

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> October 27, 2015		<b>DATE SUBMITTED:</b> September 22, 2015	
<b>DEPARTMENT OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Stephanie Doland	
<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 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 checked="" 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, by changing the zoning classification from Agricultural – Open (A-O) to Commercial District (C-3) on 1.487 acres of land adjoining the northwest side of State Highway 21 East, southwest from its intersection with Marino Road, being Lot 5 in Block 1 of the Marino Estates Subdivision, addresses as 5735 East State Highway 21 Bryan, Brazos County, Texas (RZ15-16).			
<b>SUMMARY STATEMENT:</b> The subject property is 1.487 acres in size and is currently addressed as 5735 East State Highway 21. The tract of land adjoins the northwest side of State Highway 21 East, southwest from its intersection with Marino Road. The property is predominantly undeveloped land with one storage shed (approximately 528 square feet) located 100+ feet from the front property line. The applicant and property owner, Jacob Stauffer with RBA Investments, is requesting a change of the zoning classification from Agricultural – Open District (A-O) to Commercial District (C-3). The subject property is sandwiched between adjacent properties that are zoned Commercial District (C-3). The adjacent property to the southwest is developed as Specialist Motor Sales, a preowned car sales lot. The adjacent property to the northeast is the Flying W Café, a restaurant. Further north from the Flying W Café is another commercial business, Mack Bolt and Steel.			
Adjacent properties across Marino Road and northwest of State Highway 21 are also zoned C-3 District. Across State Highway 21 from the subject property, the current zoning is A-O District and current land uses include Bruders Electric LLC, J & P Standard Transmission Shop, Kenworth Sales and Service, and several residential homes. Properties north of the subject property are located outside of the city limits in the City of Bryan’s extraterritorial jurisdiction (ETJ) and are therefore not regulated by Bryan’s Zoning Ordinance.			
The A-O zoning district is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used primarily for agricultural purposes, but may become an urban area in the future. The C-3 zoning classification is intended to provide development opportunities for commercial service uses including heavy retail and commercial use which typically have operating characteristics or traffic service requirements of retail and shopping. The C-3 zoning classification is typically located generally near or adjacent to, but not directly in residential neighborhoods.			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> During its meeting on September 3, 2015, the Planning and Zoning Commission concurred with staff and <b>unanimously recommended approving</b> this rezoning request.			
<ul style="list-style-type: none"> <li>• The proposed change will allow commercial development along a major freeway and entrance corridor, State Highway 21, to the City of Bryan.</li> <li>• C-3 zoning appears to be appropriate for the subject tract and consistent with land use recommendations of Bryan’s Comprehensive Plan, which suggests commercial uses are appropriate at points of high visibility along major streets.</li> <li>• Allowing C-3 zoning on the subject property will support orderly urban growth in this vicinity where</li> </ul>			

neighboring properties are being developed or are currently developed with commercial and/or retail establishments.

- C-3 zoning on these 1.487 acres is appropriate in this particular environment and will offer the exposure that most commercial use requires.
- Objections to this request may include that the proposed C-3 zoning may not allow other uses that may be appropriate at this location in the future, and zoning this property to C-3 District and thereby allowing large commercial development on a 1.487 acre site may increase traffic to and from this location.

**OPTIONS (In Suggested Order of Staff Preference):**

1. approve the requested zone change;
2. approve the requested zone change with modifications, which may require rescheduling the request for consideration on a future City Council meeting agenda;
3. deny the requested zone change.

**ATTACHMENTS:**

1. location map;
2. draft ordinance;
3. excerpt from P&Z meeting minutes of September 3, 2015; and
4. staff report to the Planning & Zoning Commission.

