

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, BY CHANGING THE ZONING CLASSIFICATION FROM AGRICULTURAL - OPEN DISTRICT (A-O) TO INDUSTRIAL DISTRICT (I), ON 1.83 ACRES OF LAND ADJOINING THE NORTHWEST SIDE OF CHARLES AVENUE BETWEEN CLARKS LANE AND DRILLERS DRIVE, BEING LOT 4 IN BLOCK 1 OF PARKWOOD ESTATES SUBDIVISION – PHASE 2, AND CURRENTLY ADDRESSED AS 4031 CHARLES AVENUE 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 Agricultural – Open District (A-O) to Industrial District (I) on 1.83 acres of land adjoining the northwest side of Charles Avenue between Clarks Lane and Drillers Drive, being Lot 4 in Block 1 of Parkwood Estates Subdivision – Phase 2, and currently addressed as 4031 Charles Avenue in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on September 1, 2016 (case no. RZ16-14);

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

1.

That Chapter 130, Zoning, of the City of Bryan Code of Ordinances be amended by changing the zoning classification from Agricultural – Open (A-O) to Industrial District (I) on 1.83 acres of land adjoining the northwest side of Charles Avenue between Clarks Lane and Drillers Drive, being Lot 4 in Block 1 of Parkwood Estates Subdivision – Phase 2, and currently addressed as 4031 Charles Avenue in Bryan, Brazos County, Texas.

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That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.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 27th day of September, 2016 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 11th day of October, 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

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES
OF SEPTEMBER 1, 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 RZ16-14: Hector and Estella Garcia

A request to change the zoning classification from Agricultural – Open District (A-O) to Industrial District (I) on 1.83 acres of land adjoining the northwest side of Charles Avenue between Clarks Lane and Drillers Drive, being Lot 4 in Block 1 of Parkwood Estates Subdivision – Phase 2, and currently addressed as 4031 Charles Avenue in Bryan, Brazos County, Texas. (S. Doland)

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

In response to questions from the Commission, Ms. Doland stated that one email was sent to the city opposing this rezoning case.

The public hearing was opened.

Mr. Manuel Acarto, 4112 Meadowbrook Drive, Bryan, TX, applicant, spoke in favor of the request. Statements included:

- He spoke with one of the neighbors about any concerns they had.
- He will build a fence.
- He will make sure to take good care of the property.

The public hearing was closed.

Chairperson Marin moved to recommend approval of Rezoning RZ16-14 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of the Commission. Commissioner Madison seconded the motion, and the motion passed unanimously.

Commissioners stated that:

- This development fits in with the surrounding uses of industrial in that district.
- Expressed sympathy to a resident in the area, but stated that the general area is conducive to industrial.
- Expressed support of the development and an appreciation that the applicant is putting forth efforts to be a good neighbor to those in residents.

The motion passed unanimously.

From: jane miller [REDACTED]
Sent: Wednesday, August 31, 2016 9:14 PM
To: Planning Services Web; Rafael Pena
Subject: Rezoning case # RZ16-14

Dear Planning & Zoning Commissioners, I am writing in regards to the possible rezoning of Lot 4 block 1, also known as 4031 Charles Ave, Bryan. My husband and I live across the street at 4030 Charles Ave. We oppose the rezoning to Industrial district for several reasons. First, it would put an industry in the middle of several private residences. This would lead to lowering the property values of our residence and other houses in the neighborhood. It might also increase traffic on Charles Ave.

It is our understanding that the owner of the property wants to run a towing company and use the lot as an impound area. This means there would be numerous cars and trucks unsightly filling the lot. More of our country way of life would be taken from us. We moved to our 6 acres 14 years ago for peace and quiet, to have a big garden and orchard and fishing pond. We've already complained about business at 4011 Charles Ave and the junk vehicles there. That has improved thanks to intervention of our councilman, Mr. Pena. Now we are threatened by the plans next door at 4031. Please do not rezone lot 4 block 1 for industrial use. Thank you, Douglas and Jane Miller

P.S. We received the notice of the hearing the day before it is to be held. That is not sufficient notice.

AERIAL PHOTOGRAPH, 2015:



GOOGLE STREET VIEW



Charles Ave

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:

CHANGE USE FROM AGRICULTURAL OPEN TO INDUSTRIAL. FUTURE USE WILL BE INDUSTRIAL USE - WITHIN THE NEXT (6) MONTHS TO A YEAR.

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

INDUSTRIAL ZONING IS IN THE IMMEDIATE AREA AND INDUSTRIAL ZONING WILL BE NEEDED FOR FUTURE USE.

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:

List any other reasons to support this zone change:

BACKGROUND:

The applicant, Lorries Acarto, is requesting to change the zoning classification on this 1.83-acre tract of the Parkwood Estates Subdivision – Phase 2 from Agricultural Open District (A-O) to Industrial District (I).

