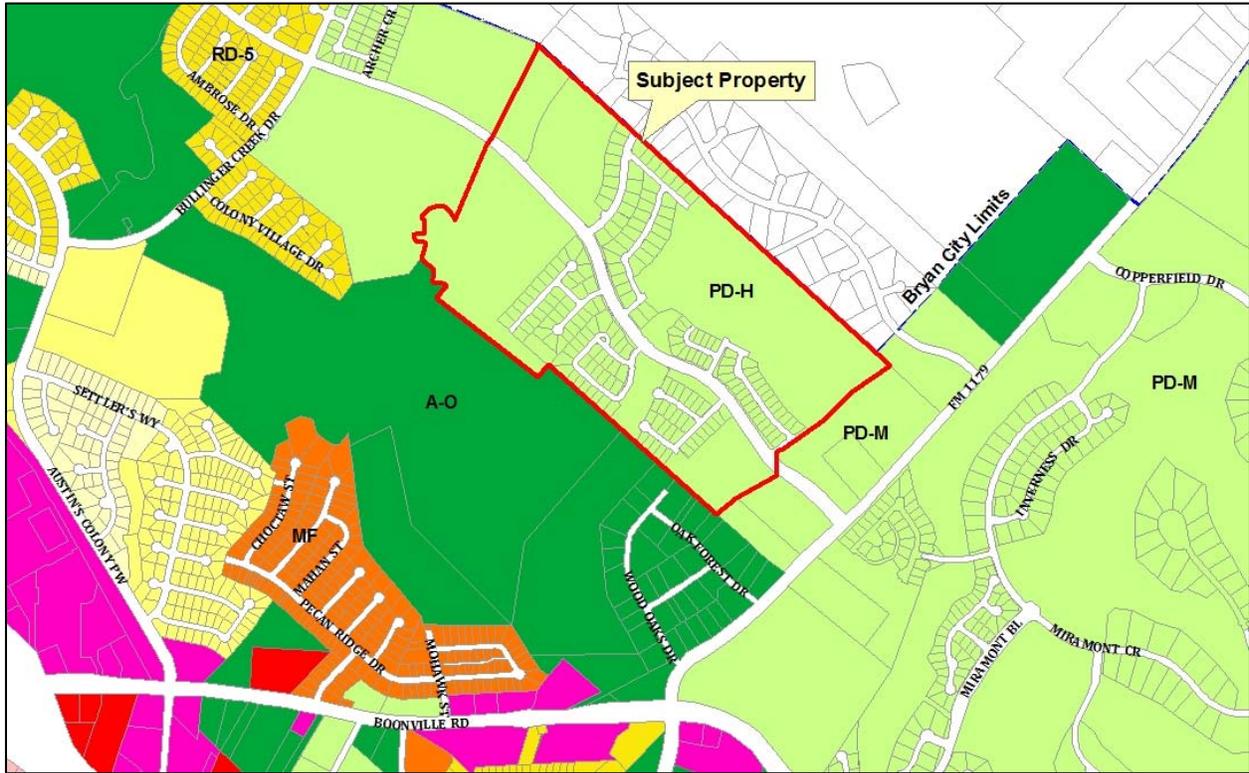


LOCATION MAP:



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, BY AMENDING THE DEVELOPMENT PLAN OF A PLANNED DEVELOPMENT – HOUSING DISTRICT (PD-H) ON 186.6 ACRES OF LAND LOCATED AT THE SOUTHEAST INTERSECTION OF BULLINGER CREEK DRIVE AND THORNBERRY DRIVE, BEING PHASES 1, 5, 6A, 8, 9, 10, 12, AND 15 OF THE GREENBRIER SUBDIVISION AND ALSO 117.5 ACRES OF VACANT LAND IN THE JOHN AUSTIN LEAGUE, ABSTRACT 2 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 186.6 acres of land located at the southeast intersection of Bullinger Creek Drive and Thornberry Drive being Phases 1, 5, 6A, 8, 9, 10, 12, and 15 of the Greenbrier Subdivision and also 117.5 acres of vacant land in the John Austin League, Abstract 2, in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on May 19, 2016 (case no. RZ15-28);

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 amending the development plan of a Planned Development – Housing District (PD-H) on 186.6 acres of land located at the southeast intersection of Bullinger Creek Drive and Thornberry Drive, being Phases 1, 5, 6A, 8, 9, 10, 12, and 15 of the Greenbrier Subdivision and also 117.5 acres of vacant land in the John Austin League, Abstract 2, being described more particularly by metes-and-bounds on attached Exhibit “A”, and subject to development requirements specified in attached Exhibit “B” and depicted on attached Exhibit “C” which are herein fully incorporated by reference for all purposes as if they were set forth in the text of the ordinance

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 7th day of June, 2016 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 12th day of July, 2016 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**

Being all that certain tract or parcel of land lying and being situated in the JOHN AUSTIN LEAGUE, Abstract No. 2 in Brazos County, Texas and being all of the 103.916 acre tract described in the deed from Anne Richter Carter, Robert Brennan Carter and George Francis Carter, Jr. to Homewood LLC recorded in Volume 8938, Page 97 of the Official Records of Brazos County, Texas (O.R.B.C.), all of the 40.239 acre tract described in the deed from Anne Richter Carter, Robert Brennan Carter and George Francis Carter, Jr. to Carter Arden Development, LLC recorded in Volume 8938, Page 108 (O.R.B.C.), all of the 37.228 acre tract described in the deed from J. Stephen Arden to Carter Arden Development, LLC recorded in Volume 8938, Page 113 (O.R.B.C.) and being a portion of the called 333.4 acre tract described in the deed from Carrabba Interests, et al to Carrabba Family Limited Partnership recorded in Volume 5807, Page 259 (O.R.B.C.) and being more particularly described by metes and bounds as follows:

BEGINNING: at a found 5/8-inch iron rod marking the north corner of the said 103.916 acre tract, the west corner of a called 89.096 acre 1179 Joint Venture I, L.P. tract recorded in Volume 6334, Page 235 (O.R.B.C.) and further described in the boundary line agreement recorded in Volume 7849, Page 6 (O.R.B.C.), said iron rod also being in the southwest line of a called 46.8 acre John Raborn tract recorded in Volume 173, Page 3 of the Brazos County Deed Records (B.C.D.R.);

