ACTION FORM
BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING:	July 9, 2013	**DATE SUBMITTED:**	June 18, 2013
DEPARTMENT OF ORIGIN:	Development Services	**SUBMITTED BY:**	Maggie Dalton

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
☐ BCD	☒ PUBLIC HEARING	☐ 1ST READING	☐ PUBLIC SAFETY
☐ SPECIAL	☐ CONSENT	☐ 2ND READING	☐ SERVICE
☒ REGULAR	☐ STATUTORY		☒ ECONOMIC DEVELOP.
☐ WORKSHOP	☐ REGULAR		☒ INFRASTRUCTURE
			☒ QUALITY OF LIFE

AGENDA ITEM DESCRIPTION: Consideration of an ordinance to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances, to change the zoning classification from Agricultural-Open District (A-O) to Residential District – 5000 (RD-5) on 12.82 acres of land out of the John Austin League, A-2 located east of the intersection of Thornberry and Bullinger Creek Drives in Bryan, Brazos County, Texas.

SUMMARY STATEMENT: The subject property is 12.82 acres in size and located east of the intersection of Thornberry and Bullinger Creek Drives. The subject property is currently vacant and has never been developed. Currently, properties to the west are zoned Residential District – 5000 and are developing with single-family residential structures. To the north of the property is outside the city limits of Bryan. The east side of the subject property is zoned Agricultural-Open, and it is a part of the Austin's Colony Master Plan which is projected to eventually rezone the property for single-family residential development. To the south is property zoned Agricultural-Open.

The property owners, Carrabba Family Limited Partnership, have requested to change the zoning of the subject property to RD-5. They wish to subdivide the property and develop Phase 13 in accordance with the Austin's Colony Master Plan. The property was zoned to Agricultural-Open upon the annexation of the land.

The A-O District is intended to provide locations 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 RD-5 District is intended for single-family residential development opportunities on lots of not less than 5,000 square feet in size. The district allows other uses, such as religious and educational facilities, and open spaces.

STAFF ANALYSIS AND RECOMMENDATION: Staff recommends approving the requested RD-5 zoning for these 12.82 acres. The subject property is located in an area that is sparsely developed. Adjacent properties are either vacant or developed with single-family homes. Staff believes that the low-density single-family residential subdivision phase will be compatible with existing and anticipated land uses in the surrounding area and consistent with land use recommendations of the Comprehensive Plan and the Austin's Colony Master Plan.

During its meeting on June 6, 2013, the Planning and Zoning Commission unanimously recommended approving this rezoning request.

OPTIONS (In Suggested Order of Staff Preference):

1. approve the requested zone change;
2. deny the requested zone change.

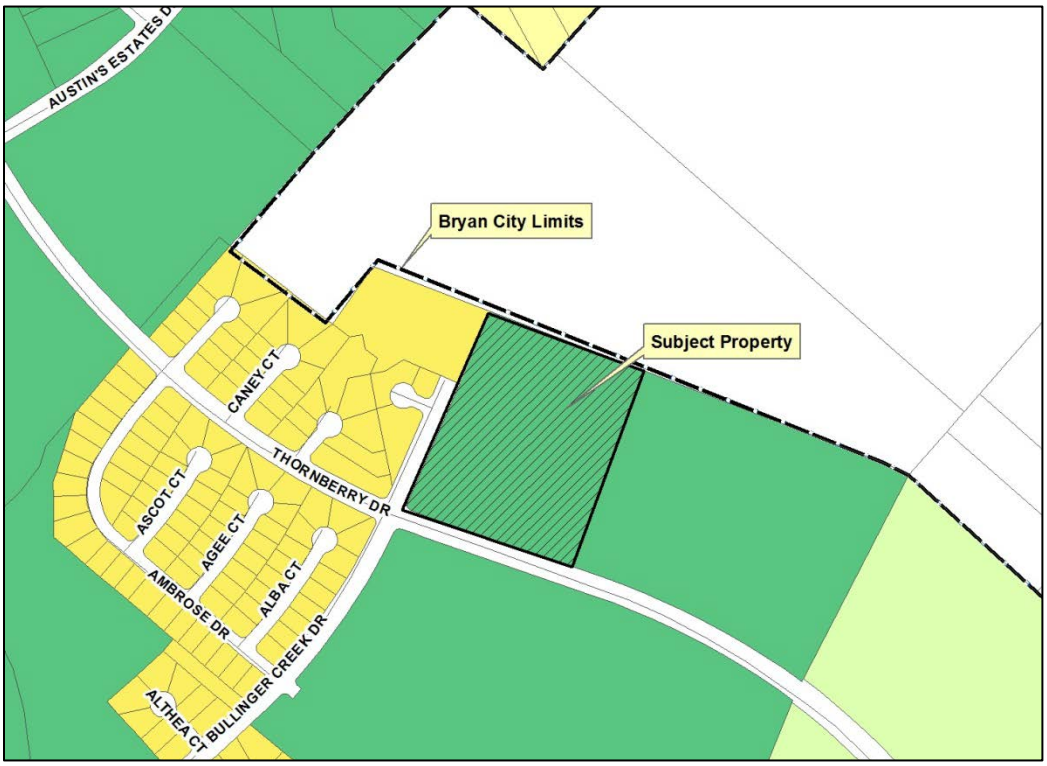
ATTACHMENTS:

