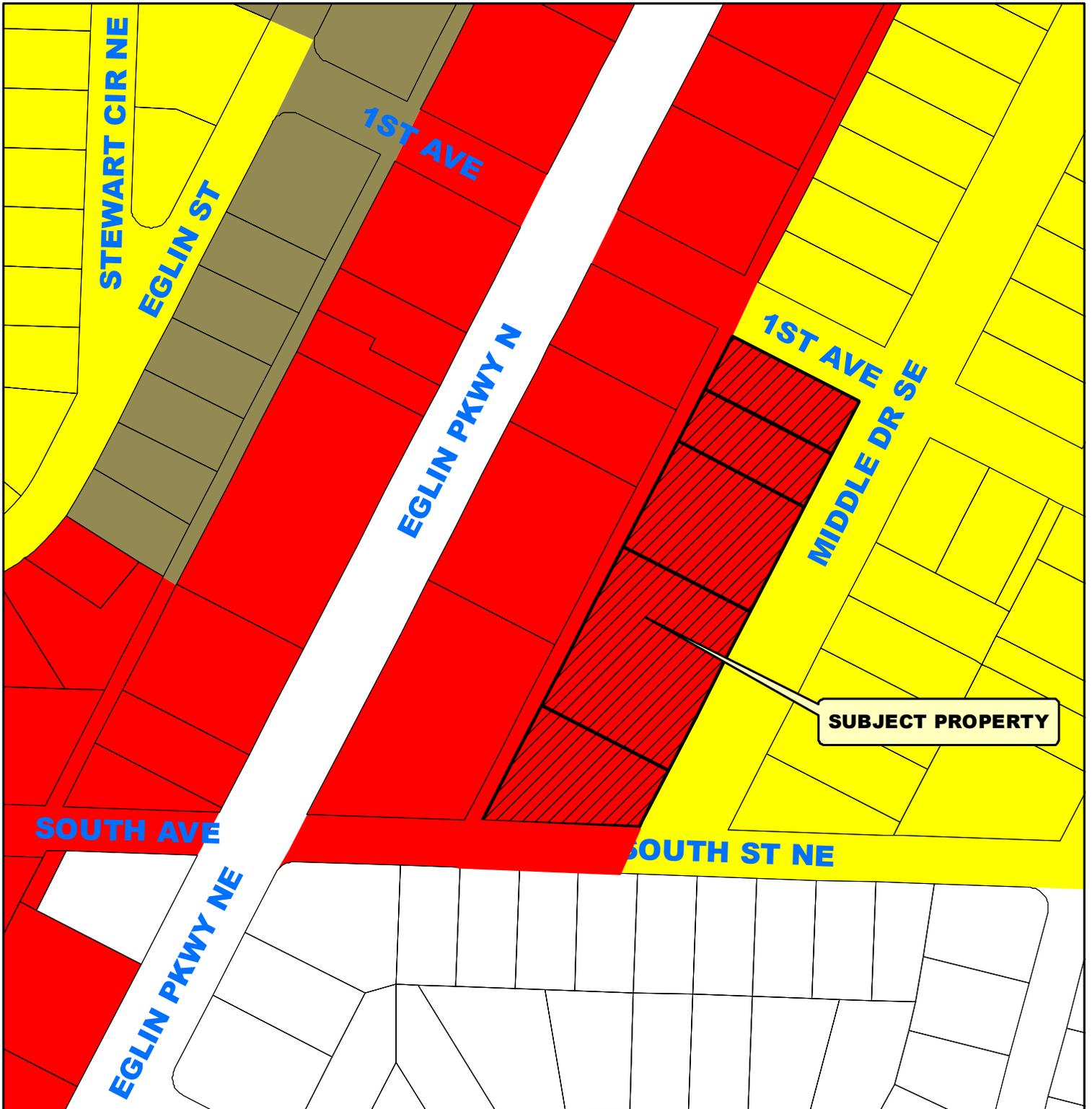


Legend

-  Commercial (C)
-  Low Density Residential (LDR)



