

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> August 6, 2013		<b>DATE SUBMITTED:</b> July 15, 2013	
<b>DEPARTMENT OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Randy Haynes	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consideration of an ordinance to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances, to change the zoning classification from Industrial District (I) to Residential District – 5000 (RD-5) on 4.24 acres of land out of Stephen F. Austin League No. 9, adjoining the south side of West 28 <sup>th</sup> Street, approximately 0.2 miles southwest from its intersection with Scanlin Street and currently addressed as 2111 West 28 <sup>th</sup> Street.			
<b>SUMMARY STATEMENT:</b> The subject property is 4.24 acres in size and located at 2111 West 28 <sup>th</sup> Street, 0.2 miles southwest of the intersection of Scanlin and West 28 <sup>th</sup> Streets. The property is currently occupied by a detached single-family residence and a small workshop housing an auto transmission repair business owned by the applicant. Undeveloped land amounting to approximately 90 acres zoned Industrial District (I), Mixed Use Residential District (MU-1) and Agricultural – Open District (A-O) surround the subject property on three sides. Located across West 28 <sup>th</sup> Street to the north is land also zoned for industrial use but developed with single-family detached residences. West 28 <sup>th</sup> Street is classified as a collector roadway on Bryan’s Thoroughfare Plan.			
<p>The property owner, Ms. Sabine Featherston, has requested to change the zoning of the subject property to Residential District – 5000 (RD-5). It is Ms. Featherston’s wish to subdivide the land to create one additional lot in order to build a residence for a family member. The property was zoned for industrial use upon the initial implementation of zoning in Bryan on December 11, 1989. Ms. Featherston has acknowledged that if rezoning of the property is approved, the commercial use currently operating on a portion of the property will become legally nonconforming, and as such may not be at any time expanded or reopened if closed for more than a year.</p> <p>The Industrial zoning district classification is intended primarily for the conduct of heavy manufacturing, assembling and fabrication, and for large scale warehousing, wholesaling and service operations. The RD-5 District is intended for single-family residential development opportunities on lots of not less than 5,000 square feet in size.</p>			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> Staff believes that the residential land use on these 4.24 acres is appropriate at this particular location and is in accordance with land use recommendations of the Comprehensive Plan and recommends approving this rezoning request. The subject property lies in an area that, although originally zoned for industrial use, has developed over time in a residential manner. Staff believes that the land surrounding the subject property would likely be best developed to accommodate residences as well			
<p>During its regular meeting on April 4, 2013, the Planning and Zoning Commission unanimously recommended approving this rezoning request.</p> <p><b>OPTIONS (In Suggested Order of Staff Preference):</b></p> <ol style="list-style-type: none"> <li>1. approve the zone change as recommended by the Planning and Zoning Commission;</li> <li>2. deny the requested zone change.</li> </ol>			

**ATTACHMENTS:**

1. location map;
2. draft ordinance with exhibits;
3. minutes from P&Z meeting on April 4, 2013; and
4. staff report to the Planning & Zoning Commission.

**FUNDING SOURCE:** N/A

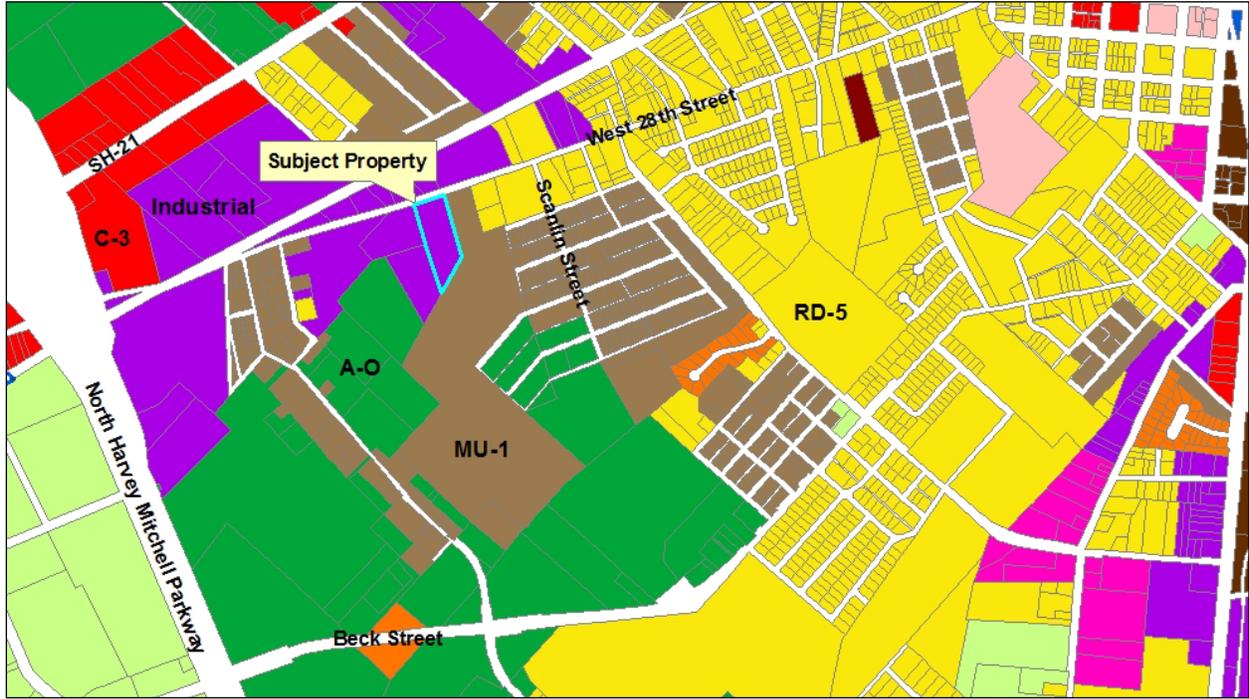
**APPROVALS:** Kevin Russell 7/19/13; Joey Dunn 7-23-13; Hugh R. Walker, 07/24/2013