**FUNDING SOURCE: N/A**

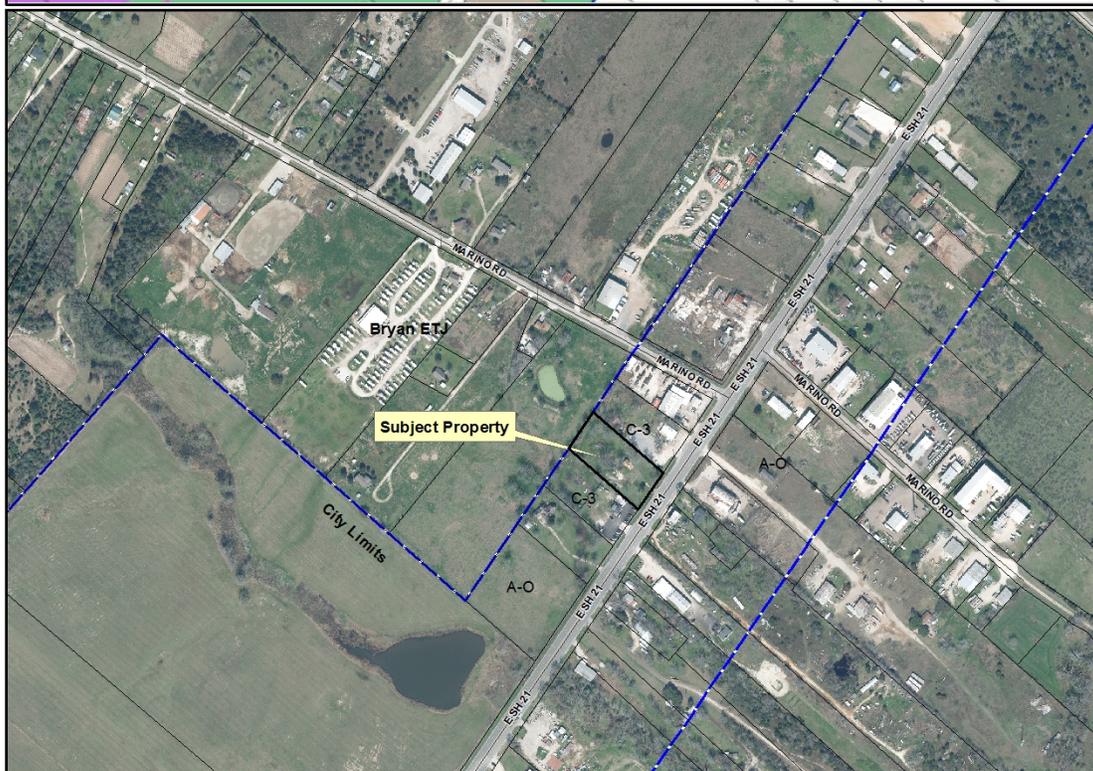
**APPROVALS:** Kevin Russell, 9-23-15; Joey Dunn, 9-28-15; Hugh R. Walker, 09/29/2015

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 10/01/2015

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton, 10/01/2015

Revised 05/2013

**LOCATION MAPS:**



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

**AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, BY CHANGING THE ZONING CLASSIFICATION FROM AGRICULTURAL - OPEN DISTRICT (A-O) TO COMMERCIAL DISTRICT (C-3), ON 1.487 ACRES OF LAND ADJOINING THE NORTHWEST SIDE OF STATE HIGHWAY 21 EAST, SOUTHWEST FROM ITS INTERSECTION WITH MARINO ROAD, BEING LOT 5 IN BLOCK 1 OF THE MARINO ESTATES SUBDIVISION 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 are made by adopting ordinances amending Chapter 130 for each particular permanent zoning change; and

**WHEREAS**, this requested change to Chapter 130 for 1.487 acres of land adjoining the northwest side of State Highway 21 East, southwest from its intersection with Marino Road, being Lot 5 in Block 1 of the Marino Estates Subdivision in Bryan, Brazos County, Texas; was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on September 3, 2015;

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

1.

That Chapter 130, Zoning, of the City of Bryan Code of Ordinances be amended by changing the zoning classification from Agricultural – Open (A-O) to Commercial District (C-3) on 1.487 acres of land adjoining the northwest side of State Highway 21 East, southwest from its intersection with Marino Road, being Lot 5 in Block 1 of the Marino Estates Subdivision in Bryan, Brazos County, Texas, said 1.487 acres being described more particularly described by metes-and-bounds on attached Exhibit “A”.

2.