Future 1990 Land Use Map

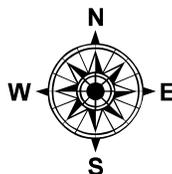


FLUM Legend

 C

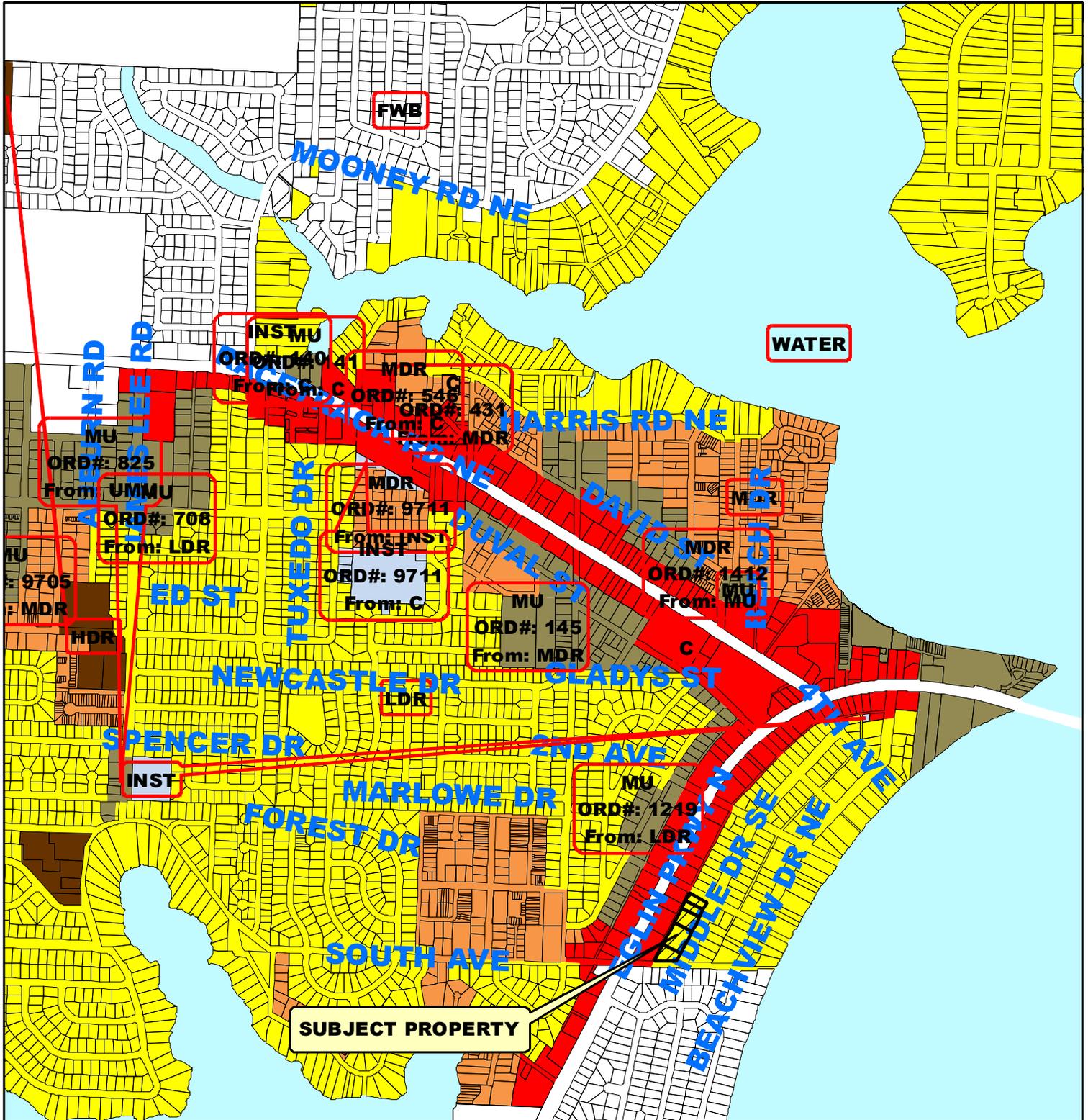
ZONE Legend

 C-3



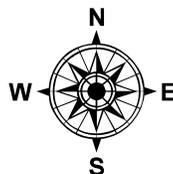
Proposed FLUM & Zoning Map

