

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> November 18, 2014		<b>DATE SUBMITTED:</b> November 6, 2014	
<b>DEPARTMENT OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Randy Haynes	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consideration of an ordinance to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances, to change the zoning classification from Industrial District (I) to Commercial District (C-3) on 6.13 acres of land located at the north corner of State Highway 21 East and Marino Road, being Lots 8R and 9R in the Charles (Cal) Marino Land Partition, and currently addressed as 5943 and 6021 East State Highway 21 in Bryan, Brazos County, Texas.			
<b>SUMMARY STATEMENT:</b> The subject property is 6.13 acres in size and located at 5943 and 6021 East State Highway 21 at Marino Road. The property is currently vacant land, and was previously used as auto salvage yard. The applicant and current property owner, Mr. Sam Trinh, is requesting to change the zoning classification on these 6.13 acres of land from Industrial District (I) to Commercial District (C-3). The subject property was zoned A-O District when annexation occurred in the City of Bryan in 1999 and was rezoned to Industrial in 2004. Failure by the previous developer to provide adequate water volume and pressure for fire protection led to the property becoming vacant for several years. Mr. Trinh has agreed to extend an adequate waterline approximately one-half mile and dedicate it to Wickson Creek Special Utility District.			
The Industrial District is intended primarily for the conduct of heavy manufacturing, assembling and fabrication, and for large scale warehousing, wholesaling and service operations. The C-3 District is intended predominantly for heavy retail and commercial uses of a service nature that typically have operating characteristics or traffic service requirements generally compatible with typical retail for shopping, but generally not with residential environments.			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> During its regular meeting on November 6, 2014, the Planning and Zoning Commission concurred with staff and <u>unanimously recommended approving</u> this rezoning request.			
<ul style="list-style-type: none"> <li>• Commercial land use on these 6.13 acres appears to be appropriate at this particular location and in accordance with land use recommendations of the Comprehensive Plan.</li> <li>• The subject property lies in an area that has developed over time in a commercial manner.</li> <li>• The remaining vacant land surrounding the subject property will likely be best developed to accommodate commercial developments as well.</li> </ul>			
<b>OPTIONS (In Suggested Order of Staff Preference):</b>			
<ol style="list-style-type: none"> <li>1. approve the zone change as recommended by the Planning and Zoning Commission;</li> <li>2. deny the requested zone change.</li> </ol>			
<b>ATTACHMENTS:</b>			
<ol style="list-style-type: none"> <li>1. location map;</li> </ol>			

2. draft ordinance with exhibits;
3. minutes from P&Z meeting on November 6, 2014; and
4. staff report to the Planning & Zoning Commission.

**FUNDING SOURCE:** N/A

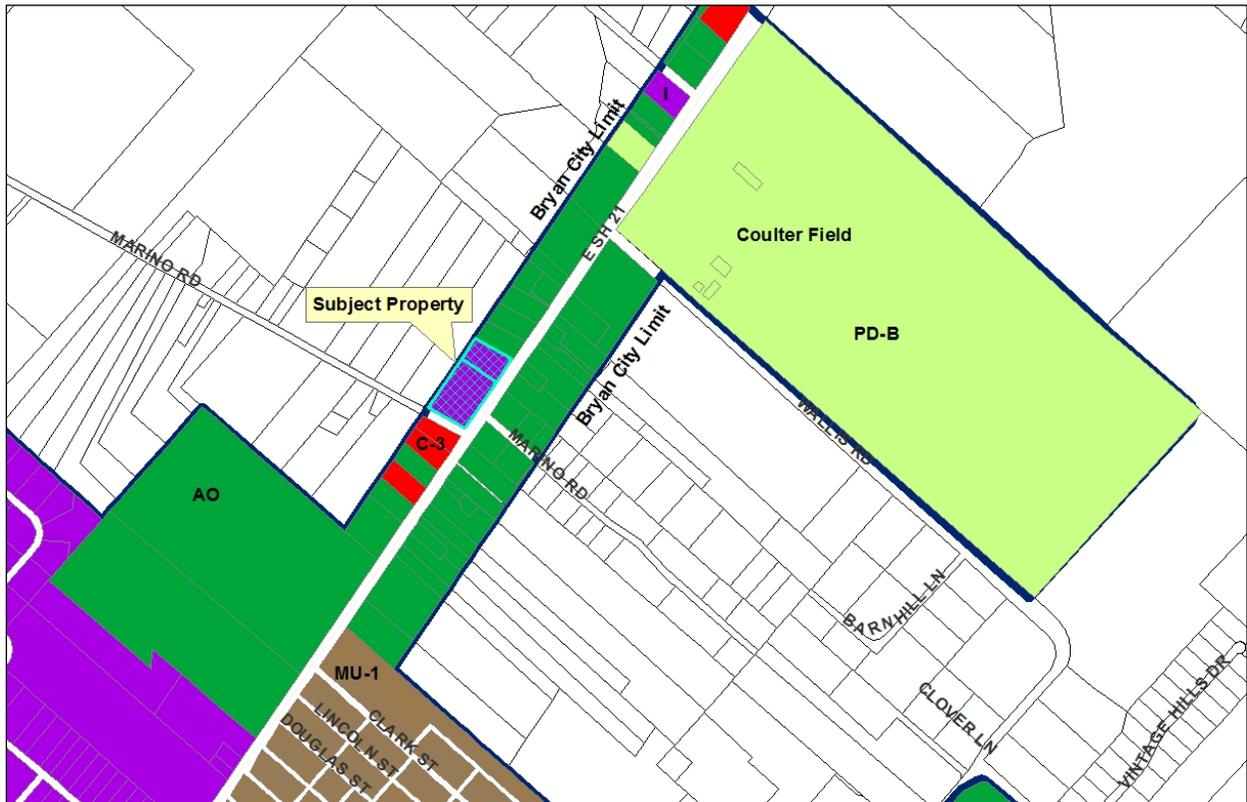
**APPROVALS:** Kevin Russell 10-29-10; Joey Dunn, 10-31-14; Hugh R. Walker, 11/02/2014