1. location map;
2. draft ordinance with exhibits;

3. excerpt from P&Z meeting minutes; and 4. staff report to the Planning & Zoning Commission
FUNDING SOURCE: **N/A**
APPROVALS: Joey Dunn, 6-18-13; Hugh R. Walker, 06/24/2013
APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 06-25-2013
APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 07-02-2013

Revised 04/2013

LOCATION MAP:



AERIAL PHOTOGRAPH - 2011:

ORDINANCE NO._____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, CHANGING THE ZONING CLASSIFICATION FROM AGRICULTURAL-OPEN DISTRICT (A-O) TO RESIDENTIAL DISTRICT – 5000 (RD-5) ON 12.82 ACRES OF LAND OUT OF THE JOHN AUSTIN SURVEY, A-2 LOCATED EAST OF THE INTERSECTION OF THORNBERRY AND BULLINGER CREEK DRIVES IN BRYAN, BRAZOS COUNTY, TEXAS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH SAID ORDINANCE IS PASSED ARE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, this requested change to Chapter 130 for 12.82 acres of land out of the John Austin Survey, A-2 located east of the intersection of Thornberry and Bullinger Creek Drives in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on June 6, 2013;

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

1.

That Chapter 130, Zoning, of the City of Bryan Code of Ordinances be amended by changing the zoning classification from Agricultural-Open District (A-O) to Residential District – 5000 (RD-5) on 12.82 acres of land out of the John Austin Survey, A-2 located east of the intersection of Thornberry and Bullinger Creek Drives in Bryan, Brazos County, Texas, said 12.82 acres of land being described more particularly on attached Exhibit “A”.

2.

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

3.

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

4.

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

5.

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

6.

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

PRESENTED AND GIVEN first reading the 9th day of July, 2013 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 23rd day of July, 2013 by a vote of ___ yeses and ___ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

_____
Mary Lynne Stratta, City Secretary

CITY OF BRYAN:

_____
Jason P. Bienski, Mayor

APPROVED AS TO FORM:

_____
Janis K. Hampton, City Attorney

Exhibit "A":
Metes-and-bounds description

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE JOHN AUSTIN LEAGUE, ABSTRACT NO. 2, BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 333.4 ACRE TRACT AS DESCRIBED BY DEED TO CARRABBA FAMILY LIMITED PARTNERSHIP RECORDED IN VOLUME 5807, PAGE 259 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

COMMENCING AT A ½ INCH IRON ROD FOUND MARKING THE NORTHEAST CORNER OF SAID REMAINDER OF 333.4 ACRE TRACT AND THE SOUTHEAST CORNER OF A CALLED 46.8 ACRE TRACT AS DESCRIBED BY A DEED TO JOHN C. RABORN AND WIFE, NELWYN MARTIN RABORN RECODED IN VOLUME 173, PAGE 3 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 67° 05' 47" W ALONG THE COMMON LINE OF SAID REMAINDER OF 333.4 ACRE TRACT AND SAID 46.8 ACRE TRACT FOR A DISTANCE OF 1134.95 FEET TO THE **POINT OF BEGINNING** OF THIS HEREIN DESCRIBED TRACT;

THENCE: S 20° 09' 18" W THROUGH SAID REMAINDER OF 333.4 ACRE TRACT FOR A DISTANCE OF 815.86 FEET TO THE NORTHEAST LINE OF THORNBERRY DRIVE (80' R.O.W.) AND THE EXTENSION THEREOF;

THENCE: N 70° 28' 46" W CONTINUING THROUGH SAID REMAINDER OF 333.4 ACRE TRACT AND ALONG THE NORTHEAST LINE OF THORNBERRY DRIVE FOR A DISTANCE OF 665.22 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 25.00 FEET;