01-2S-24-0180-0006-0110/0130/0160/
 0180/0190 ATTACHMENT - G



FLUM Legend

- LDR
- MDR
- MU
- C

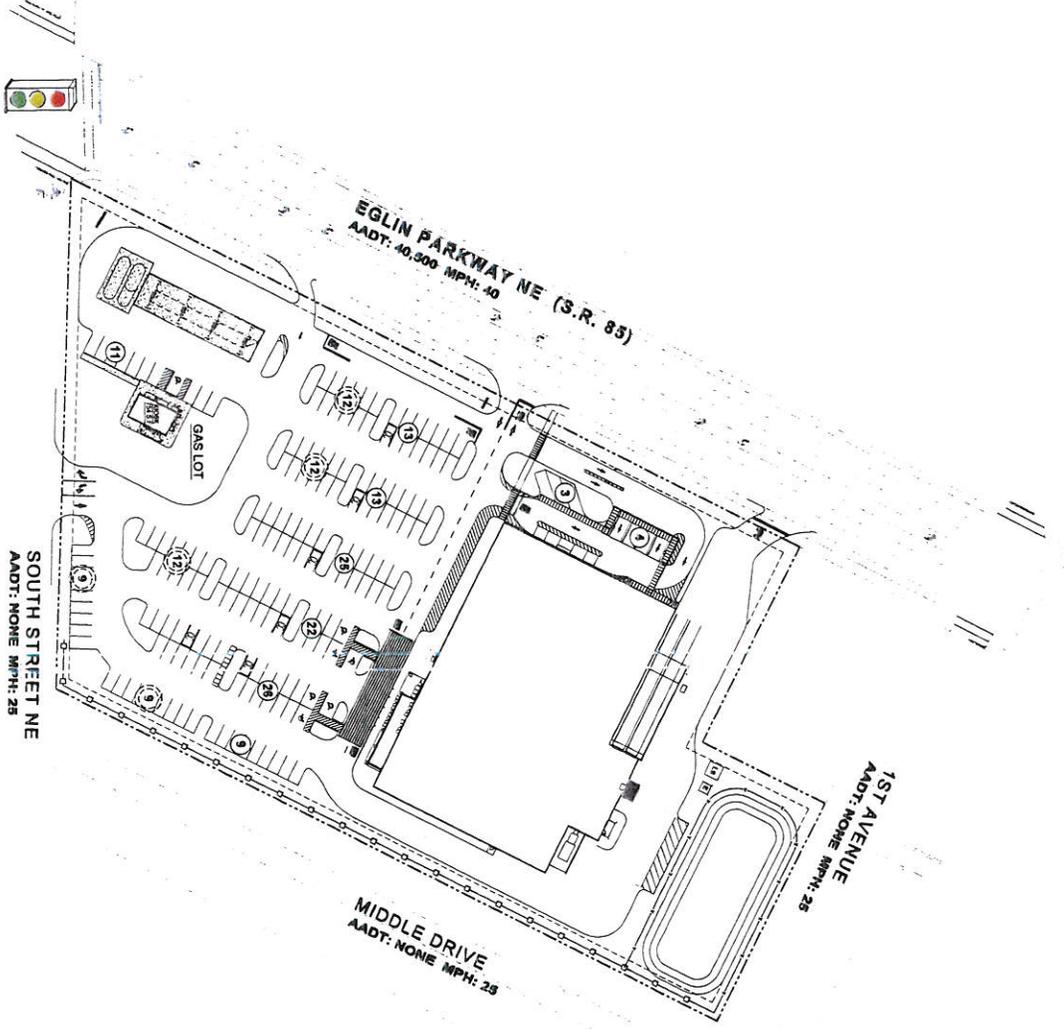


ZONE Legend

- R-1
- R-2
- MU
- C-3

1 Mile FLUM & Zoning Map

ATTACHMENT
H



REC-1A Sheet No.