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 11/3/2014

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton, 11-03-2014

Revised 04/2013

**LOCATION MAP:**



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, TO CHANGE THE ZONING CLASSIFICATION FROM INDUSTRIAL DISTRICT (I) TO COMMERCIAL DISTRICT (C3) ON 6.13 ACRES OF LAND LOCATED AT THE NORTH CORNER OF STATE HIGHWAY 21 EAST AND MARINO ROAD, BEING LOTS 8R AND 9R IN THE CHARLES (CAL) MARINO LAND PARTITION IN BRYAN, BRAZOS COUNTY, TEXAS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH SAID ORDINANCE IS PASSED ARE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bryan has adopted Chapter 130, Zoning, of the City of Bryan Code of Ordinances, as amended, which divides the City of Bryan into various zoning districts; and

**WHEREAS**, permanent zoning changes made after the date of passage of Chapter 130, as amended, are made by adopting ordinances amending Chapter 130 for each particular permanent zoning change; and

**WHEREAS**, this requested change to Chapter 130 for 6.13 acres of land located at the north corner of State Highway 21 East and Marino Road, being Lots 8R and 9R in the Charles (Cal) Marino Land Partition in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on November 6, 2014;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN:**

1.

That Chapter 130, Zoning, of the City of Bryan Code of Ordinances be amended by changing the zoning classification from Industrial District (I) to Commercial District (C-3) on 6.13 acres of land located at the north corner of State Highway 21 East and Marino Road, being Lots 8R and 9R in the Charles (Cal) Marino Land Partition in Bryan, Brazos County, Texas.

2.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

3.

Should any section, paragraph, sentences, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby, and to this end the provisions of this ordinance are declared to be severable.

4.

The Code of the City of Bryan, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

5.

It is hereby found and determined that the meetings at which this ordinance was passed were open to the public as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of time, place and purpose of said meetings was given.

6.

This ordinance shall take effect immediately upon its second and final reading and passage.

**PRESENTED AND GIVEN** first reading the 18<sup>th</sup> day of November, 2014 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 2<sup>nd</sup> day of December, 2014 by a vote of \_\_\_\_\_ yeses and \_\_\_\_\_ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

CITY OF BRYAN:

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Jason P. Bienski, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Janis K. Hampton, City Attorney

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING  
MINUTES OF NOVEMBER 6, 2014:**

**7. REQUESTS FOR APPROVAL OF ZONING CHANGES – A PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission makes recommendation; City Council has final approval).**

**a. Rezoning RZ13-28: Sam Trinh**

*A request to change the zoning classification from Industrial District (I) to Commercial District (C-3) on 6.13 acres of land located at the north corner of State Highway 21 East and Marino Road, being Lots 8R and 9R in the Charles (Cal) Marino Land Partition in Bryan, Brazos County, Texas. (R. Haynes)*

Mr. Randy Haynes presented the staff report (onfile in the Development Services Department). Staff recommends approval of the request.

The public hearing was opened.

No citizens came forward.

The public hearing was closed.