THENCE: ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92° 13' 30" FOR AN ARC DISTANCE OF 40.24 FEET (CHORD BEARS: N 22° 53' 22" W – 36.04 FEET) TO THE END OF SAID CURVE ON THE SOUTHEAST LINE OF BULLINGER CREEK DRIVE (80' R.O.W.) ACCORDING TO THE PLAT OF AUSTIN'S COLONY, PHASE TWELVE A, RECORDED IN VOLUME 10515, PAGE 193 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS

THENCE: N 23° 13' 23" E ALONG THE SOUTHEAST LINE OF BULLINGER CREEK DRIVE AND THE EXTENSION THEREOF FOR A DISTANCE OF 829.06 FEET TO THE COMMON LINE OF SAID REMAINDER OF 333.4 ACRE TRACT AND SAID 46.8 ACRE TRACT;

THENCE: S 67° 05' 47" E ALONG THE COMMON LINE OF SAID REMAINDER OF 333.4 ACRE TRACT AND SAID 46.8 ACRE TRACT FOR A DISTANCE OF 646.15 FEET TO THE **POINT OF BEGINNING** CONTAINING 12.824 ACRES OF LAND, MORE OR LESS. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES OF JUNE 6, 2013:

1. Rezoning RZ13-05: Grant Carrabba **M. Dalton**

A request to change the zoning classification from Agricultural – Open District (A-O) to Residential District – 5000 (RD-5) on 12.82 acres of land located east of the intersection of Thornberry and Bullinger Creek Drives in Bryan, Brazos County, Texas.

Ms. Dalton presented the staff report (on file in the Development Services Department). Staff recommends approving the request.

The public hearing was opened.

None came forward.

The public hearing was closed.

Commissioner Jones moved to recommend approval of Rezoning RZ13-05 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Bienski seconded the motion.

The motion passed unanimously.