Walmart
Neighborhood Market

**REC OVERALL CONCEPTUAL SITE PLAN
#85681 FT. WALTON (SE), FLORIDA**

Designed by	JCP
Drawn by	JCP
Checked by	JLT
Approved by	JLT
Scale	1" = 40'
Date	1/21/11
Job No.	W13000
©	2011

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Landscape Architecture
Civil Engineering
Surveying
Traffic Engineering
Urban Planning
Environmental
Construction Management

ATTACHMENT
I

Bayview Subdivision
Vs
Walmart in our neighborhood

Your neighbors are gathering to protest the development of a neighborhood Walmart that will infringe on our subdivision. The proposed design requires rezoning of block 6, lots 12 thru 19 within Bayview subdivision from single family residential to commercial. This has been attempted twice before and was denied both times at higher court levels. Without question our streets will effectively become travel corridors of significantly increased traffic on both Middle and Beachview Drive along with the increased use of tractor trailers coming and leaving the store.

Our representative within the county commission is aware of the issues this presents to us as a community, and agrees to stand with us as a subdivision in opposing this rezoning request.

To Planning Commission of Okaloosa County:

My name is Raymond McLeod and I live at 813 Middle Dr. across the street from the lots to be considered for rezoning. These lots are in the Bayview Subdivision and are subject to the Covenants, Restrictions, easements of record.

There is a single family home on one of the lots already. The owners have tried to rezone before and failed in a court of Law. There are many more reasons not to rezone these lots which you will here at the meetings.

So I say thanks And God Bless.

Raymond McLeod

813 Middle Dr.

FT. Walton Beach FL 32547

Also the parcel on the corner of 2nd Av. & Middle Dr. was Denied for rezoning in 2003. CEI No. 02-286

867-0858

However, I have been advised by County Legal Counsel that this matter is considered Quasi-Judicial and have been further advised not to engage in discussions about the matter outside of the context of a duly noticed public meeting.

Please understand that this in no way reflects any dismissal of your concerns or view point.

Instead, this is merely a procedural formality that must be observed.

Thank you,
Trey Goodwin

Sent from my iPhone

Please note: Due to Florida's very broad public records laws, most written communications to or from County employees regarding County business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

> On May 22, 2016, at 6:39 PM, Lloyd Moon <LSMoon2@cox.net> wrote:

>

> We have owned 1103 Beachview Dr NE, Fort Walton Beach since 1990. We do NOT want any portion of our subdivision rezoned for commercial use with respect to upcoming meetings to support a Walmart Neighborhood Market store in our subdivision.

>

> The long standing approval and legality of the Bayview Subdivision covenant has precedence in the Florida higher courts, rejecting previous attempts to rezone for commercial use.

>

> The neighborhood has met, discussed, and rejected the plan to rezone. We have signed a petition and will be at the 9 June and 19 July meetings.

>

> We do not want the increased higher speed traffic or truck traffic coming thru our neighborhoods on Beachview Dr or Middle Dr as a shortcut around the inevitable traffic congestion a Walmart Neighborhood Market would cause. This is a safety issue as most of Beachview and Middle drives are unlit at night and without sidewalks.

>

> Lloyd and Sandy Moon

> Homeowners

> 1103 Beachview Dr NE

> Fort Walton Beach

Moton H. Peterson Jr
1106 Middle Dr
Ft Walton Bch, FL
32547

TO: SEE DISTRIBUTION at end of letter
PLANNING

Dear Sirs,

This is to express my concerns on the requested zoning change in Bayview subdivision effecting Lots 11-~~20~~¹⁹ of block 6. It is my understanding that the owner of a large number of those lots is requesting a change from Residential Urban Single (RUS) to Commercial, to facilitate sale of the property to WALMART for the express purpose of building a grocery store.

