

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 OFFICE DISTRICT (C-1) ON 5.5 ACRES OF LAND OUT OF THE STEPHEN F. AUSTIN SURVEY NO. 9, ABSTRACT 62, ADJOINING THE SOUTHWEST SIDE OF WEST MARTIN LUTHER KING JR. STREET BETWEEN DEAN STREET AND HARLEM ROAD, AND CURRENTLY ADDRESSED AS 1401 WEST MARTIN LUTHER KING JR. STREET 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 Office District (C-1) on 5.5 acres of land out of the Stephen F. Austin Survey No. 9, Abstract 62, adjoining the southwest side of West Martin Luther King Jr. Street between Dean Street and Harlem Road, and currently addressed as 1401 West Martin Luther King Jr. Street in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on September 15, 2016 (case no. RZ16-16);

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 District (A-O) to Office District (C-1) on 5.5 acres of land out of the Stephen F. Austin Survey No. 9, Abstract 62 adjoining the southwest side of West Martin Luther King Jr. Street between Dean Street and Harlem Road, and currently addressed as 1401 West Martin Luther King Jr. Street in Bryan, Brazos County, Texas, said 5.5 acres being described more particularly by metes-and-bounds on attached Exhibit “A”.

2.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

3.

Should any section, paragraph, sentences, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this

ordinance shall not be affected thereby, and to this end the provisions of this ordinance are declared to be severable.

4.

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

5.

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

6.

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

PRESENTED AND GIVEN first reading the 11th day of October, 2016 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 25th 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

EXHIBIT "A":

**METES AND BOUNDS DESCRIPTION
OF A
5.50 ACRE TRACT
S. F. AUSTIN NO. 9 SURVEY, A-62
BRYAN, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE S. F. AUSTIN NO. 9 SURVEY, ABSTRACT NO. 62, BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF A CALLED 14.353 ACRE TRACT AS DESCRIBED BY A DEED TO 318 BRYAN CAPITAL, L.P. RECORDED IN VOLUME 11981, PAGE 1 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

BEGINNING AT A POINT WITHIN THE PAVED RIGHT-OF-WAY OF W. MARTIN LUTHER KING JR. STREET (VARIABLE WIDTH R.O.W.) MARKING THE EAST CORNER OF SAID 14.343 ACRE TRACT;

THENCE: S 40° 37' 46" W ALONG THE SOUTHEAST LINE OF SAID 14.353 ACRE TRACT, AT 23.93 FEET PASS A 1/2 INCH IRON ROD MARKING THE NORTH CORNER OF BLOCK 'A', JONES ADDITION, ACCORDING TO THE PLAT RECORDED IN VOLUME 110, PAGE 43 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, CONTINUE ON ALONG THE COMMON LINE OF SAID 14.353 ACRE TRACT AND SAID JONES ADDITION FOR A TOTAL DISTANCE OF 575.08 FEET TO THE SOUTH CORNER OF THIS HEREIN DESCRIBED TRACT, FOR REFERENCE A 1/2 INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID 14.353 ACRE TRACT BEARS: S 40° 37' 46" W FOR A DISTANCE OF 323.71 FEET;

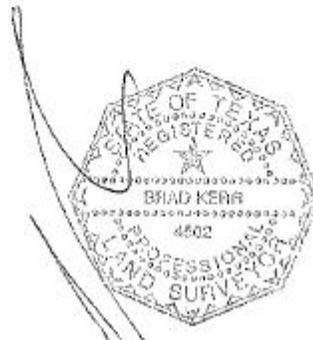
THENCE: N 48° 08' 18" W THROUGH SAID 14.353 ACRE TRACT FOR A DISTANCE OF 416.67 FEET TO THE WEST CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: N 40° 37' 46" E CONTINUING THROUGH SAID 14.353 ACRE TRACT, AT 88.23 FEET PASS AN "X" IN CONCRETE MARKING THE SOUTH CORNER OF A CALLED TRACT OF LAND DESCRIBED AS THE FEDERAL HOUSING AUTHORITY TRACT BY THE BRAZOS CENTRAL APPRAISAL DISTRICT, CONTINUE ON ALONG THE COMMON LINE OF SAID 14.353 ACRE TRACT AND SAID FEDERAL HOUSING AUTHORITY TRACT, AT 545.08 FEET PASS AN "X" IN CONCRETE ON THE APPARENT SOUTHWEST RIGHT-OF-WAY LINE OF W. MARTIN LUTHER KING, JR. STREET, CONTINUE ON FOR A TOTAL DISTANCE OF 575.08 FEET TO A POINT IN THE CENTERLINE OF W. MARTIN LUTHER KING, JR. STREET MARKING THE NORTH CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: S 48° 08' 18" E ALONG THE CENTERLINE OF W. MARTIN LUTHER KING, JR. STREET FOR A DISTANCE OF 416.67 FEET TO THE **POINT OF BEGINNING** CONTAINING 5.50 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND JANUARY, 2014. SEE PLAT PREPARED AUGUST 2016 FOR MORE DESCRIPTIVE INFORMATION. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED BY GPS OBSERVATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

//JOBS/16-749/16-749



**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF SEPTEMBER 15, 2016:**

10. 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 RZ16-16: 318 Bryan Capital, LP.