The subject property is currently developed with a manufactured home and outside storage, such as vehicles and trailers. This area is located less than a mile from North Earl Rudder Freeway and has been developing with various industrial uses. Properties located to the south and west of the property are zoned Industrial District. The property located to the rear of the subject property is located outside of the City of Bryan City Limits and does not take access from Charles Avenue.

The adjacent property to the east of the subject property is currently developed with a single-family residence and is zoned Agricultural-Open District. The adjacent property to the west is developed with two warehouses each approximately 2,000 square feet in size and the property currently utilizes the remaining land for outdoor storage of vehicles. The property located further to the west, at the corner of Clarks Lane and Charles Avenue, is developed with more than 10,000 square feet of warehousing and contains various outdoor storage.

The properties located generally southeast of the subject property and across Charles Avenue are zoned Industrial District. Located on these industrial zoned properties are eight, 5,000 square foot warehouses with industrial uses such as, a towing company, a motorcycle service and accessories shop, Brazos Valley Lubricators. Located in the general vicinity of the subject property are an additional fifteen 6,000 square feet or greater warehouses with various industrial businesses.

The subject property has been zoned Agricultural Open District (A-O) since 1989 when the City of Bryan adopted zoning regulations. The A-O zoning district is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used primarily for agricultural purposes, but may become an urban area in the future. The Industrial District is intended primarily for the conduct of heavy manufacturing, assembling and fabrication, and for large scale warehousing, wholesaling and service operations. The applicants are requesting the change in zoning classification to allow for the proposed development of the property into warehousing for camping equipment, tactical gear and emergency preparedness equipment.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan's Comprehensive Plan includes policy recommendations related to the various physical development aspects. Among the Plan's goals supported by the policies are the development of attractive entrances and corridors and encouraging and promoting compatible infill and redevelopment in areas where these activities will benefit the City as a whole and the area specifically. One of the Plan's objectives is to encourage a sustainable mix of land uses types in suitable locations, densities and patterns and to identify areas for commercial development and preserve them with appropriate zoning. The Comprehensive Plan also suggests:

5.5 Land Use Policies / Use-Specific Land Use Policies:

Industrial land provides locations for manufacturing activities where impacts to less intense uses can be substantially buffered. These uses should be located in areas that are along arterial thoroughfares, in proximity to freeways, rail lines and/or areas with access to airports or other transportation outlets.

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 Industrial District on these 1.83 acres is appropriate in this particular case and conforms to the land use recommendations of the Comprehensive Plan. The Comprehensive Plan suggests that industrial land uses should be used for manufacturing purposes in areas where impacts to less intense uses can be buffered, and where the use is located in close proximity to freeways. Staff believes that, in this particular environment, rezoning to the Industrial zoning district is appropriate, as the property surrounded by property zoned Industrial and developed with existing Industrial uses. Additionally the property is located less than a mile from Earl Rudder Freeway, which is classified as a freeway on the Thoroughfare Plan.

The Industrial zoning classification is primarily intended for manufacturing, assembling and fabrication, warehousing, wholesaling and service operations. Properties in the general vicinity are primarily developed with heavy manufacturing and industrial uses. The nearest residential use is located on the adjacent property to the east, however staff believes the subject property is large enough to buffer to the residential use.

The proposed change will allow the applicant to develop the subject property with warehousing and manufacturing in a manner that is appropriate with the general vicinity and compatible with 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 and sewer service via a 8-inch water line and a 8-inch sewer line located along Charles Avenue. Additionally, the subject property is located 700 feet from Clarks Lane which is classified as a Minor Arterial and less than a mile from Earl Rudder Freeway which is classified as a Freeway which is capable of accommodating high traffic volumes and provides connectivity throughout Brazos County. Any further 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 a considerable amount of vacant land of a similar size classified for industrial use within the vicinity of the subject property. Staff could not identify any special circumstances which make other such vacant land undevelopable under the current industrial or agricultural zoning classifications.

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 moderate. The 20+ warehouses located to the east of the subject property were

developed between 1990 and 2010. The recently developed warehouses are helping to promote further growth and development on vacant property and in the general vicinity of the subject property.

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 Agricultural-Open District and Industrial District. Approving the requested change in zoning classification on the subject property would allow the property to be developed for warehousing and other industrial uses. This requested change in zoning classification should not have an effect on the development potential of other properties designated for similar development in the area.

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

It can be expected that the proposed rezoning request and subsequent development of the tract into a warehouse and other industrial uses will increase traffic along Charles Avenue, Clarks Lane and Earl Rudder Freeway. Staff believes that these thoroughfares and the freeway are capable of handling the increased traffic and will provide the benefit of connectivity to the greater community and county.

Other than the reason stated above, staff is unable to discern other factors resulting from this requested zoning change that will affect health, safety, morals or general welfare.

RECOMMENDATION:

Staff recommends **approving** the proposed Industrial zoning, as requested, on these 1.83 acres of land.