I am strongly opposed to the proposed change and believe the zoning restrictions of RUS should remain in effect.

This is the third time that various owners of lots within the subdivision have requested a zoning change since I became a resident in the Bayview subdivision. Meetings and commission decisions at those time upheld the existing covenants substantiating the need to keep the Bayview subdivision as a residential/family friendly neighborhood.

As with other times, my concerns are in several areas:

Aesthetics. Placing a large scale grocery in the middle of a residential area would change the view of the neighborhood as one walks or drives through the area.

Property growth. I don't have the back ground knowledge or factors but I believe that putting a grocery store complex in the middle of a quiet residential area will decrease the growth of the value of surrounding residences. This could have a major impact on future resale values, and could also decrease the tax revenue for the county.

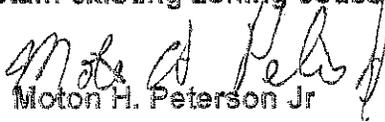
Safety. Currently, many of my neighbors, and myself, walk or jog through the neighborhood throughout the day and evening. The younger children ride bicycles, skate, and play on the sides of the street. Addition of the grocery store complex could increase traffic flow to the extent of endangering the pedestrian traffic or reducing the area in which one could safely travel on foot, bicycle or skate.

Potential crime increase. The increase in the number of vehicles parked in and around a large scale grocery store complex population within the neighborhood has the potential of increasing the crime rate.

While I don't have any factors in the crime and safety areas, I expect that various personnel will be wandering through the parking lot checking vehicles to find those unlocked, or break windows when they see something of potential value in one of the seats. Given that potential, the next step would be for them to simply walk the neighborhood stealing items from parked vehicles. We simply don't need that increase in crime rates in this neighborhood.

I intend to be at scheduled meetings on 9 June and 19 July.

Hoping that you retain existing zoning codes within Bayview subdivision.


Moton H. Peterson Jr

DISTRIBUTION:

Okaloosa County Planning & Inspection Dept., 1804 Lewis Turner Blvd, Suite 200
Ft Walton Bch, FL 32547

Commissioner Wayne R. Harris, District 1, wharris@co.okaloosa.fl.us

Commissioner Carolyn Ketchel, District 2, CKetchel@co.okaloosa.fl.us

Commissioner Nathan Boyles, District 3, nboyles@co.okaloosa.fl.us

Commissioner Trey Goodwin, District 4, tgoodwin@co.okaloosa.fl.us

Commissioner Kelly Windes, District 5, kwindes@co.okaloosa.fl.us

CF:

Madonna Capra – Bayview Subdivision

5/31/16

I am vehemently opposed to rezoning Block 6, Lots 12 thru 19 within Bayview subdivision from Single Family Residential to Commercial. This has been attempted twice before and was denied both times at higher court levels. Our entire subdivision is opposed to a Walmart or any other business trying to change our residential properties to commercial.

- CE: Wharris @ co. okaloosa .fl.us
- CKatje @ co. okaloosa .fl.us
- Nkayles @ co. okaloosa .fl.us
- + goodwin @ co. okaloosa .fl.us
- Kwinding @ co. okaloosa .fl.us

Mak Khan ; Linda Kulan 1107 Middle Dr
 Jennifer Mendez, Phil [unclear] 1140 Middle Dr

NO Commercial Property ^{we are residential!}
 W H North 1109 Middle Dr NO
 LeRoy Gordon 1102 Middle Dr No
 Thomas Hall 1101 Middle Dr NO
 Jackie Glover 1103 Middle Dr No
 Gary G. Brown " No

Terry Jernigan

From: Elliot Kampert
Sent: Monday, June 06, 2016 7:48 AM
To: Terry Jernigan
Subject: FW: Middle Drive Rezoning:

[For the file.](#)

[Elliot](#)

Please note: Due to Florida's very broad public records laws, most written communications to or from County employees regarding County business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