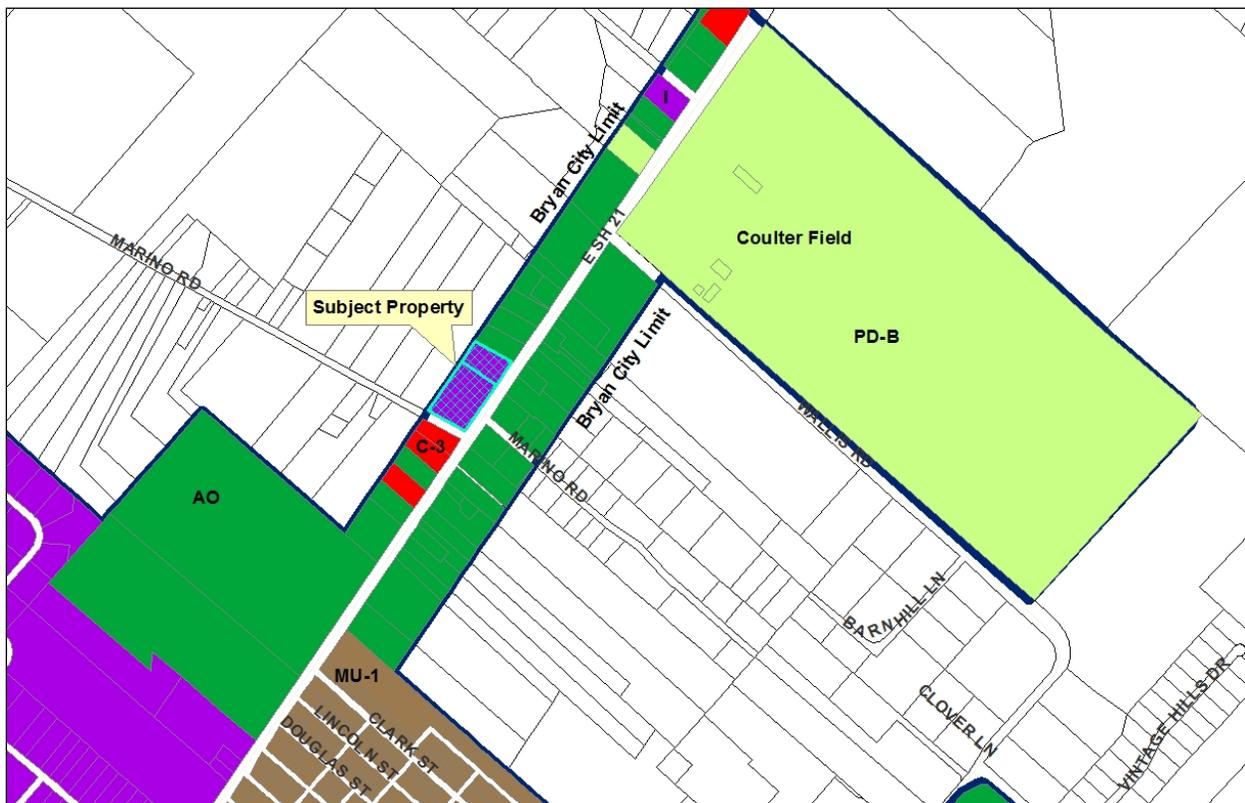
**Commissioner Gutierrez moved to approve RZ13-28 and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Bienski seconded the motion.**

**The motion passed unanimously.**

November 6, 2014

**Rezoning case no. RZ13-28: Sam Trinh**

- CASE DESCRIPTION:** a request to change the zoning classification from Industrial District (I) to Commercial District (C-3)
- LOCATION:** 6.13 acres of land located at the north corner of State Highway 21 East and Marino Road
- LEGAL DESCRIPTION:** Lots 8R and 9R in the Charles (Cal) Marino Land Partition
- EXISTING LAND USE:** vacant land, former auto salvage yard
- APPLICANT(S):** Sam Trinh
- STAFF CONTACT:** Randy Haynes, Senior Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** the proposed rezoning, as requested.



## **AERIAL PHOTOGRAPH – 2013:**



## **BACKGROUND:**

The applicant is requesting to change the zoning classification from the current Industrial District (I) designation to Commercial District (C-3) on these 6.13 acres of land located at the north corner of East State Highway 21 East and Marino Road. Existing area land uses consist of Mack Bolt & Supply and the Flying W Bar and Grill to the southwest. Coulter Airfield lies about a quarter mile northeast of the subject property. Overall, development along State Highway 21 is fairly sparse and mix of service businesses and land uses of a rural nature.

The SH-21 corridor was annexed into Bryan in 1999 in order to exert land use control and establish development standards over that gateway. In 2004, the subject property was changed from Agricultural - Open District (A-O) to Industrial District (I) to accommodate the operation of an industrial use. Failure of that developer to provide adequate water volume and pressure for fire protection led to the property becoming vacant after several years. In the area of the subject property, the Wickson Creek Special Utility District has the exclusive right to serve water utility customers. Wickson's existing area infrastructure is inadequate to provide the amount of water required. As part of this development process the applicant, Mr. Sam Trinh, has agreed to extend an adequate waterline approximately one half mile and dedicate it to Wickson Creek Special Utility District.