THENCE: S 45° 01' 30" E along the said agreed common boundary line for a distance of 4242.56 feet for corner marking the east corner of the said 103.916 acre Homewood tract, from whence a found 5/8-inch iron rod marking the east corner of the called 176.241 acre Carter tract recorded in Volume 3253, Page 207 (O.R.B.C.) bears S 45° 01' 30" E at a distance of 616.30 feet for reference;

THENCE: along the southeast lines of the said 103.916 acre Homewood tract, the said 40.239 acre Carter Arden tract and the said 37.228 acre Carter Arden tract for the following twelve (12) calls:

- 1) S 57° 00' 44" W for a distance of 270.28 feet to the Point of Curvature of a curve to the left,
- 2) 227.56 feet along the arc of said curve having a central angle of 08° 41' 32", a radius of 1500.00 feet, a tangent of 114.00 feet and a long chord bearing S 52° 39' 58" W at a distance of 227.34 feet to the Point of Tangency,
- 3) S 48° 19' 12" W for a distance of 226.72 feet to the Point of Curvature of a curve to the right,
- 4) 224.89 feet along the arc of said curve having a central angle of 12° 16' 18", a radius of 1050.00 feet, a tangent of 112.88 feet and a long chord bearing S 54° 27' 21" W at a distance of 224.46 feet to the Point of Tangency,
- 5) S 60° 35' 29" W for a distance of 194.34 feet to the Point of Curvature of a curve to the left,
- 6) 138.54 feet along the arc of said curve having a central angle of 08° 21' 19", a radius of 950.00 feet, a tangent of 69.39 feet and a long chord bearing S 56° 24' 50" W at a distance of 138.41 feet to the Point of Compound Curvature,
- 7) 41.53 feet along the arc of said compound curve having a central angle of 95° 10' 37", a radius of 25.00 feet, a tangent of 27.37 feet and a long chord bearing S 04° 38' 50" W at a distance of 36.92 feet for the Point of Compound Curvature,
- 8) 89.01 feet along the arc of said compound curve having a central angle of 09° 16' 22", a radius of 550.00 feet, a tangent of 44.60 feet and a long chord bearing S 47° 34' 39" E at a distance of 88.92 feet for the Point of Tangency,
- 9) S 52° 12' 51" E for a distance of 12.10 feet for corner,
- 10) S 39° 44' 40" W for a distance of 100.06 feet for corner ,
- 11) S 60° 45' 22" E for a distance of 444.08 feet to for corner and

- 12) S 52° 20' 07" W for a distance of 212.71 feet for corner marking the south corner of the said 37.228 acre Carter Arden tract, the west corner of the 3.755 acre Edward B. Carter tract recorded in Volume 8901, Page 249 (O.R.B.C.) and being in the northeast line of Lot 6, Block 1 OAK FOREST ESTATES, FIRST INSTALLMENT as recorded in Volume 208, Page 105 of the Brazos County Deed Records (B.C.D.R.);

THENCE: along the southwest line of the said 37.228 acre tract, the northeast line of said OAK FOREST ESTATES, FIRST INSTALLMENT, the northeast line of OAK FOREST ESTATES, SECOND INSTALLMENT (308/223 [B.C.D.R.]), the northeast line of a called 34.9 acre Michael Davis, Trustee tract (2814/297 [O.R.B.C.]) and the northeast line of the called 333.4 acre Carrabba Family Limited Partnership tract for the following five (5) calls:

- 1) N 44° 41' 47" W for a distance of 196.28 feet to a found 1/2-inch iron rod for corner,
- 2) N 45° 42' 16" W for a distance of 259.97 feet to a found 1/2-inch iron rod for corner,
- 3) N 47° 52' 10" W for a distance of 238.54 feet to a found 1/2-inch iron rod for corner,
- 4) N 45° 59' 50" W for a distance of 407.16 feet to a found 1/2-inch iron rod for corner, and
- 5) N 45° 37' 55" W for a distance of 877.31 feet for corner;

THENCE: through the interior of the called 333.4 acre Carrabba tract for the following thirteen (13) calls:

- 1) S 45° 19' 14" W for a distance of 157.18 feet for corner,
- 2) N 47° 20' 53" W for a distance of 1178.85 feet for corner,
- 3) N 42° 34' 38" E for a distance of 93.06 feet for corner, and
- 4) 158.64 feet in a clockwise direction along the arc of a curve having a central angle of 181° 47' 27", a radius of 50.00 feet, a tangent of 3199.00 feet and a long chord bearing N 43° 28' 22" E at a distance of 99.99 feet for corner in the common line of the called 333.4 acre Carrabba Family Limited Partnership tract and the said 37.228 acre Carter Arden Development, LLC tract;

THENCE: N 45° 37' 55" W along said common line for a distance of 383.69 feet for corner in the centerline of Pin Oak Creek;

THENCE: along the centerline of said Pin Oak Creek and said common line for the following sixteen (16) calls:

- 1) N 44° 01' 52" E for a distance of 78.98 feet for corner,
- 2) N 36° 19' 29" W for a distance of 23.94 feet for corner,
- 3) S 86° 44' 11" W for a distance of 74.24 feet for corner,
- 4) N 51° 49' 40" W for a distance of 27.22 feet for corner,
- 5) N 02° 02' 41" E for a distance of 66.00 feet for corner,
- 6) S 85° 10' 29" E for a distance of 97.52 feet for corner,
- 7) N 25° 48' 13" E for a distance of 28.85 feet for corner,
- 8) N 06° 03' 38" W for a distance of 30.67 feet for corner,
- 9) N 13° 01' 41" W for a distance of 87.42 feet for corner,
- 10) N 25° 29' 42" E for a distance of 43.87 feet for corner,
- 11) N 53° 49' 10" E for a distance of 86.33 feet for corner,
- 12) S 85° 41' 13" E for a distance of 66.42 feet for corner,
- 13) N 87° 36' 20" E for a distance of 52.59 feet for corner,
- 14) S 46° 15' 23" E for a distance of 47.79 feet corner,
- 15) S 37° 38' 14" E for a distance of 37.25 feet corner, and
- 16) S 63° 05' 22" E for a distance of 15.27 feet for corner;

THENCE: N 27° 40' 23" E continuing along the southeast line of the called 333.4 acre Carrabba tract for a distance of 770.06 feet to a found 5/8-inch iron rod marking the northwest corner of the said 103.916 acre Homewood tract, said iron rod also being at or near the said 37.228 acre Carter Arden tract;

THENCE: N 29° 54' 54" E along the common line of the said 103.916 acre Homewood tract and the said 333.4 acre Carrabba tract for a distance of 920.65 feet to a found 5/8-inch iron rod marking the northeast corner of the said Carrabba tract and the southeast corner of the before-mentioned Raborn tract;

THENCE: N 43° 41' 07" E for a distance of 5.00 feet to the POINT OF BEGINNING and containing 186.597 acres of land, more or less.

