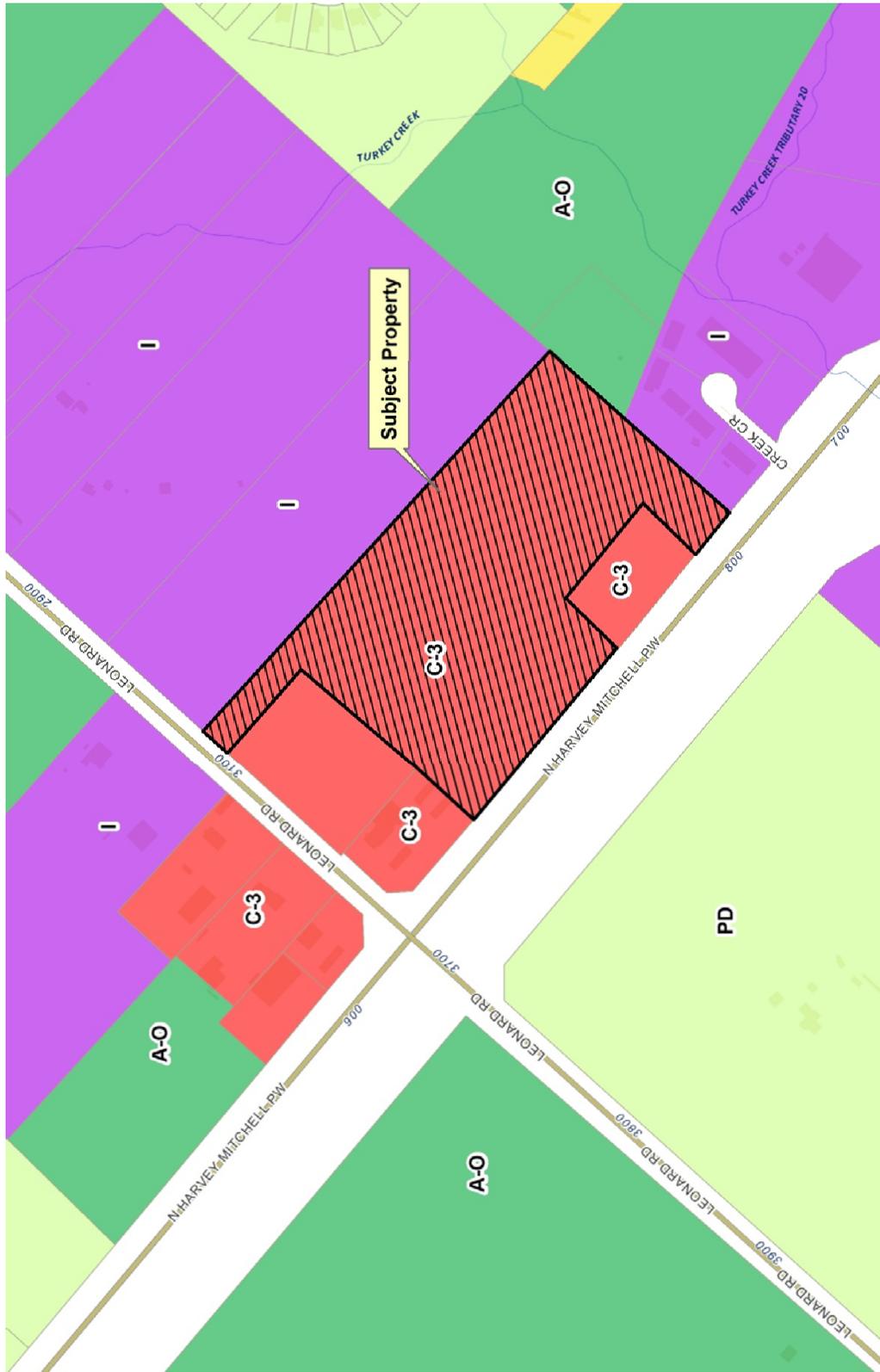


LOCATION MAP:



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, BY CHANGING THE ZONING CLASSIFICATION FROM ZONING CLASSIFICATION FROM COMMERCIAL DISTRICT (C-3) TO MULTIPLE-FAMILY DISTRICT (MF) ON 15.575 ACRES OUT OF ZENO PHILLIPS LEAGUE WRAPPING AROUND THE EAST CORNER OF LEONARD ROAD AND NORTH HARVEY MITCHELL PARKWAY (FM 2818) 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 amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances, by changing the zoning classification from zoning classification from Commercial District (C-3) to Multiple-Family District (MF) on 15.575 acres in Zeno Phillips League, wrapping around the east corner of Leonard Road and North Harvey Mitchell Parkway (FM 2818) 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. RZ16-08);

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 zoning classification from Commercial District (C-3) to Multiple-Family District (MF) on 15.575 acres out of Zeno Phillips League wrapping around the east corner of Leonard Road and North Harvey Mitchell Parkway (FM 2818) in Bryan, Brazos County, said 15.575 acres being described more particularly by metes-and-bounds on attached Exhibit "A", and depicted on attached Exhibit "B".

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":

**FIELD NOTES
REZONING OF
15.575 ACRES
BEING A PART OF THE
JOHN L. KROG ET UX
CALLED 22.095 ACRES
VOLUME 485, PAGE 345
ZENO PHILLIPS LEAGUE, A – 45
BRYAN, BRAZOS COUNTY, TEXAS
March 31, 2016**

All that certain lot, tract or parcel of land being 15.575 acres situated in the ZENO PHILLIPS LEAGUE, Abstract No. 45, Brazos County, Texas and being a part of that certain Called 22.095 acre tract as described in deed from Jerry Newton Konecny to John L. Krog and wife, Barbara Joan Krog, of record in Volume 485, Page 345, Deed Records of Brazos County, Texas, said 15.575 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a bent 3/8" Iron Rod found in the southeast right-of-way line of Leonard Road for the most northerly corner, said corner being the most northerly corner of said Called 22.095 acre tract, said corner also being the Occupied west corner of the Jesse Palomares et al Called 11.5 acre tract of record in Volume 4467, Page 62;

THENCE S 47 ° 09 ' 15 " E, along the Occupied northeast line of said Called 22.095 acre tract generally along a fence line a distance of 1401.88 feet to a 1/2" Iron Rod with Cap set in the northwest line of the Texas A & M University System Called 1.708 acre tract as described in Volume 552, Page 47 for the most easterly corner, said corner being the Calculated east corner of said Called 22.095 acre tract;

THENCE S 41 ° 42 ' 35 " W, along the southeast line of said Called 22.095 acre tract a distance of 198.21 feet to a 1/2" Iron Rod with Cap found for angle point, said corner also being an angle point of said Called 1.708 acre tract;

THENCE S 43 ° 41 ' 52 " W, along the remainder of the R. L. Burley et ux Called 23 acre tract as described in Volume 138, Page 12 a distance of 71.10 feet to a 1/2" Iron Rod with Cap set for angle point, said corner being the most northerly corner of Turkey Creek Addition as described in Volume 447, Page 363;

THENCE S 42 ° 21 ' 06 " W, along the northwest line of said Turkey Creek Addition a distance of 385.72 feet to a 1/2" Iron Rod with Cap set for the most southerly corner, said corner being located in the northeast right-of-way line of FM 2818;

THENCE N 49 ° 59 ' 37 " W, along the northeast line of said FM 2818 a distance of 119.80 feet to a point for an exterior corner;

THENCE N 40 ° 00 ' 23 " E, a distance of 217.80 feet to a point for an interior corner;

THENCE N 49 ° 57 ' 37 " W, a distance of 400.00 feet to a point for an interior corner;

THENCE S 40 ° 00 ' 23 " W, a distance of 217.80 feet to a point for an exterior corner, said corner being located in the northeast right-of-way line of said FM 2818;

THENCE N 49 ° 59 ' 37 " W, along the southwest line of said Called 22.095 acre tract and the northeast right-of-way line of said FM 2818 a distance of 563.90 feet to a 1/2" Iron Rod with Cap set for a west corner, said corner being the most southerly corner of Lot 1R, Block 1 of the Broach Addition of record in Volume 7099, Page 241, a Concrete Monument found for the west corner of said Called 22.095 acre tract bears N 49 ° 59 ' 37 " W a distance of 255.66 feet;

THENCE N 42 ° 05 ' 35 " E, along the southeast line of said Lot 1R a distance of 210.04 feet to a 1/2" Iron Rod with Cap found for interior corner, said corner being the most easterly corner of said Lot 1R;