The Industrial zoning district classification is intended primarily for the conduct of manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations.

The Commercial zoning district classification is intended predominantly for heavy retail and commercial uses of a service nature which typically have operating characteristics or traffic service requirements generally compatible with typical retail or shopping, but generally not with residential environments. Operating characteristics which may be typical of uses permitted in the Commercial District include service oriented, may sell used goods, require warehouse storage and delivery areas, and have a greater service radius than retail stores.

## **RELATION TO BRYAN'S COMPREHENSIVE PLAN:**

The City of Bryan adopted a new Comprehensive Plan in January 2007. The plan includes policy recommendations related to the various physical development aspects of the community. The Comprehensive Plan states that it is a goal of the City to achieve a balance of land uses within the City by achieving a sustainable mix of land use types in suitable locations, densities and patterns.

### **5.0 Land use**

#### **5.6 Goals, Objectives and Action Statements**

The following goals, objectives and action statements were developed to address land use concerns facing Bryan in the next twenty years.

**GOAL #2:** Facilitate orderly, efficient and attractive development, redevelopment and infill.

**Objective A:** Provide for an efficient development process.

**Action Statement 1:** Reevaluate the current zoning code to identify inconsistencies and impediments to development.

### **7.0 Community Appearance**

The physical form and organization of a city visually represents the heritage and identity of a city's inhabitants. Effective development practices and regulations help create unique places and attractive neighborhoods that evoke civic pride. Although most of the properties in Bryan are privately owned, the public experiences the spaces and corridors between these properties as they commute or travel through town. A fundamental premise of urban design is that there is a mutual relationship between quality of life and a city's built environment. Urban form and community appearance influence social and economic opportunity and contribute heavily to civic identity.

#### **7.1 Conditions and Trends**

During the public meetings and focus groups the citizens clearly stated their desire to reinforce Bryan's small town atmosphere and friendly character.

An additional public emphasis was the importance of improving major corridors, gateways, historic resources and neighborhoods. A common concern brought up during focus group discussions and public meetings is the need to improve Bryan's appearance and public image. The comments consistently centered on improvements to the City's entrances and major corridors.

## ANALYSIS:

In making its recommendation regarding a proposed zoning change, the Planning and Zoning Commission shall consider the following factors:

1. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to general area and the City as a whole.

**Staff believes that the uses permitted in C-3 are appropriate at this particular location. The C-3 zoning classification is intended to provide opportunities for development of heavy retail and commercial uses that are not generally associated with residential environments. The character of commercial development allowed in C-3 Districts is purposefully intended to be of relatively high intensity with retail activity, in comparison with the permitted manufacturing and fabrication operation type activities allowed in Industrial zoning (I).**

**In this particular case, C-3 zoning on the subject property will be consistent with land use recommendations of Bryan's Comprehensive Plan which suggests that commercial uses are appropriate at locations that are located at or near major intersections and along major corridors. The proposed zoning change will be a compatible zoning district to surrounding land uses, which are currently zoned C-3 and have existing commercial businesses.**

2. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area and shall note the findings.

**Wickson's existing area infrastructure is inadequate to provide the amount of water required to the subject property. As part of this development process, the applicant has agreed to extend an adequate waterline approximately one-half mile and dedicate it to Wickson Creek Special Utility District. A municipal capital improvement project that will provide sanitary sewer in the area is in the planning stages.**

**The subject property is located directly adjacent to East State Highway 21, a roadway capable of carrying very large amounts of traffic. The nearest major intersection, North Earl Rudder Freeway and East State Highway 21, lies 1.5 miles to the southwest.**

3. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

**Staff believes that this zone change request, if approved, will not make land classified for similar development in the vicinity and elsewhere in the City unavailable for development.**

4. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

**Staff contends that commercial development is occurring at a slow pace in this vicinity and moderately elsewhere in the City.**

5. How other areas designated for similar development will be, or are unlikely to be affected if the

proposed amendment is approved, and whether such designation for other areas should be modified also.

**Other areas of Bryan zoned for commercial development will be unaffected by the proposed amendment.**

6. Any other factors affecting health, safety, morals, or general welfare.

**Staff is unable to identify factors otherwise unmitigated by required development standards that might affect health, safety, morals, or general welfare if this rezoning were approved.**

**RECOMMENDATION:**

Based on all these considerations, staff recommends **approving** the requested zone change, finding that the proposed C-3 zoning on the subject property would be consistent with the land use recommendations of the Bryan Comprehensive Plan.