Exhibit “B”:

Development requirements for Planned Development – Housing District (PD-H) on 186.6 acres of land out of John Austin League, Abstract No. 2 adjoining the north side of F.M. 1179 between F.M. 158 (Boonville Road) and Riverstone Drive in Bryan, Brazos County, Texas

SECTION 1: Definitions

In this specific context, the term “permitted” shall mean all uses permitted by right within the zoning classification specified, as well as other uses defined and described in the Zoning Ordinance of the City of Bryan as being permitted with approval of a Conditional Use Permit. Said uses permitted with approval of a Conditional Use Permit shall be subject to development review procedures of the City of Bryan Zoning Ordinance described for Conditional Use Permits.

In this specific context, the term “family” shall mean any number of individuals living together in a single dwelling unit; provided all such individuals except one shall be related by blood, marriage or adoption within the second degree of relationship. Foster children residing in licensed foster care homes shall not be included in the calculation of the number of unrelated individuals living together in a single dwelling unit. Licensed foster care homes shall comply with any state mandated restrictions on the number of children permitted to reside in the dwelling unit.

In this specific context, the term “detached single-family dwelling” shall mean a detached building having accommodations for and occupied by not more than one family or housekeeping unit, and which occupies a lot or tract of land on which no other dwelling unit (except an accessory dwelling where allowed with prior approval of a Conditional Use Permit from the Planning and Zoning Commission) is situated.

In this specific context, the terms “zero lot line dwelling” and “patio dwelling” shall mean a single-family dwelling unit built on or near one side lot line, with open yards required on all remaining sides, and constructed as a detached unit on an individual lot. Adjoining lots shall not have common zero lot lines.

In this specific context, the term “townhouse dwelling” shall mean one unit of a series of three or more attached single-family dwelling units, separated by vertical lot line walls, with each dwelling unit having private entrances and being located on a separate lot.

SECTION 2: Land Use

1. Within this PD-H District, single-family residential land use shall only be permitted on land included in Phases 1 thru 15, as depicted on the development plan attached as Exhibit “B-1”.
2. The continued use of land permitted within Phases 1 thru 15 within this PD-H District shall be limited to the following uses
 - a. Uses Permitted By Right:
 1. Accessory structures;
 2. Detached single-family dwellings;
 3. Essential municipal uses;
 4. Home occupations;
 5. Private utilities (no storage yards);
 6. Real estate sales offices during the development of residential subdivisions, but not to exceed three years; and

7. Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.
 - b. Uses Permitted Only with Prior Approval of a Conditional Use Permit from the Planning and Zoning Commission:
 1. Accessory dwelling unit;
 2. Country club or golf course; and
 3. Professional offices.
 - c. In Phases 4, 5, 6, 8 and 10, patio/zero lot line dwellings and townhouse dwellings shall also be allowed by right, subject to prior preliminary plan approval by the City of Bryan's Site Development Review Committee (SDRC) in accordance with the City of Bryan's subdivision regulations. Preliminary plans for any of these subdivision phases shall depict either the proposed zero lot line side if zero lot line/patio homes are proposed or clusters of townhouse structures for proposed townhouse developments. A combination of patio/zero lot line dwellings, townhouse dwellings and/or detached single-family dwellings in the same subdivision phase shall not be allowed.
3. The following additional standards shall apply to development within this PD-H District:
 - a. No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.
 - b. Open storage is prohibited except for materials for the resident's personal use or consumption, i.e., firewood, gardening materials, etc. behind a fence or landscaping.
 - c. Modular (industrialized) buildings shall be prohibited.

SECTION 3: Physical Development

1. Physical development on land included in this PD-H District, as depicted on the development plan attached as Exhibit "B-1" shall comply with development standards and limitations of the City of Bryan Code of Ordinances that generally apply to properties zoned Residential District – 7000 (RD-7), subject to additions, modifications or exceptions described herein. These development standards and limitations include, but are not limited to, regulations concerning density, building height, building elevations, coverage, parking, access, screening, landscaping, accessory buildings, and signs.
2. The following additional standards or exceptions shall be applicable to the physical development and continued use of land and buildings in this PD-H District:
 - a. In Phases 1, 2, 5 and 7 through 15 minimum lots size requirements shall be as follows:
 1. Lots intended to be developed with detached single-family dwellings or any other permitted use, except for patio/zero lot line dwellings and townhouse dwellings, shall be a minimum 65 feet wide and 125 feet deep with a minimum lot area of 8,125 square feet.
 2. Lots intended to be developed with patio/zero lot line dwellings shall be a minimum 55 feet wide and 120 feet deep with a minimum lot area of 6,600 square feet.
 3. Lots intended to be developed with townhouse dwellings shall be a minimum 25 feet wide and 100 feet deep with a minimum lot area of 2,500 square feet.