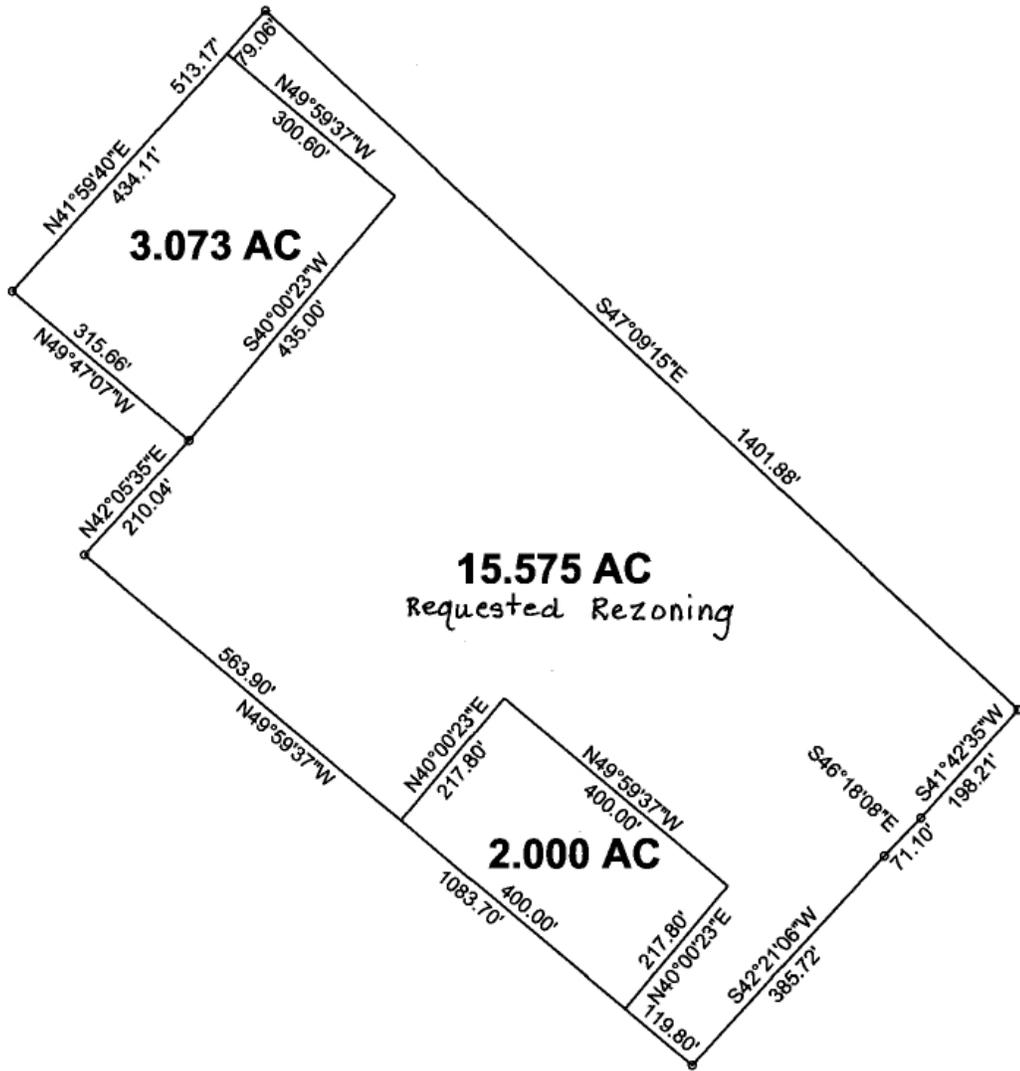
THENCE N 40 ° 00 ' 23 " E, a distance of 435.00 feet to a point for an interior corner;

THENCE N 49 ° 57 ' 37 " W, a distance of 300.60 feet to a point in the southeast right-of-way line of said Leonard Road for a west corner, said corner being located in the northwest line of said Called 22.095 acre tract, a 5/8 Iron Rod found for reference bears S 41 ° 59 ' 40 " W a distance of 434.11 feet;

THENCE N 41 ° 59 ' 40 " E, along the southeast right-of-way line of said Leonard Road and the northwest line of said Called 22.095 acre tract a distance of 79.06 feet to the PLACE OF BEGINNING AND CONTAINING AN AREA OF 15.575 ACRES OF LAND MORE OR LESS, according to a survey prepared during the month of December, 2015 under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961 and working under FIRM No. 10093500. North Orientation is based on rotating the northeast line to grid north NAD83 (CORS 2011) epoch 2010.00 as derived from GPS RTK Observations.