That 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 13<sup>th</sup> day of October, 2015 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 27<sup>th</sup> day of October, 2015 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

**EXHIBIT "A":**

**METES AND BOUNDS DESCRIPTION  
OF A  
1.487 ACRE TRACT  
CHARLES (CAL) MARINO LAND PARTITION  
BRYAN, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING THE SAME TRACT OF LAND AS DESCRIBED BY A DEED TO MICHAEL T. NIEMEYER AND FRANCES NIEMEYER RECORDED IN VOLUME 7654, PAGE 227 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. SAID TRACT ALSO BEING ALL OF LOT 5, CHARLES (CAL) MARINO LAND PARTITION ACCORDING TO THE PLAT RECORDED IN VOLUME 179, PAGE 445 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½ inch iron rod found on the northwest line of E. State Highway No. 21 (100' R.O.W.) marking the south corner of said lot 5 and the east corner of a 1.46 acre tract of land as described as all of lot 4 of said Marino partition (179/445) by a deed to Samuel Smith and Virginia Smith recorded in volume 9894, for reference, the City of Bryan GPS monument NO. 125 bears: S 52° 06' 39" W for a distance of 4671.28 feet;

THENCE N 49° 45' 00" W, along the common line of said lots 4 and 5 for a distance of 369.55 feet (plat call distance: 369.00 feet 179/445) to a ½ inch iron rod found on the southeast line of a called 9.30 acre tract of land as described as tract two by a deed to Andale Holdings, LLC recorded in volume 11617, page 130 of the official public records of Brazos County, Texas. Said iron rod found marking the west corner of said lot 5 and the north corner of said lot 4;

THENCE N 34° 14' 02" E, along the common line of said lot 5 and said 9.30 acre tract for a distance of 175.34 feet (plat call distance: 177.00 feet, 179/445) to a ½ inch iron rod found marking the north corner of said lot 5 and the west corner of a tract of land as described as all of lot 6 of said Marino partition (179/445) by a deed to Annie Laura Daniels, Mary Jane Sandford, Frankie Charles McLewis, and Sam Angelo McLewis recorded in volume 815, page 463 of the deed records of Brazos County, Texas. For reference, a 5/8 inch iron rod found marking the north corner of lot 7 of said Marino partition bears: N 34° 03' 37" E for a distance of 287.76 feet (plat call distance: 289.00 feet, 179/445);

THENCE S 50° 01' 21" E along the common line of said lots 5 and 6 for a distance of 369.41 feet (plat call distance: 369.00 feet, 179/445) to a ½ inch iron rod found one the northwest line of E. State Highway No. 21 marking the east corner of said lot 5 and the south corner of said lot 6;

THENCE S 34° 14' 52" W along the northwest line of E. State Highway No. 21 and the southeast line of said lot 5 for a distance of 177.11 feet (plat call distance: 177.00 feet, 179/445) to the point of beginning containing 1.487 acres of land (64,769 SQ. FT.), as surveyed on the ground August, 2015. Bearing system shown herein is based on grid north as established from GPS observation.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING  
MINUTES OF SEPTEMBER 3, 2015:**

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

*Commissioner Madison left the meeting at 7:59pm.*

**b. Rezoning RZ15-16: RBA Investments**

*A request to change the zoning classification from Agricultural – Open District (A-O) to Commercial District (C-3) on 1.487 acres of land adjoining the northwest side of State Highway 21 East, southwest from its intersection with Marino Road in Bryan, Brazos County, Texas. (S. Killam)*

Mr. Zimmermann presented the staff report (on file in the Development Service Department). Staff recommends approval of the request.

The public hearing was opened.

No one came forward.

The public hearing was closed.

**Commissioner Gutierrez moved to recommend approval of Rezoning RZ15-16 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Swearingen seconded the motion.**

**The motion passed unanimously.**

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**



**September 3, 2015**

**Rezoning case no. RZ15-16: RBA Investments**

**CASE DESCRIPTION:** a request to change the zoning classification from Agricultural – Open District (A-O) to Commercial District 3 (C-3)

**LOCATION:** 1.487 acres of land adjoining the northwest side of State Highway 21 East, southwest from its intersection with Marino Road, currently addressed as 5735 East State Highway 21

**EXISTING LAND USE:** storage shed – primarily vacant acreage

**APPLICANT(S):** RBA Investments – Jacob Stauffer, Property Owner

**STAFF CONTACT:** Stephanie Killam, Staff Planner

**SUMMARY RECOMMENDATION:** Staff recommends **approving** this rezoning request.





## **BACKGROUND:**

The subject property is 1.487 acres in size and is located on the northwest side of State Highway 21, approximately 380 feet southeast of Marino Road. The subject property is currently zoned Agricultural – Open District (A-O). The property is primarily undeveloped with the exception of a small storage shed (approximately 24 feet by 22 feet) sitting back from the front property line 100+ feet. The subject property is sandwiched between adjacent properties that are zoned Commercial District – 3 (C-3). The adjacent property to the southwest is developed as Specialist Motor Sales, a preowned car sales lot. The adjacent property to the northeast is the Flying W Café, a restaurant. Further north from the Flying W Café is another commercial business – Mack Bolt and Steel.