- b. In Phases 4 and 6 the minimum lots size requirements shall be as follows:
 - 1. Lots intended to be developed with detached single-family dwellings or any other permitted use, except for patio/zero lot line dwellings and townhouse dwellings, shall be a minimum 55 feet wide and 100 feet deep with a minimum lot area of 5,500 square feet.
 - 2. Lots intended to be developed with patio/zero lot line dwellings shall be a minimum 40 feet wide and 100 feet deep with a minimum lot area of 4,000 square feet.
 - 3. Lots intended to be developed with townhouse dwellings shall be a minimum 25 feet wide and 100 feet deep with a minimum lot area of 2,500 square feet.
- c. Buildings with metal exteriors shall be prohibited.
- d. Where permitted, patio/zero lot line dwellings shall conform to the applicable standards specified in the City of Bryan's Code of Ordinances. The following additional standards for patio/zero lot line home developments:
 - 1. The minimum side yard setback shall be 15 feet on lots siding on alleys. Homes must be constructed at least 15 feet from one side lot line.
 - 2. Restrictions that assure the minimum distance between houses and any required easements must be recorded on the subdivision plats of the applicable lots. Proof of such recordation must be submitted as part of the building permit application.
 - 3. A maintenance easement shall be dedicated within the side yard of each lot intended for development with a patio/zero lot line home, to allow for maintenance or repair of the side wall of a patio/zero lot line home that is built on the zero lot line side of the adjacent lot. The maintenance easement shall be unobstructed, located on the adjacent property abutting the side wall and must be a minimum of seven and one-half (7.5) feet in width. Required maintenance easements shall be shown on the recorded plat.
 - 4. Noncombustible eaves may project a maximum of eighteen (18) inches over the adjacent property line, if a maintenance easement exists on the adjacent property. Gutters shall be required on eaves extending onto the adjacent property. The gutters shall channel water back to the property.
 - 5. Windows or other openings that allow for visibility into the side yard of the adjacent lot are not allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, are allowed. All materials within three feet of the property line shall be fire-rated to meet building code requirements.
- e. Where permitted, townhouse dwellings shall conform to the applicable standards specified in the City of Bryan's Code of Ordinances. The following additional standards for townhouse dwellings shall apply:
 - 1. Only one townhouse dwelling shall be allowed on a single lot.
 - 2. A cluster of attached townhouse dwellings shall be referred to as a townhouse structure. The minimum space required between townhouse structures shall be a minimum of 15 feet. A maximum 18-inch eave overhang is allowed within this required separation area.
 - 3. Walls between individual dwelling units in a townhouse structure shall be at least 1-hour rated firewalls, as defined by the City's building code, including adjoining walls and ceilings where a garage or carport is adjacent to or connected with any living area.
 - 4. The number of individual townhouse dwelling units in a townhouse structure shall be no more than 8 units, nor less than 3 units.

- f. Detached accessory structures and accessory dwellings shall conform to the applicable standards specified in the City of Bryan's Code of Ordinances. The following additional standards for detached accessory structures and accessory dwellings shall apply:
 1. The combined gross floor area of detached accessory structures on a single property shall be no more than 8% of the gross floor area of the main structure.
 2. Only one accessory dwelling shall be allowed on a single property.
 3. The gross floor area of an accessory dwelling shall be at least 400 square feet but not exceed 5% of the gross floor area of the main structure.
 4. Where an accessory dwelling is permitted on a lot, no other detached accessory structures shall be located on that same lot.

- g. In Phases 2, 4, and 6, the minimum side building setbacks shall be as follows:
 1. 15 feet for all lot lines adjacent to street or alley right-of-ways;
 2. 5 feet on lots, with the following requirements:
 - A. All mechanical equipment (air conditioning condensers, gas meters, electric meters, etc.) shall not be allowed within the minimum side building setback and shall be located to the rear of the house.
 - B. The wall along the 5-foot side setback shall be constructed of masonry.
 - C. Eaves may project a maximum of 18-inches into the setback, but must be constructed to have a one-hour fire rating.

SECTION 4: Subdivision of Land

The subdivision of land in this Planned Development District shall be allowed in accordance with Chapter 110, Subdivisions, of the City of Bryan Code of Ordinances, with the following exceptions or additions to ordinary standards:

1. The installation of sidewalks and the common areas within this PD-H District shall be required only in the locations depicted on the development plan attached as Exhibit "B-1". Sidewalks shall be a minimum 4 feet wide along local streets and a minimum of 8 feet wide along Thornberry Drive and within common areas.
2. Articles of incorporation for the Homeowners' Association (HOA) must be submitted with the application for approval of the preliminary plan for the first residential phase that is being developed. The articles of incorporation must provide for the operation, repair and maintenance of all common areas.
3. Required parkland dedication for the development within this PD-H District shall be met through land dedication as shown on the development plan attached as Exhibit "B-1", subject to approval by the Parks and Recreation Advisory Board. Parkland development fees shall apply as provided for in the City of Bryan's Code of Ordinances.

Construction of a collector size road (Thornberry Drive) by the City of Bryan through this PD-H District and the developer's reimbursement to the City for the cost of road construction shall be in accordance with the road development agreement between the City of Bryan, Carter-Arden, LLC and Homewood, LLC executed on July 11, 2008.

**EXHIBIT "C":
Development Plan Drawing / Sidewalk Plan**



**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF MAY 19TH, 2016:**

1. 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 RZ15-28: Carter Arden Development LLC

A request to amend the development plan of a Planned Development – Mixed Use District (PD-M) on 186.6 acres of land located at the southeast intersection of Bullinger Creek Drive and Thornberry Drive, being Phases 1, 5, 6a, 8, 9, 10, 12, and 15 of the Greenbrier Subdivision and also 117.5 acres of vacant land in the John Austin League, Abstract 2 in Bryan, Brazos County, Texas. (R. Haynes)

Ms. Haynes presented the staff report (on file in the Development Service Department). Staff recommends approving the request. The commissioners made several statements and asked questions and received responses from staff.

Commissioner Conlee stated that she had a problem with the requests for smaller side setbacks and noted that the P&Z setback committee recommended against reducing side setbacks. Mr. Haynes responded that, in fact, the committee had mandated that if future requests for reduction of side building setbacks were made, they should clearly address the issue of fire safety and employ specific measures to mitigate against the resulting lack of open space and increased fire danger. Mr. Haynes went on to say that the applicant had worked with the Bryan Fire Department on the details of the request and received their approval of the plan.

In response to other questions, Mr. Haynes stated that:

- The infrastructure should be able to handle this increase
- There was a 7.5ft. setback previously and thus far development been to that standard.
- The setback is measured from the slab and not the overhang.
- The requirement can be specified by phase if need be
- Variances can be requested

The public hearing was opened.

Mr. and Mrs. Rich Hansen, 7268 Riverstone Drive, Bryan, TX spoke in opposition to the request. Cited concerns included:

- Phase 2 is adjacent to their property
- Air conditioners and equipment that would no longer be on the side of the houses being developed would be in the back if the request were passed. This would generate a lot of noise for their property
- The potential increase in neighbors abutting the back of their property
- Increase in density and traffic
- Lack of information on the location of the lots that need the changes—the lots adjacent to theirs may not need the changes
- Destruction of the trees by their property

Mr. Steve Arden, 311 Cecilia Loop, College Station, TX, applicant, came forward and spoke in favor of the request. He commented that:

- There are some peculiarities with the ordinance that make this request necessary especially with the depth requirement.
- It is difficult to estimate the number of lots impacted; 9 or so in Phase 6 need the relief provided by this request.
- The cost of home construction has increased. This affects the ratio of construction cost-to-land cost. This is the factor that mainly drives the reduced side setback portion of this request.
- The desire is to have larger houses and not necessarily more lots.
- He would like to avoid any delay in order to move the project forward.