EXHIBIT "B":



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

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 RZ16-08: John L. and Joan K. Krog

A request to change the zoning classification from Commercial District (C-3) to Multiple-Family District (MF), on 15.575 acres of land out of Zeno Phillips League wrapping around the east corner of Leonard Road and North Harvey Mitchell Parkway (FM 2818) in Bryan, Brazos County, Texas. (M. Hilgemeier)

Commissioner Madison left the meeting at 7:39pm.

Ms. Hilgemeier presented the staff report (on file in the Development Service Department). Staff recommends approving the request. In response to questions, Mr. Hilgemeier stated that:

- The applicant desires some visibility from the road for the development as opposed to entirely retail
- There is a desire for a mix of uses, especially with Blinn College locating there

The public hearing was opened.

Commissioner Madison re-entered the meeting at 7:41pm.

Mr. John Binks, 3011 Hickory Ridge Circle, Bryan, TX, applicant, came forward to speak in favor of the request. He commented that:

- The shape of the land is odd which made drainage difficult.
- He needs the multi-family portion of the property to have some frontage on the road.
- He also hopes market for the multi-family portion will include young professionals.
- He desires to avoid strip mall retail which is why the commercial portions are shaped the way they are.
- Developments with retail on the bottom and housing above work better in metropolitan areas.

Ms. Donna Druery and Mr. Ray Druery, 3106 Leonard Road, Bryan, TX, Mr. Dave Haverland, 1400 Creek Circle C, Bryan, TX and Mr. Jake Haverland, 1805 Richmond Avenue, Bryan, TX, spoke in opposition to this request. Stated concerns included:

- The ability of the infrastructure to handle the developments.
- The inconsistencies with an early press release from Blinn College about the development of the college.
- The frequency of accidents in the area.
- The need for more of this type of development.
- An increase in traffic.
- Access problems to the road with future changes from the Texas Department of Transportation.
- Drainage issues.
- The back property line and the type of buffer between the multifamily and light industrial uses behind it.

The public hearing was closed.

Commissioner Incardona moved to recommend approval of Rezoning RZ16-08 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Conlee seconded the motion.

Commissioners commented that there will be many cases coming in the future regarding the incoming growth in Bryan.

The motion passed unanimously.

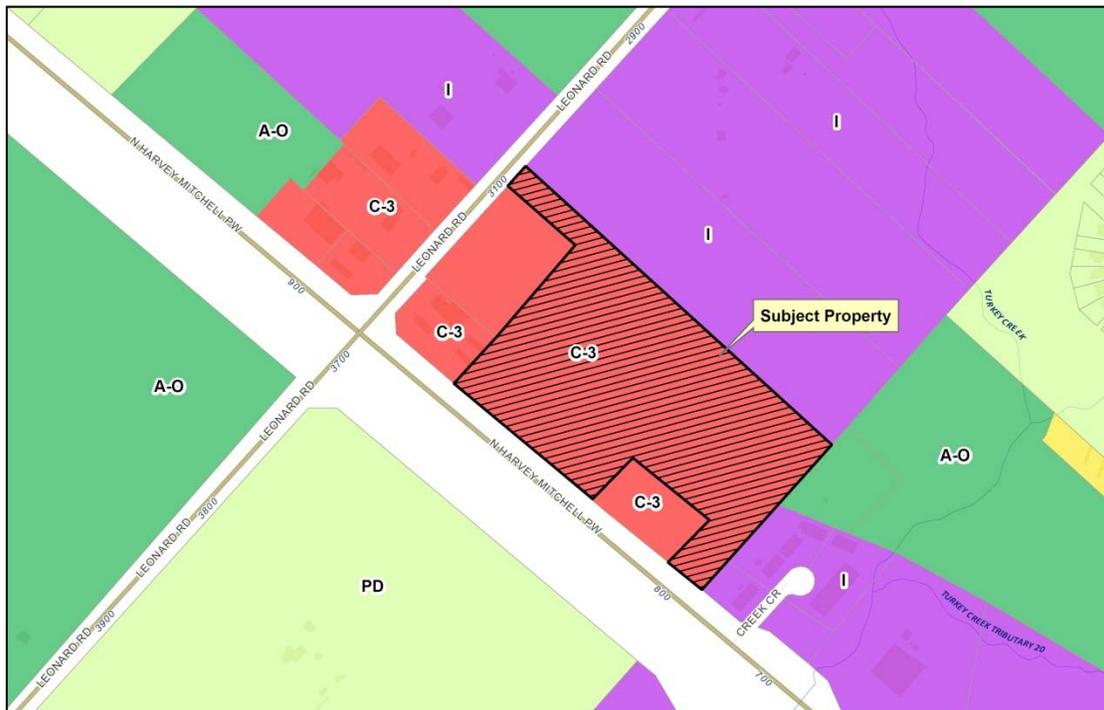
**PLANNING AND ZONING COMMISSION
STAFF REPORT**