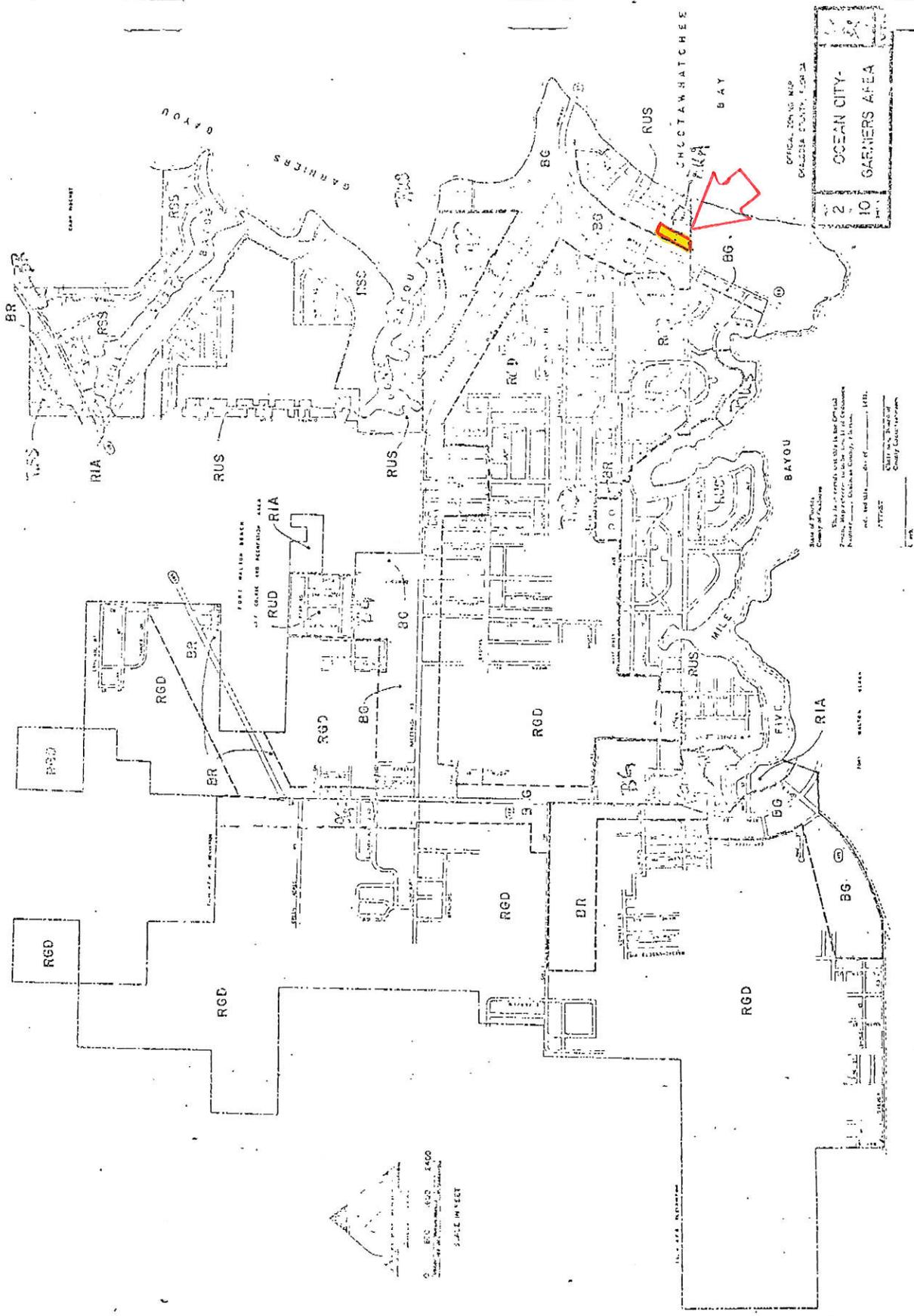
From: Raymond McLeod [mailto:raymcleod54@yahoo.com]
Sent: Saturday, June 04, 2016 9:48 AM
To: Elliot Kampert
Subject: Middle Drive Rezoning:

My name is Raymond McLeod and I live at 813 Middle Drive directly across from the Middle Drive lots in the Bayview Subdivision to be considered for Rezoning. I am very much against the Rezoning of the lots in our Subdivision

And anything else you can do will be greatly appreciated. Thank you

[Sent from Yahoo Mail on Android](#)

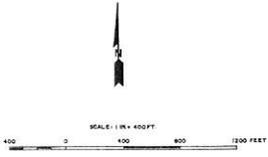
J





LEGEND

- AA AGRICULTURAL
- RSS RESIDENTIAL SUBURBAN
- RUS RESIDENTIAL URBAN SINGLE
- RUD RESIDENTIAL URBAN DUPLEX
- RIA RESIDENTIAL INTENSIVE APARTMENT
- RGD RESIDENTIAL GENERAL DEVELOPMENT
- SRMH SPECIAL RESIDENTIAL MOBILE HOME PARK
- BR BUSINESS RETAIL
- BG BUSINESS GENERAL
- BT BUSINESS TOURISM
- IP PROTECTED INDUSTRY
- PL PUBLIC LANDS
- RUA RESIDENTIAL URBAN APARTMENT
- CORPORATE LIMITS
- - - STATE BOUNDARY LINE
- - - COUNTY BOUNDARY LINE
- LAND SECTION NUMBER
- - - STATE FOREST BOUNDARY
- MILITARY RESERVATION BOUNDARY
- ROADS OR STREETS
- - - ZONE BOUNDARY
- AR AGRICULTURAL RESTRICTED
- SRMS SPECIAL RESIDENTIAL MOBILE HOME SUBDIVISION
- SBC SPECIAL BUSINESS
- SISU SPECIAL INDUSTRIAL



REVISIONS			
DATE	ORD. NO.	CHANGED	
		FROM	TO
5-26-83	83-12	RSD	R.I.A.
5-26-83	83-13	89	R.I.A.
8-7-84	84-22	89	RUS
8-7-84	84-23	RSD	RUS
8-11-85	85-25	RSD	R.G.
8-11-85	85-24	RSD	R.I.A.
7-8-86	86-24	RSD	R.I.A.
7-7-87	87-28	89	R.I.A.
9-18-90	90-37	RSD	R.G.
6-2-91	91-18	RSD	89
7-2-92	92-27	RSD/RG	89

NOTICE: Zoning Maps are subject to change. Verify any particular property zoning with current maps at the Zoning & Inspection Dept.