The public hearing was closed.

Commissioner Madison moved to recommend approval of Rezoning RZ15-28 to the Bryan City Council, amending the request to alter required minimum lot size standards for only Phases 4 and 6, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Bush seconded the motion.

Commissioners thanked Mr. Arden for his development efforts and commented that there needs to be a more information for on plans for Phases 2 and 7. Commissioners stated that they did not wish to delay the project.

The motion passed unanimously.

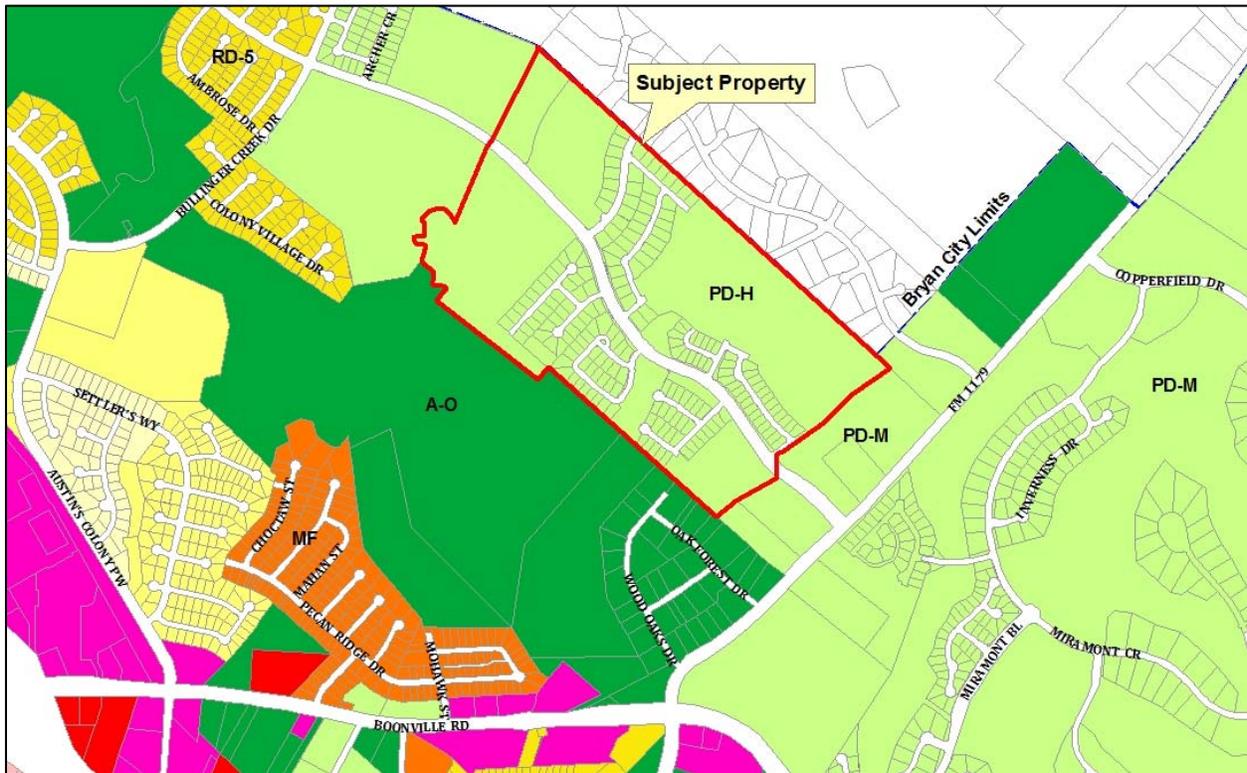
PLANNING AND ZONING COMMISSION
STAFF REPORT

May 19, 2016



Rezoning RZ 15-28: Carter-Arden Development, LLC

- CASE DESCRIPTION:** a request to amend the development plan of a previously-approved Planned Development – Housing District (PD-H)
- LOCATION:** 186.6 acres of land located at the southeast intersection of Bullinger Creek Drive and Thornberry Drive
- APPLICANT(S):** Steve Arden of Carter-Arden Development, LLC
- AGENT:** McClure and Browne Engineering/Surveying, Inc.
- STAFF CONTACT:** Randy Haynes, AICP, Senior Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** this rezoning request.



AERIAL PHOTOGRAPH - 2013



BACKGROUND:

EXISTING LAND USE: single-family homes, vacant acreage

SURROUNDING ZONING AND LAND USES:

- north outside city limits single-family homes, vacant acreage
- east PD single-family homes, golf course community
- south A-O single-family homes, private school, vacant acreage
- west A-O vacant acreage

The existing zoning of the 187 acre subject property is Planned Development – Housing District (PD-H). The original development plan was approved in 2009 and created a master-planned mixed-use development (Planned Development – Mixed Use District, PD-M) with single-family residential and commercial components, referred to as Greenbrier Subdivision. The 2009 development plan has been amended twice, most-recently in May 2014, to alter the street layout for subdivision phases planned on the northeast side of Thornberry Drive. Residential development of several phases of the project has been underway since August 2012.

PROPOSED DEVELOPMENT PLAN AMENDMENT:

The applicants, Carter-Arden Development, LLC, are now requesting to amend the previously-approved development plan for this PD-H District to;

- alter required minimum lot size for future subdivision Phases 1 – 4, 6 – 7, 11, and 13 – 14 to be built on the remaining 117.5 acres of vacant land within the district; and
- reduce the minimum required side building setback from 7.5 feet to 5 feet in future Phases 2 – 4, and 6; and
- establish special construction and use standards related to the proposed reduction of the minimum required side building setback to 5 feet.

The current rezoning request involves only the undeveloped land designated for residential use and does not include the 35+ acres abutting FM 1179 that remain set aside for commercial use. The standards regulating the commercial component of the Greenbrier development remain as originally adopted for this development in 2009 and are not part of this request.