May 19, 2016

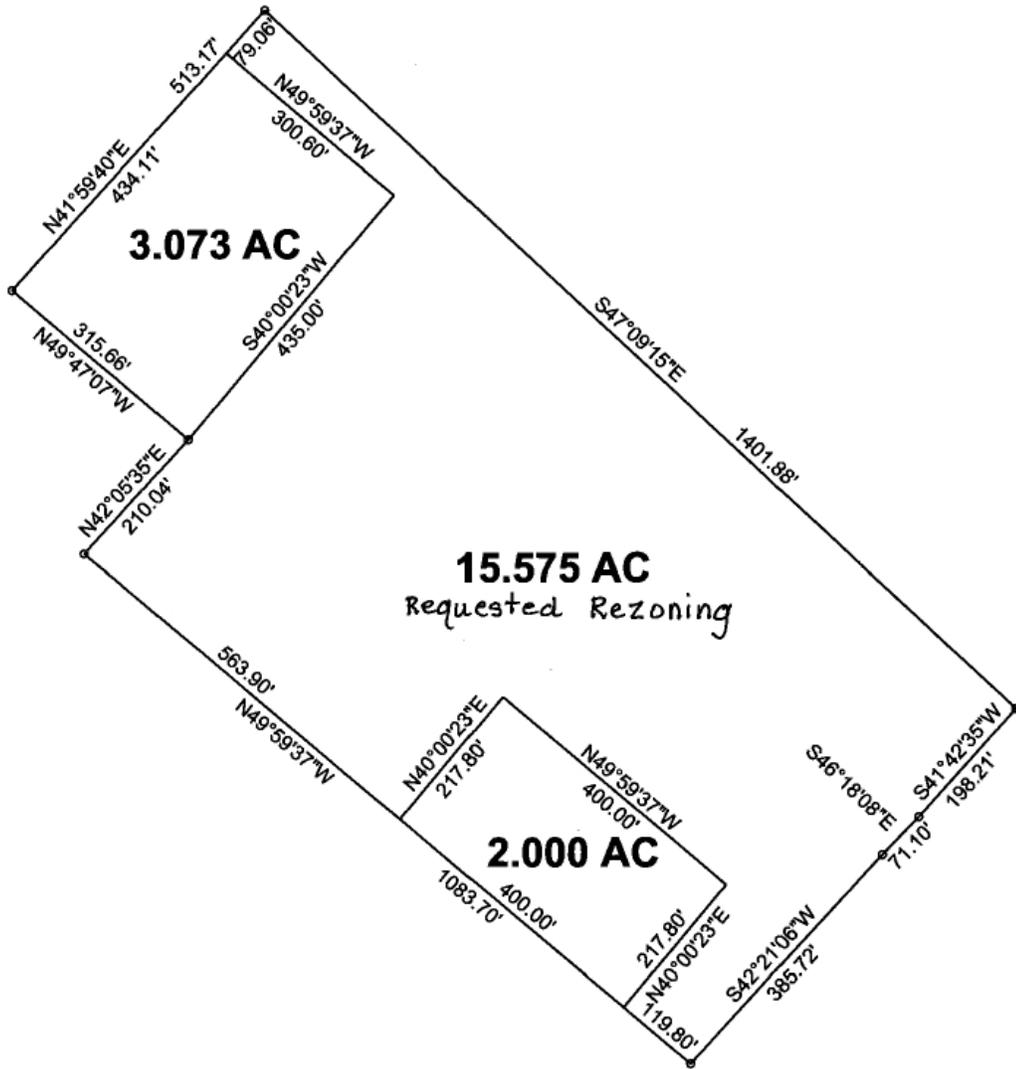


Rezoning Case no. RZ16-08: John L. and Joan K. Krog

- CASE DESCRIPTION:** a request to change the zoning classification from Commercial District (C-3) to Multiple-Family District (MF)
- LOCATION:** 15.575 acres of land out of Zeno Phillips League wrapping around the east corner of Leonard Road and North Harvey Mitchell Parkway (FM 2818)
- LEGAL DESCRIPTION:** 15.575 acres out of 20.53 acres in Zeno Phillips League, Block 18, Lot 41 (TR-4)
- EXISTING LAND USE:** vacant acreage
- APPLICANT(S):** John W. Binks and Douglas M. Barlow
- OWNERS:** John L. and Joan K. Krog
- STAFF CONTACT:** Matthew Hilgemeier, AICP, Staff Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** this request.



REZONING MAP



EXCERPT FROM REZONING APPLICATION:

Rezoning Supplement A



Minimum Requirements:

- Metes and Bounds description of property
- If Planned Development required, then include 15 folded copies and a .pdf of the development site plan

Please list the reasons for this rezoning request:

Development of Class A Multi-family facility to provide housing for students and professionals in the area of growth.

List the changed or changing conditions in the area or City which make this zone change necessary:

The new Blinn campus along with the development of retail and professional business in the area will provide a need for housing. This is in the path of City of Bryan development.

Indicate whether or not this zone change is in accordance with the Future Land Use Plan. If it is not, explain why the Plan is incorrect:

The City of Bryan has a plan of development in this area that corresponds with the proposed use of this land. This development will enhance the area and provide a class A housing facility.

List any other reasons to support this zone change:

This request meets the city's plan for continued development in this area.

BACKGROUND:

The applicants, Mr. John Binks and Douglas Barlow, are requesting to change the zoning classification on 15.575 acres of unsubdivided land wrapping around the east corner of Leonard Road and North Harvey Mitchell Parkway (FM 2818), from Commercial District (C-3) to Multiple-Family District (MF). The subject property is part of a 20.53-acre tract owned by John L. and Joan K. Krog.