A request to change the zoning classification from Agricultural – Open District (A-O) to Office District (C-1) on 5.5 acres of land out of the Stephen F. Austin Survey No. 9, Abstract 62, adjoining the southwest side of West Martin Luther King Street between Dean Street and Harlem Road, and currently addressed as 1401 West Martin Luther King Street, in Bryan, Brazos County, Texas. (L. Hackett)

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

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Madison moved to recommend approval of Rezoning RZ16-16 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of the Commission. Commissioner Swearingen seconded the motion.

Commissioners stated that this zoning change would be good.

The motion passed unanimously.

**PLANNING AND ZONING COMMISSION
STAFF REPORT**



September 15, 2016

Rezoning Case no. RZ16-16: 318 Bryan Capital, LP

- CASE DESCRIPTION:** a request to change the zoning classification from Agricultural – Open District (A-O) to Office District (C-1)
- LOCATION:** 5.5 acres of land out of the Stephen F. Austin No. 9 Survey, Abstract 62 adjoining the southwest side of West Martin Luther King Street between Dean Street and Harlem Road, and currently addressed as 1401 West Martin Luther King Street
- EXISTING LAND USE:** office uses (former Kemp-Carver Elementary school building)
- APPLICANT:** Tyler Coats of 318 Bryan Capital, LP
- PROPERTY OWNER:** Same as Applicant
- STAFF CONTACT:** Lindsay Hackett, Staff Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** this request.



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:

Citywide Land Use Policies

All land uses should be located such that:

- Appropriate buffers separate dissimilar uses. Buffers include, but may not be limited to transitional land uses, floodplain areas, parks, landscaping or natural and man-made features;
- Where incompatible land uses must be adjacent, zoning boundaries should be drawn along rear property lines such that activities face away from each other to avoid potential negative impacts;

Use-Specific Land Use Policies

Office uses should be located in areas that:

- Provide a transition between residential uses and higher intensity commercial land uses

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 Office District on these 5.5 acres is appropriate in this case and conforms to the land use recommendations of the Comprehensive Plan. The Comprehensive Plan encourages the reuse of existing buildings. Approving this request will allow the renovation and reuse of the currently vacant portions of the existing 21,000 square foot former Carver-Kemp School building on the land. Staff believes that establishing a cluster of C-1 zoning at this particular location is appropriate as it will not only allow for the adaptive reuse of a former school building, but also encourage redevelopment in one of Bryan's oldest neighborhoods.

C-1 zoning allows only low-intensity office and small-scale business uses. Should the requested zoning change to C-1 District be approved, a no-development buffer area on the subject property will be applied along northwest and southeast property lines where the subject

property abuts a residential zoning district (MU-1). Depending on the amount of landscaping provided, that buffer area will be from 15 to 25 feet wide.

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 6-inch water line and an 8-inch sewer line located along W. Martin Luther King Jr. Street. Additionally, the subject property is immediately adjacent to W. Martin Luther King Jr. Street which is classified as a minor arterial street on Bryan's Thoroughfare Plan, which can reasonably be expected to be capable of accommodating increased traffic volumes that may be generated by office occupancy at this location. 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 is very little available land specifically classified for office use in the area of the subject property. The nearest C-1 District is located approximately one mile away along Tabor Avenue near Downtown Bryan. Staff is unaware of circumstances that would make a substantial part of that land or any other nearby land zoned for office use unavailable for development. Staff contends that this zone change request, if approved, will not make such 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.

Property in the area of the subject tract is largely developed. Land in Bryan specifically zoned for office use is uncommon. Less than 1% of the land in Bryan is classified C-1 District. Development of land in Bryan for specifically office uses is currently unhurried.

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.

Since there are no other properties zoned for office use in this area, it is unlikely that any would be adversely affected by this change.

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

Staff has identified no factors resulting from this requested zoning change that will affect health, safety, morals, or general welfare.

RECOMMENDATION:

Staff recommends **approving** C-1 zoning, as requested.

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:

- 1.) BUILDINGS THAT EXIST ON THE PROPERTY ARE SUITED FOR OFFICE USE.
- 2.) ORGANIZATIONS THAT FUNCTION AND EXIST TO SERVE AND POSITIVELY IMPACT THE COMMUNITY DESIRE TO OFFICE ON THE PROPERTY.
- 3.) THE LOCATION OF THE PROPERTY LENDS ITSELF TO BEING THE SPACE MOST SUITED FOR OFFICE USE IN THE AREA.

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

ORGANIZATIONS THAT WISH TO ENLARGE AND SERVE THE LOCAL COMMUNITY ARE IN NEED OF SPACE SUITABLE FOR OFFICE USE IN THE PARTICULAR AREA. THERE ARE NO OTHER FACILITIES OR REAL ESTATE SOLUTIONS AVAILABLE FOR OFFICE USE NEARBY.

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:

THIS CHANGE IS IN ACCORDANCE WITH THE FUTURE LAND USE PLAN. IT'S AN OFFICE USE ALONG THE FRONTAGE OF W. MLK JR. ST. THAT HAS EXCELLENT ACCESS AND PARKING AND DOES NOT ADVERSELY AFFECT THE ADJACENT RESIDENTIAL AREAS.

List any other reasons to support this zone change:

THIS ZONE CHANGE WILL ALLOW FOR AND FURTHER ALREADY EXISTING EFFORTS TO CONTINUE REVITALIZING AND ENHANCING A PROPERTY. LOCAL ORGANIZATIONS ARE COMMITTED TO BE PRESENT AND ACTIVE THERE, INVITING THE COMMUNITY ONTO THE PROPERTY AND PROVIDING QUALITY AMENITIES AND SERVICES.