**ZONING MAP
OKALOOSA COUNTY FLORIDA**

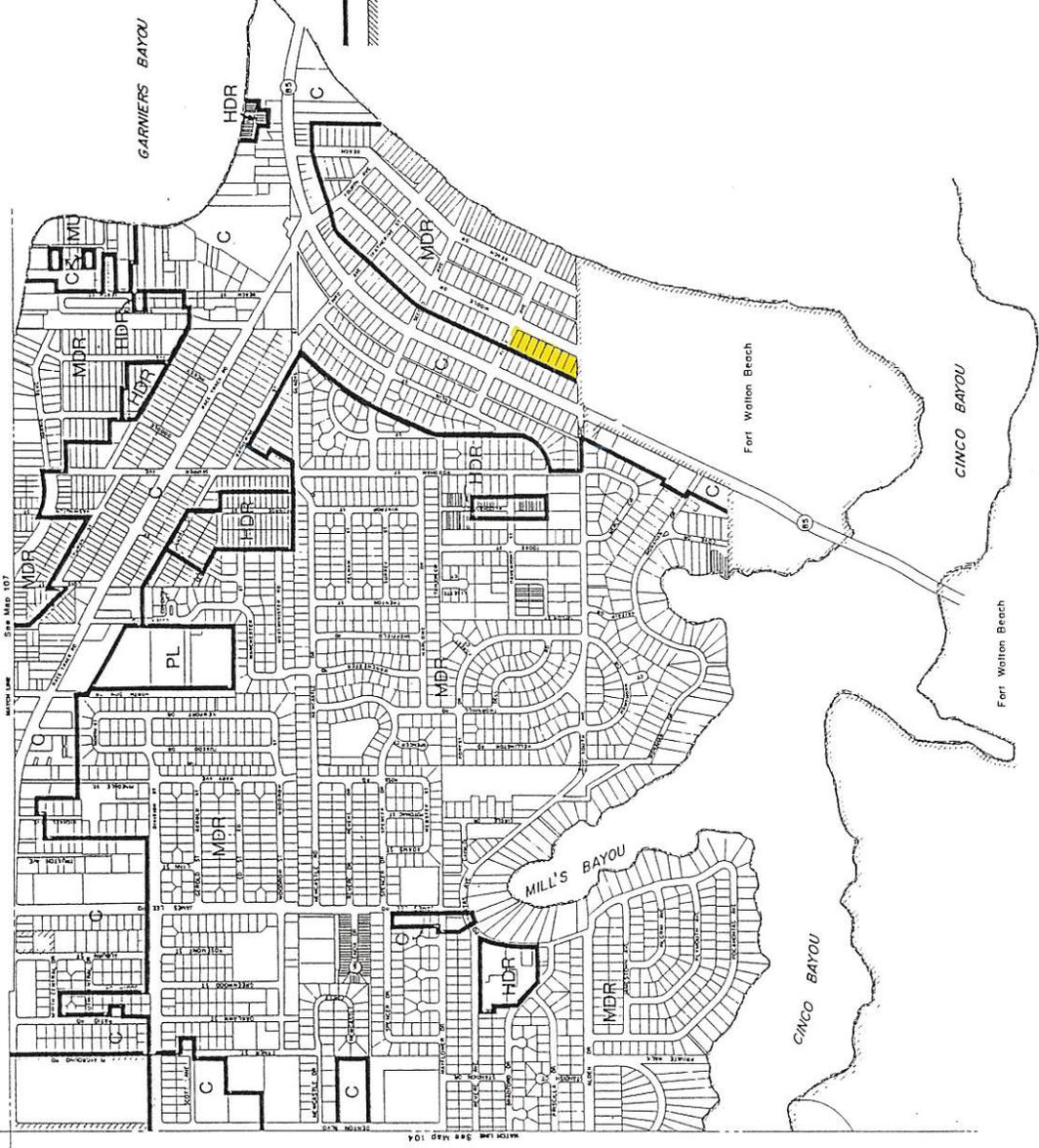
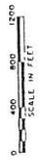
JULY 1982

NOTE:
MAP UPDATED AS OF FEBRUARY 2, 1999

REVISIONS	

LAND USE CATEGORIES

- RESIDENTIAL USE**
 - HDR
 - MDR
 - LDR
- COMMERCIAL USE**
 - C
- INDUSTRIAL USE**
 - I
- RECREATIONAL USE**
 - REC
- CONSERVATION**
 - CON
- MIXED USE**
 - MU
- PUBLIC LANDS**
 - PL



EXISTING LAND USE MAP
 No. 7-105 of 112 JANUARY 1990
 OKALOOSA COUNTY, FLORIDA
 UNINCORPORATED AREAS
 CENTRAL SUBAREA

THIS MAP IS FOR ILLUSTRATIVE PURPOSES ONLY.
 ACTUAL MEASUREMENTS SHOULD BE OBTAINED
 FROM APPROPRIATE GOVERNMENT SOURCES

BARRETT DAFFIN AND CARLAN INC.
 ARCHITECTS PLANNERS ENGINEERS SURVEYORS
 TALLAHASSEE PENNSACOLA



Google earth



1/8/1994

2/14/99



Google earth



2/14/1999

12/30/04



Google earth



12/30/2004

12/30/10



Google earth



12/30/2010

3/28/2013



Google earth



3/28/2013