The subject property is currently undeveloped land that lies adjacent to one of the major corridors leading into the City of Bryan, North Harvey Mitchell Parkway (FM 2818). This area of the North Harvey Mitchell corridor has been developing with a mix of commercial uses (ex. convenience stores, glass fabricators) and light industrial uses (auto repair shops, wrecking yard). Northeast along Leonard Road, properties are zoned Industrial District (I) and are currently developed with, single-family residential use and industrial uses (a wrecking yard, for example). Across North Harvey Mitchell Parkway southwest of the subject property is the location of the new Blinn College West Bryan Campus. Northwest along North Harvey Mitchell Parkway are large undeveloped tracts of land that are zoned Agricultural-Open District (A-O).

The subject property has been zoned Commercial District (C-3) since 1989 when the City of Bryan adopted zoning regulations. The applicants are requesting the change in zoning classification to allow for the proposed development of the property into an apartment complex.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan's Comprehensive Plan is the framework for the establishment of zoning and other regulatory tools. The current 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. The Comprehensive Plan also suggests high-density residential land uses may function as transitional land uses when situated between residential uses of lower density and commercial uses. The plan also focuses on the need to "facilitate orderly, efficient and attractive development, redevelopment, and infill" and suggests the development of specific requirements for contextual infill and redevelopment in existing neighborhoods and commercial areas.

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 proposed zoning change to MF District on these 15.575 acres is appropriate in this particular case and conforms to the land use recommendations of the Comprehensive Plan which suggests that high-density residential land uses may function as transitional land uses when situated between residential uses of lower density and commercial uses. Staff believes that, in this particular environment, rezoning to MF District is appropriate, as it would allow for a useful transition in land use intensities from more intense commercial use at the intersection of FM 2818 and Leonard Road to the residential uses that lie to the east of the subject property. The Comprehensive Plan encourages providing housing units for a variety of people with a range of income and needs and promoting compatible infill that is

sensitive to the context within which it occurs. The 15.75 acres that make up subject property are part of a larger 20 acre tract that is owned (or will be owned) by the applicants. The applicants are keeping two smaller portions of the 20 acre tract; a 2 acre tract and a 3 acre tract zoned C-3 District for future development into commercial uses that could serve the new residents of the proposed multi-family development planned for the subject property.