PLANNING AND ZONING COMMISSION
STAFF REPORT

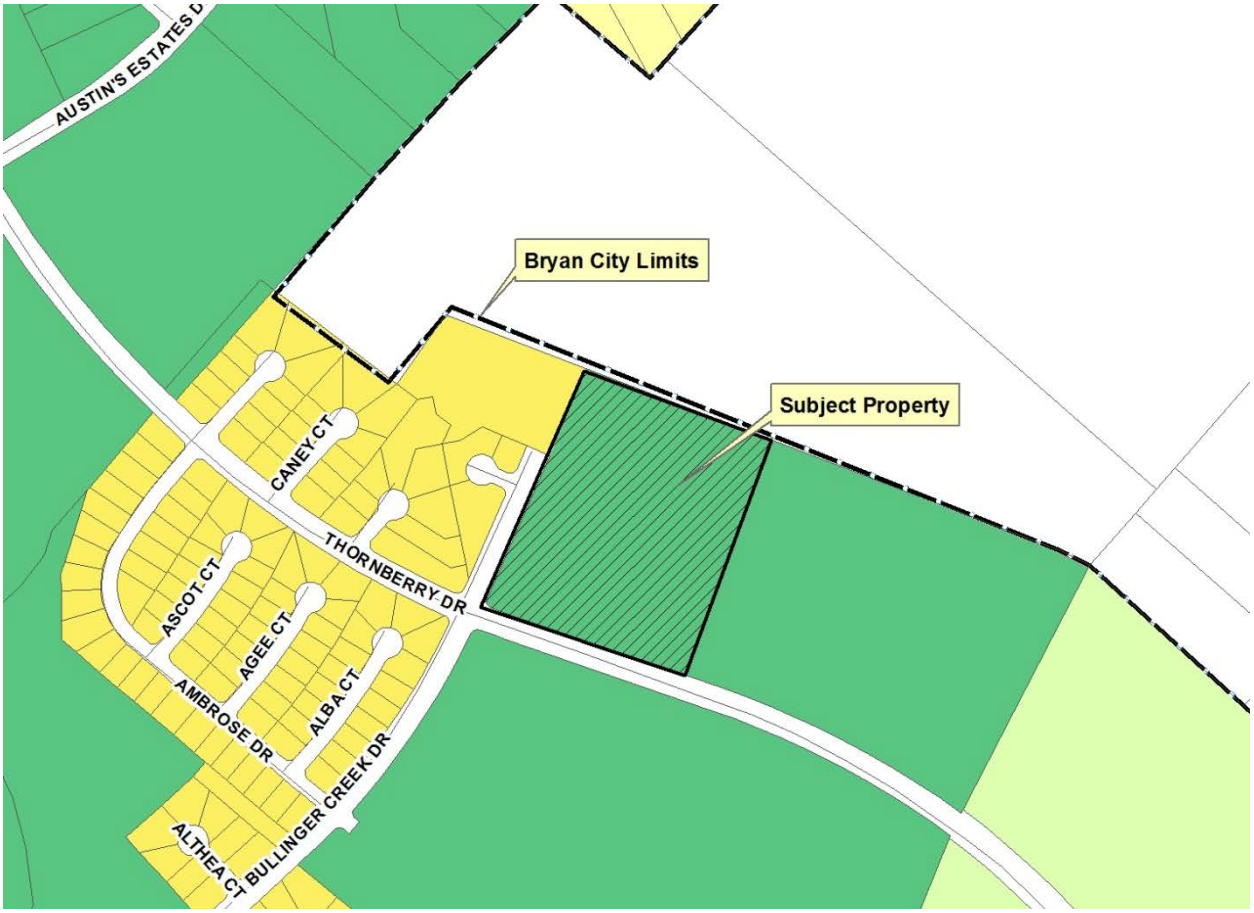
June 6, 2013

CITY OF BRYAN

Rezoning case no. RZ13-05: Grant Carrabba

CASE DESCRIPTION:	a request to change the zoning classification from Agricultural-Open District (A-O) to Residential District – 5000 (RD-5)
LOCATION:	12.82 acres of land located east of the intersection of Thornberry and Bullinger Creek Drives
LEGAL DESCRIPTION:	12.82 acres of land out of John Austin League A-2
EXISTING LAND USE:	vacant acreage
APPLICANT(S):	Grant Carrabba
STAFF CONTACT:	Maggie Dalton, Staff Planner

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



AERIAL PHOTOGRAPH (2011):

BACKGROUND:

The applicants are requesting to change the zoning classification from Agricultural-Open District (A-O) to Residential District – 5000 (RD-5) on 12.82 acres of vacant land located east of the intersection of Bullinger Creek and Thornberry Drives. The applicants desire to develop this land with a residential subdivision, specifically, Phase 13 of Austin's Colony Subdivision. A master plan for Austin's Colony proposing a low-density residential development at this location was approved by the Planning and Zoning Commission on April 6, 2006.

The A-O zoning classification is intended to provide opportunities for development of low density, detached single-family residences on lots of at least one acre in a suburban or rural setting. This zoning classification is also intended to serve as a holding zone for vacant land areas annexed to the City as well as to protect areas that may be unsuitable for development and to preserve natural open space. The RD-5 zoning classification is intended to provide opportunities for development of detached dwellings on lots of at least 5,000 square feet in size.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan adopted a new Comprehensive Plan in January 2007. The plan includes policy recommendations related to the various physical development aspects of the community. These aspects are supported by a set of goals and objectives. The Comprehensive Plan suggests that low density

residential should be located in areas that are protected from (but accessible to) the major roadway in close proximity to schools.

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 RD-5 zoning on these 12+ acres is appropriate at this particular location and is not only in accordance with land use recommendations of the Comprehensive Plan, but also the master plan for the Austin's Colony Subdivision. The master plan proposes more low-density residential developments on the east side of Carter's Creek in this vicinity. Staff believes that single-family residences at this location will promote orderly urban growth in close proximity to Harvey Mitchell Elementary School.

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.

   Residential neighborhoods should be planned such that they form cohesive environments oriented toward elementary schools at their core. In this particular case, this proposed low-density residential subdivision is located near Harvey Mitchell Elementary School and will have access to collector streets (Bullinger Creek and Thornberry Drives). Any issues regarding utility capacity 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.

   The closest vacant land zoned for residential development is located a few hundred feet southwest from the subject property in the subdivision known as Austin's Colony – Phase 12. 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 moderate 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.

   If the proposed zone change was approved, staff believes there to be few, if any, effects on other areas designated for similar developments.

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

   Staff is unable to identify additional factors other than those mentioned above that might affect health, safety, morals, or general welfare if this rezoning were approved.

RECOMMENDATION:

Based on all these considerations, staff recommends **approving** the requested zone change to Residential District – 5000 on the subject property. RD-5 zoning on this property appears to be consistent with the land use recommendations of the Bryan Comprehensive Plan and the adopted master plan for the Austin's Colony Subdivision.