In July 2008, the Bryan City Council entered into a road development agreement with the property owners of this property and other properties in this area for the construction of a collector size road (Thornberry Drive) that would extend from F.M. 1179 to the Austin's Colony Subdivision. Under the agreement, the City of Bryan was responsible for the construction of the road and would be reimbursed for the cost of road construction on a per-platted-lot basis as the land adjoining Thornberry Drive developed. In addition to the road cost reimbursement, the developers agreed to impose deed restrictions that would serve to establish minimum heated floor area standards for residences built within the development. The development agreement between the property owners and the City of Bryan requires that;

- not *more* than 28% of houses will have a minimum heated area of 2,000 square feet;
- not *more* than 29% of houses will have a minimum heated area of 2,200 square feet; and,
- not *less* than 30% of houses will have a minimum heated area of 2,500 square feet.

Of the 72 residences located within the Greenbrier Subdivision that are thus far listed on the tax rolls of the Brazos Central Appraisal District, 6% have less than 2,250 square feet of heated space and 27% have between 2,250 square feet and 2,500 square feet. The remaining 60% are larger than 2,500 square feet. The applicant's current proposal to reduce the lot minimum lot standards dimensions in Phases 1 - 4, 6 - 7, 11 and 13 – 14 will *not* have the effect of altering the floor area requirements of the 2008 road development agreement. Although some of the future lots may be smaller, the requirement to build houses of the specified size will remain in effect.

In 2013 the suitability of current building setback standards came into question and in response to the possibility that current standards were in need of review, a three-member subcommittee of the Planning and Zoning Commission was appointed to study the issue and report its findings. Specifically at issue was the requirement that no structure may be within 7.5 feet from a side property line. The 7.5 -foot setback standard was adopted March 10, 1998. Previously the standard required a minimum 5-foot setback between any portion of the structure and the adjacent side property line. The subcommittee recommended that:

- No changes should be made to the currently adopted 7.5-foot side building setback standard;
- An exception made in 2000 to the City's adopted building code granting relief from providing proper fire rated design and materials be removed; and,

- Future requests for reduction of side building setbacks clearly address the issue of fire safety and employ specific measures to mitigate against the resulting lack of open space and increased fire danger.

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The subcommittee's findings and recommendations were adopted by the Planning and Zoning commission by resolution on March 16, 2014.

The applicant's request to reduce the minimum required side building setback from 7.5 feet to 5 feet in future Phases 2 – 4, and 6 and to establish special construction and use standards related to the proposed reduction is offered in response to the findings and recommendations of the Planning and Zoning Commission subcommittee.

The applicant's proposal includes measures to alleviate the potential for increased fire danger that potentially could result from a decrease in building separation. The applicant's proposal effectively eliminates the City's exception made in 2000 to the adopted International Residential Code (IRC), which grants relief from providing fire rated construction when parts of residential structures are placed closer than 5 feet from a side property line.

Specifically, the applicant proposes that:

- Mechanical equipment such as air conditioning condensers, gas meters, electric meters, etc. will not be allowed within the minimum side building setback. This will ensure improved access for emergency personnel around the side of the building. This proposed requirement is in excess of the standards currently required by Bryan's residential building code.
- The wall adjacent to the 5-foot side setback shall be constructed of masonry construction and shall have a one-hour-rated fire wall. This proposal will result in construction that exceeds the requirements of the City's adopted International Residential Code.
- Roof eaves may project a maximum of 18-inches into the setback, but the applicant's proposed standard, more rigorous than to the ordinary Bryan residential building standards, requires that any such projection must be constructed to have a one-hour fire rating.

The aforementioned measures intended to alleviate the potential for increased fire danger have been reviewed and deemed acceptable by the City's Fire Marshal. All proposed changes to the previously-approved development plan for the residential portion of the Greenbrier development are highlighted on the pages below. The standards regulating the commercial component of the Greenbrier development remain as originally adopted for this development in 2009 and are not part of this request.

**Development requirements for Planned Development – Housing District (PD-H) on
186.6 acres of land out of John Austin League, Abstract No. 2 adjoining the north side of F.M. 1179
between F.M. 158 (Boonville Road) and Riverstone Drive in Bryan, Brazos County, Texas**

SECTION 1: Definitions

In this specific context, the term “permitted” shall mean all uses permitted by right within the zoning classification specified, as well as other uses defined and described in the Zoning Ordinance of the City of Bryan as being permitted with approval of a Conditional Use Permit. Said uses permitted with approval of a Conditional Use Permit shall be subject to development review procedures of the City of Bryan Zoning Ordinance described for Conditional Use Permits.

In this specific context, the term “family” shall mean any number of individuals living together in a single dwelling unit; provided all such individuals except one shall be related by blood, marriage or adoption within the second degree of relationship. Foster children residing in licensed foster care homes shall not be included in the calculation of the number of unrelated individuals living together in a single dwelling unit. Licensed foster care homes shall comply with any state mandated restrictions on the number of children permitted to reside in the dwelling unit.

In this specific context, the term “detached single-family dwelling” shall mean a detached building having accommodations for and occupied by not more than one family or housekeeping unit, and which occupies a lot or tract of land on which no other dwelling unit (except an accessory dwelling where allowed with prior approval of a Conditional Use Permit from the Planning and Zoning Commission) is situated.

In this specific context, the terms “zero lot line dwelling” and “patio dwelling” shall mean a single-family dwelling unit built on or near one side lot line, with open yards required on all remaining sides, and constructed as a detached unit on an individual lot. Adjoining lots shall not have common zero lot lines.

In this specific context, the term “townhouse dwelling” shall mean one unit of a series of three or more attached single-family dwelling units, separated by vertical lot line walls, with each dwelling unit having private entrances and being located on a separate lot.

SECTION 2: Land Use

4. Within this PD-H District, single-family residential land use shall only be permitted on land included in Phases 1 thru 15, as depicted on the development plan attached as Exhibit “B-1”.
5. The continued use of land permitted within Phases 1 thru 15 within this PD-H District shall be limited to the following uses
 - a. Uses Permitted By Right:
 1. Accessory structures;
 2. Detached single-family dwellings;
 3. Essential municipal uses;
 4. Home occupations;
 5. Private utilities (no storage yards);
 6. Real estate sales offices during the development of residential subdivisions, but not to exceed three years; and

7. Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.
 - b. Uses Permitted Only with Prior Approval of a Conditional Use Permit from the Planning and Zoning Commission:
 1. Accessory dwelling unit;
 2. Country club or golf course; and
 3. Professional offices.
 - c. In Phases 3, 4, 5, 6, 8 and 10, patio/zero lot line dwellings and townhouse dwellings shall also be allowed by right, subject to prior preliminary plan approval by the City of Bryan's Site Development Review Committee (SDRC) in accordance with the City of Bryan's subdivision regulations. Preliminary plans for any of these subdivision phases shall depict either the proposed zero lot line side if zero lot line/patio homes are proposed or clusters of townhouse structures for proposed townhouse developments. A combination of patio/zero lot line dwellings, townhouse dwellings and/or detached single-family dwellings in the same subdivision phase shall not be allowed.
6. The following additional standards shall apply to development within this PD-H District:
- a. No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.
 - b. Open storage is prohibited except for materials for the resident's personal use or consumption, i.e., firewood, gardening materials, etc. behind a fence or landscaping.
 - c. Modular (industrialized) buildings shall be prohibited.