Additionally, due to the recent announcement of Blinn College's plans to construct a new campus that will eventually serve 15,000 students directly across North Harvey Mitchell Parkway from the subject property, the requested change in zoning classification will allow for development opportunities that will serve the need for multiple-family-style housing close to the new junior college campus. Given the anticipated growth in student population in the immediate area surrounding the subject property, providing opportunities for the construction of multi-family style developments in close proximity of the proposed Blinn West Campus seems appropriate as it would not only be convenient for students but also keep additional traffic off the City's arterial street network. The proposed change will allow the subject property to be developed in a manner that will serve as a transition from commercial uses along and high traffic volumes of North Harvey Mitchell Parkway to other uses located on adjacent properties.

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

The subject property has direct access to public water service via a 12-inch water line located along North Harvey Mitchell Parkway. Sewer services are located along Leonard Road and south along North Harvey Mitchell Parkway. Any issues regarding capacity and utility extensions will be addressed at the time of development.

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.

There currently is not any vacant land of a similar size classified as MF District within the vicinity of the subject property. Staff was able to locate one smaller tract (8 acres) south along North Harvey Mitchell Parkway near its intersection with West Villa Maria Road that is zoned MF District that has remained undeveloped while surrounding properties have developed as duplex lots or commercial use. Staff could not identify and special circumstances which make that 8-acre tract of vacant land undevelopable under the current MF zoning classification. Staff would anticipate that this property's potential for development will also increase in the near future as commercial and residential uses develop as the new Blinn College campus grows.

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 the rate at which land is being developed in the vicinity of the subject property has been slow to none. As stated above other areas zoned MF District in the vicinity of the subject property are mostly developed save for the one 8 acre tract located roughly 2.5 miles south of the subject property. Staff anticipates similar requests to rezone property in the surrounding area to higher density residential use in the future given the reasons stated above.

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.

As stated above, the areas in the immediate vicinity of the subject property are a mix of property zoned C-3 District, Industrial District, and A-O District. Approving the requested change in zoning classification on the subject property would allow it to be developed for multiple-family residential purposes. This requested change in zoning classification should not effect on the development potential of other properties designated for similar development in the area. It must be noted; however, that rezoning the property to MF District will affect the future development of now-vacant land zoned C-3 District and Industrial District. If the subject property were rezoned MF District, adopted buffer area standards of the Zoning Ordinance will reduce the developable land on those adjacent properties.

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

Changing the zoning classification of the subject property to a multiple-family residential zoning classification will affect the future developability of adjacent land, due to adopted buffer area requirements. If the requested zoning change to MF District were approved, the portions of the larger 20 acre tract that will remain zoned development C-3 District (a 2 acre tract and a 3 acre tract) would be required to provide a 75-foot wide buffer area (which can be reduced to 45-feet with additional landscaping) along the shared property lines with the subject property. Given the overall size of those two remaining tracts, buffer area requirements will still allow for commercial development opportunities on those tracts.

It can be expected that the proposed rezoning request and subsequent development of the tract into a multiple-family development will increase traffic taking access to North Harvey Mitchell Parkway. The applicants have configured their rezoning request to include a portion of the property to be developed for multi-family uses will have direct access to Leonard Road. While the applicant's anticipate having access to North Harvey Mitchell Parkway, having access to Leonard Road will allow residential traffic to have access to a controlled (i.e., signalized) intersection. Additionally, staff contends that the development of the subject property for multiple-family uses would not be expected to generate higher traffic volumes than what might be generated if the property were to develop completely as a commercial property under the current C-3 zoning classification. Staff is unable to discern other factors resulting from this requested zoning change that will affect health, safety, morals or general welfare.

RECOMMENDATION:

Based on the reason stated above, staff recommends **approving** this request to change the zoning classification on these 15.575 acres from Commercial District (C-3) to Multiple-Family District (MF).