Adjacent properties across Marino Road and northeast of State Highway 21 are also zoned C-3 District. Across State Highway 21 from the subject property, the current zoning is A-O District and current land uses include, Bruders Electric LLC, J & P Standard Transmission Shop, Kenworth Sales and Service, and sporadic residential homes folded in-between the commercial businesses. Properties north of the subject property are located outside of the City limits in the City of Bryan’s extraterritorial jurisdiction (ETJ) and are therefore not regulated by Bryan’s Zoning Ordinance.

The applicant, Jacob Stauffer of RBA Investments, has requested to change the zoning of these 1.487 acres from A-O District to C-3 District. The A-O zoning district is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used primarily for agricultural purposes, but may become an urban area in the future. The C-3 zoning classification is intended to provide development opportunities for commercial service uses including heavy retail and

commercial use which typically have operating characteristics or traffic service requirements of retail or shopping.

### **COMPREHENSIVE PLAN:**

The City of Bryan's Comprehensive Plan is the framework for the establishment of zoning and other regulatory tools. The plan includes policies and recommendations related to the various physical aspects of the community. These aspects are supported by a set of goals and objectives. Among the goals supported by the policies are the development of attractive entrances to the City of Bryan by encouraging and promoting compatible infill and development in areas where these activities will benefit the city as a whole and the area specifically. One of the plan's objectives is to encourage a sustainable mix of land use types in suitable locations, densities and patterns and to identify areas for commercial development and preserve them with appropriate zoning. The Comprehensive Plan also suggests that commercial uses are appropriate at points of high visibility along arterial and major collector streets and at intersection of major streets.

### **ANALYSIS:**

In making its recommendation regarding a proposed zoning change, the Planning and Zoning Commission shall consider the following factors in accordance with Zoning Ordinance Section 130-42(g).

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 the rezoning of the subject property from A-O to C-3 will be compatible with current and anticipated future development in the vicinity and in conformance with the land use recommendations of the comprehensive plan. The subject property is located between two properties that are already zoned C-3 District and that are developed with commercial businesses. State Highway 21 is lined with commercial businesses on both sides of the highway. Businesses are located on commercial and agriculture zoned property with homes sporadically located between businesses. Rezoning the subject property to C-3 District will support the orderly urban growth in this vicinity by encouraging future quality commercial development along one of the City's major entrances.**

**Staff believes that the proposed rezoning from A-O District to C-3 District on these 1.487 acres will allow for orderly urban growth at this particular location relative to its relationship with the surrounding area and adjacent properties.**

2. Whether there is availability of water, wastewater, storm water, and transportation facilities generally suitable and adequate for the proposed use.

**Per Bryan's Thoroughfare Plan, the subject property adjoins State Highway 21, which is classified as a freeway. The subject property is less than a quarter mile from Marino Road, which is classified as minor arterial street (40-foot pavement width with 80-foot right-of-way). State Highway 21 (60-foot wide with 110-foot right-of-way) can reasonably be expected to be capable of accommodating traffic loads typically associated with commercial development.**

**Water services for any development at this location will be provided by the Wickson Creek Special Utility District.**

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.

**The subject property is sandwiched between two C-3 zoned properties. In addition to the commercial property directly adjacent to the subject property, State Highway 21 is lined with commercial property and commercial development. Within a one mile radius north of the subject property there are 5 properties zoned C-3 District, 10 commercial businesses and 2 churches. 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 believes that commercial developments are developing at an average to slow pace in this vicinity and 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.

**Should the rezoning request be approved, staff believes that there will be few, if any, effects on other areas designated for commercial development. Many of the properties in the vicinity are currently vacant available for future urban development.**

6. Any other factors which will substantially affect the health, safety, morals, or general welfare.

**Staff contends that approving the rezoning request will allow for orderly development in accordance with the land use recommendations of the Comprehensive Plan, and provide for commercial development opportunities at an appropriate, highly-visible location, along one of the City's major entrances.**

#### **RECOMMENDATION:**

Based on all of these considerations, staff recommends **approving** the proposed C-3 District, as requested, on these 1.487 acres of primarily undeveloped land.