SECTION 3: Physical Development

3. Physical development on land included in this PD-H District, as depicted on the development plan attached as Exhibit "B-1" shall comply with development standards and limitations of the City of Bryan Code of Ordinances that generally apply to properties zoned Residential District – 7000 (RD-7), subject to additions, modifications or exceptions described herein. These development standards and limitations include, but are not limited to, regulations concerning density, building height, building elevations, coverage, parking, access, screening, landscaping, accessory buildings, and signs.
4. The following additional standards or exceptions shall be applicable to the physical development and continued use of land and buildings in this PD-H District:
 - h. In Phases 5, 8-10, 12, and 15 minimum lots size requirements shall be as follows:**
 - 1. Lots intended to be developed with detached single-family dwellings or any other permitted use, except for patio/zero lot line dwellings and townhouse dwellings, shall be a minimum 65 feet wide and 125 feet deep with a minimum lot area of 8,125 square feet.**
 - 2. Lots intended to be developed with patio/zero lot line dwellings shall be a minimum 55 feet wide and 120 feet deep with a minimum lot area of 6,600 square feet.**
 - 3. Lots intended to be developed with townhouse dwellings shall be a minimum 25 feet wide and 100 feet deep with a minimum lot area of 2,500 square feet.**

i. In Phases 1 - 4, 6 - 7, 11, 13 - 14 the minimum lots size requirements shall be as follows:

- 1. Lots intended to be developed with detached single-family dwellings or any other permitted use, except for patio/zero lot line dwellings and townhouse dwellings, shall be a minimum 55 feet wide and 100 feet deep with a minimum lot area of 5,500 square feet.**
- 2. Lots intended to be developed with patio/zero lot line dwellings shall be a minimum 40 feet wide and 100 feet deep with a minimum lot area of 4,000 square feet.**
- 3. Lots intended to be developed with townhouse dwellings shall be a minimum 25 feet wide and 100 feet deep with a minimum lot area of 2,500 square feet.**

j. Buildings with metal exteriors shall be prohibited.

k. Where permitted, patio/zero lot line dwellings shall conform to the applicable standards specified in the City of Bryan's Code of Ordinances. The following additional standards for patio/zero lot line home developments:

1. The minimum side yard setback shall be 15 feet on lots siding on alleys. Homes must be constructed at least 15 feet from one side lot line.
2. Restrictions that assure the minimum distance between houses and any required easements must be recorded on the subdivision plats of the applicable lots. Proof of such recordation must be submitted as part of the building permit application.
3. A maintenance easement shall be dedicated within the side yard of each lot intended for development with a patio/zero lot line home, to allow for maintenance or repair of the side wall of a patio/zero lot line home that is built on the zero lot line side of the adjacent lot. The maintenance easement shall be unobstructed, located on the adjacent property abutting the side wall and must be a minimum of seven and one-half (7.5) feet in width. Required maintenance easements shall be shown on the recorded plat.
4. Noncombustible eaves may project a maximum of eighteen (18) inches over the adjacent property line, if a maintenance easement exists on the adjacent property. Gutters shall be required on eaves extending onto the adjacent property. The gutters shall channel water back to the property.
5. Windows or other openings that allow for visibility into the side yard of the adjacent lot are not allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, are allowed. All materials within three feet of the property line shall be fire-rated to meet building code requirements.

l. Where permitted, townhouse dwellings shall conform to the applicable standards specified in the City of Bryan's Code of Ordinances. The following additional standards for townhouse dwellings shall apply:

1. Only one townhouse dwelling shall be allowed on a single lot.
2. A cluster of attached townhouse dwellings shall be referred to as a townhouse structure. The minimum space required between townhouse structures shall be a minimum of 15 feet. A maximum 18-inch eave overhang is allowed within this required separation area.
3. Walls between individual dwelling units in a townhouse structure shall be at least 1-hour rated firewalls, as defined by the City's building code, including adjoining walls and ceilings where a garage or carport is adjacent to or connected with any living area.
4. The number of individual townhouse dwelling units in a townhouse structure shall be no more than 8 units, nor less than 3 units.

m. Detached accessory structures and accessory dwellings shall conform to the applicable standards specified in the City of Bryan's Code of Ordinances. The following additional standards for detached accessory structures and accessory dwellings shall apply:

1. The combined gross floor area of detached accessory structures on a single property shall be no more than 8% of the gross floor area of the main structure.
2. Only one accessory dwelling shall be allowed on a single property.
3. The gross floor area of an accessory dwelling shall be at least 400 square feet but not exceed 5% of the gross floor area of the main structure.
4. Where an accessory dwelling is permitted on a lot, no other detached accessory structures shall be located on that same lot.

n. In Phases 2 –4 and 6, the minimum side building setbacks shall be as follows:

1. **15 feet for all lot lines adjacent to street or alley right-of-ways;**
2. **5 feet on lots, with the following requirements;**
 - A. **All mechanical equipment (air conditioning condensers, gas meters, electric meters, etc.) shall not be allowed within the minimum side building setback and shall be located to the rear of the house.**
 - B. **The wall along the 5-foot side setback shall be constructed of masonry and have a one-hour rated fire wall.**
 - C. **Eaves may project a maximum of 18-inches into the setback, but must be constructed to have a one-hour fire rating.**

SECTION 4: Subdivision of Land

The subdivision of land in this Planned Development District shall be allowed in accordance with Chapter 110, Subdivisions, of the City of Bryan Code of Ordinances, with the following exceptions or additions to ordinary standards:

4. The installation of sidewalks and the common areas within this PD-H District shall be required only in the locations depicted on the development plan attached as Exhibit "B-1". Sidewalks shall be a minimum 4 feet wide along local streets and a minimum of 8 feet wide along Thornberry Drive and within common areas.
5. Articles of incorporation for the Homeowners' Association (HOA) must be submitted with the application for approval of the preliminary plan for the first residential phase that is being developed. The articles of incorporation must provide for the operation, repair and maintenance of all common areas.
6. Required parkland dedication for the development within this PD-H District shall be met through land dedication as shown on the development plan attached as Exhibit "B-1", subject to approval by the Parks and Recreation Advisory Board. Parkland development fees shall apply as provided for in the City of Bryan's Code of Ordinances.
7. Construction of a collector size road (Thornberry Drive) by the City of Bryan through this PD-H District and the developer's reimbursement to the City for the cost of road construction shall be in accordance with the road development agreement between the City of Bryan, Carter-Arden, LLC and Homewood, LLC executed on July 11, 2008.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan's Comprehensive 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. City-wide land use policies articulated in the Comprehensive Plan suggest that residential land uses should be located in areas that are: (1.) protected from but accessible to major roadway network, commercial establishments, work places and entertainment areas; (2.) accessible to collector and arterial streets, but directly accesses local streets; and (3.) not adjacent to major arterials or freeways without adequate buffering and access management.

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; relationship to general area and the City as a whole.

Staff believes that the proposed arrangement of residential land uses on these 186.6 acres is appropriate at this particular location and is in accordance with land use recommendations of the Comprehensive Plan. The subject property lies in an area that is considered to be one of the city's higher growth areas due to its proximity to existing development and the city's recent extension of a new collector street through this property. Staff believes that the proposed development of residential properties on lots less than one acre in size at a density of 3.8 homes per acre is desirable and will help support commercial developments locating here. Staff believes that the proposed arrangement of land uses at this location will promote orderly urban growth in this part of Bryan.

Staff contends that the changes proposed to alter the required minimum lot size for subdivision Phases 1 - 4, 6 - 7, 11 and 13 - 14, and to reduce the minimum required side building setback from 7.5 feet to 5 feet in future Phases 2 - 4, and 6, and to establish special construction and use standards related to the proposed reduction are reasonable responses to market changes and will not negatively impact the public interest relative to the overall plan for this master-planned community.

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.

Staff believes that the proposed changes to the residential subdivision and development standards within part of this PD-H District will provide for safe and orderly development. Anticipating development in this part of Bryan, the City extended a 24-inch wide sewer main to the southwestern boundary of this tract within the last 5 years.

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 closest vacant land zoned for residential development with lots less than one acre in size is

located west, in the Austin's Colony Subdivision. 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 residential developments are developing at a fast pace in this general vicinity and elsewhere in the City. Staff believes that approval of the requested amendment to the development standards for portions of this master-planned mixed-use development may be appropriate for other development in this area.

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.

If the proposed amendments to the development standards of this PD-H District were approved, staff believes there to be few if any direct effects on other areas designated for similar developments.

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

The applicant's request to reduce the minimum required side building setback from 7.5 feet to 5 feet in future Phases 2 – 4, and 6 and to establish special construction and use standards related to the proposed reduction is offered in response to the findings and recommendations of the Planning and Zoning Commission subcommittee.

The applicant's proposal includes measures to alleviate the potential for increased fire danger that potentially could result from a decrease in building separation. The applicant's proposal effectively eliminates the exception made in 2000 to the City's adopted residential building code, which grants relief from providing fire rated construction when parts of residential structures are placed closer than 5 feet from a side property line.

Specifically, the applicant proposes that:

- **Mechanical equipment such as air conditioning condensers, gas meters, electric meters, etc. will not be allowed within the minimum side building setback. This will ensure improved access for emergency personnel around the side of the building. This proposed requirement is in excess of the standards currently required by Bryan's residential building code.**
- **The wall adjacent to the 5-foot side setback shall be constructed of masonry and shall have a one-hour fire wall rating. This proposal will result in construction that exceeds the requirements of the International Residential Code.**
- **Roof eaves may project a maximum of 18-inches into the setback, but the applicant's proposed standard, more rigorous than to the ordinary Bryan residential building standards, requires that any such projection must be constructed to have a one-hour fire rating.**

Staff contends that the aforementioned proposed measures will produce a development pattern superior to what would be possible under the current standards.

Staff is unable to discern any other factors related to this request that will adversely affect health, safety, morals, or general welfare. Staff contends that the minor changes proposed are an effective response to changing market pressures and will allow construction of single-family homes at this location while maintaining an orderly development pattern and permit useful and orderly urban expansion on the subject property.

In addition, the Planning and Zoning Commission shall not approve a planned development if it finds that the proposed planned development does not conform to applicable regulations and standards established by Section 130-125 of the Zoning Ordinance:

1. Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features, within the standards established by this section.

Staff believes that if the amendments to the development standards for portions of this mixed-use master-planned development are approved the planned development will remain compatible with existing and anticipated uses surrounding this property and in accordance with the land use recommendations of the Comprehensive Plan. Staff believes that the proposed use and development of this property should have minimal (if any) adverse impacts on nearby properties or the City as a whole and may spur additional development interest in this vicinity.

2. Potentially creates unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot be mitigated by the provisions of this section.

Staff is unable to identify any potentially adverse effects or impacts on other existing or permitted uses on abutting sites that cannot be mitigated by the provisions of the proposed PD-H District.

3. Adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

Staff contends that the proposed amendments to the development standards for portions of this mixed-use master-planned development will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the vicinity. The existing layout of road and pedestrian walkways can reasonably be expected to provide for adequate and safe traffic circulation.

4. Adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

Staff contends that the amendments to the development standards for portions of this mixed-use master-planned development will not adversely affect traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

5. Fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

Staff contends that the existing development plan will reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts, in conformance with applicable city ordinances and that the proposed amendments to the

development standards for portions of this mixed-use master-planned development have no measurable effect.

6. Will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, for reasons specifically articulated by the commission.

Staff believes that the proposed amendments to the development standards for portions of this existing mixed-use master-planned housing development at this location will neither adversely affect health, safety, morals, or general welfare nor be materially injurious to properties or improvements in the vicinity.

RECOMMENDATION:

Staff recommends **approving** the proposed amendment to the development plan of this previously-approved Planned Development – Housing District (PD-H), as requested.