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 07/25/2013

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** **Janis K. Hampton 07-28-2013**

Revised 04/2013

**LOCATION MAP:**



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, TO CHANGE THE ZONING CLASSIFICATION FROM INDUSTRIAL DISTRICT (I) TO RESIDENTIAL DISTRICT – 5000 (RD-5) ON 4.24 ACRES OF LAND OUT OF THE STEPHEN F. AUSTIN LEAGUE NO. 9, ADJOINING THE SOUTH SIDE OF WEST 28<sup>TH</sup> STREET, APPROXIMATELY 0.2 MILES SOUTHWEST FROM ITS INTERSECTION WITH SCANLIN STREET AND CURRENTLY ADDRESSED AS 2111 WEST 28<sup>TH</sup> 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, 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 4.24 acres of land out of Stephen F. Austin League No. 9, adjoining the south side of West 28<sup>th</sup> Street, approximately 0.2 miles southwest from its intersection with Scanlin Street and currently addressed as 2111 West 28<sup>th</sup> Street in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on April 4, 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 Industrial District (I) to Residential District – 5000 (RD-5) on 4.24 acres of land out of Stephen F. Austin League No. 9, adjoining the south side of West 28<sup>th</sup> Street, approximately 0.2 miles southwest from its intersection with Scanlin Street and currently addressed as 2111 West 28<sup>th</sup> Street in Bryan, Brazos County, Texas, said 4.24 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 6<sup>th</sup> day of August, 2013 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 27<sup>th</sup> day of August, 2013 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 – Opa & Oma Subdivision  
4.22 Acres

Being all of that tract or parcel of land, lying and being situated in the S.F. Austin League No. 9, A-62, and being a part of that tract of land conveyed to Sabine Featherston by S.W. Strength, deed recorded in Volume 486, page 184, Deed Records of Brazos County, Texas and being more particularly described as follows:

BEGINNING; at a ½" iron rod found at the most northerly common corner of this tract and the Jose Pachuca, Jr. 3.685 acre tract (10489/60), same being in the south right-of-way line of West 28<sup>th</sup> Street;

THENCE: N 75° 36' 59" E – 282.02 feet along said west 28<sup>th</sup> Street line to a 5/8" iron rod with cap set for the most northerly common corner of this tract and the Lenard Millsap 50.12 acre tract (3014/139);

THENCE: S 14° 36' 39" E – 552.72 feet and S 29° 58' 13" W – 359.38 feet along the common line between this tract and said Millsap tract to a ½" iron rod found at the most southerly common corner of this tract and the Jose Pachuca, Jr. 12.253 acre tract (10489/60);

THENCE: N 16° 42' 56" W – 810.35 feet along the common line between this tract and said Jose Pachuca, Jr. 3.685 acre and 12.253 acre tracts to the PLACE OF BEGINNING; and containing 4.22 acres of land, more or less, according to a survey made on the ground under the supervision of Donald Garrett, Registered Professional Land Surveyor, No. 2972 on March 27, 2013.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING  
MINUTES OF APRIL 4, 2013:**

**7. Rezoning RZ13-04: Sabine Featherston**

**R. Haynes**

*A request to change the zoning classification from Industrial District (I) to Residential District – 5000 (RD-5) on 4.24 acres of land out of Stephen F. Austin League No. 9, adjoining the south side of West 28<sup>th</sup> Street, approximately 0.2 miles southwest from its intersection with Scanlin Street in Bryan, Brazos County, Texas.*

Mr. Haynes presented the staff report (on file in the Development Services Department). Staff recommends recommending approval of the proposed rezoning.

In response to a question, Mr. Haynes stated that there had been no feedback from neighbors.

The public hearing was opened.

No one came forward.

The public hearing was closed.

**Commissioner Hickle moved to recommend approval of Rezoning RZ13-04 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Jones seconded the motion. The motion passed unanimously.**

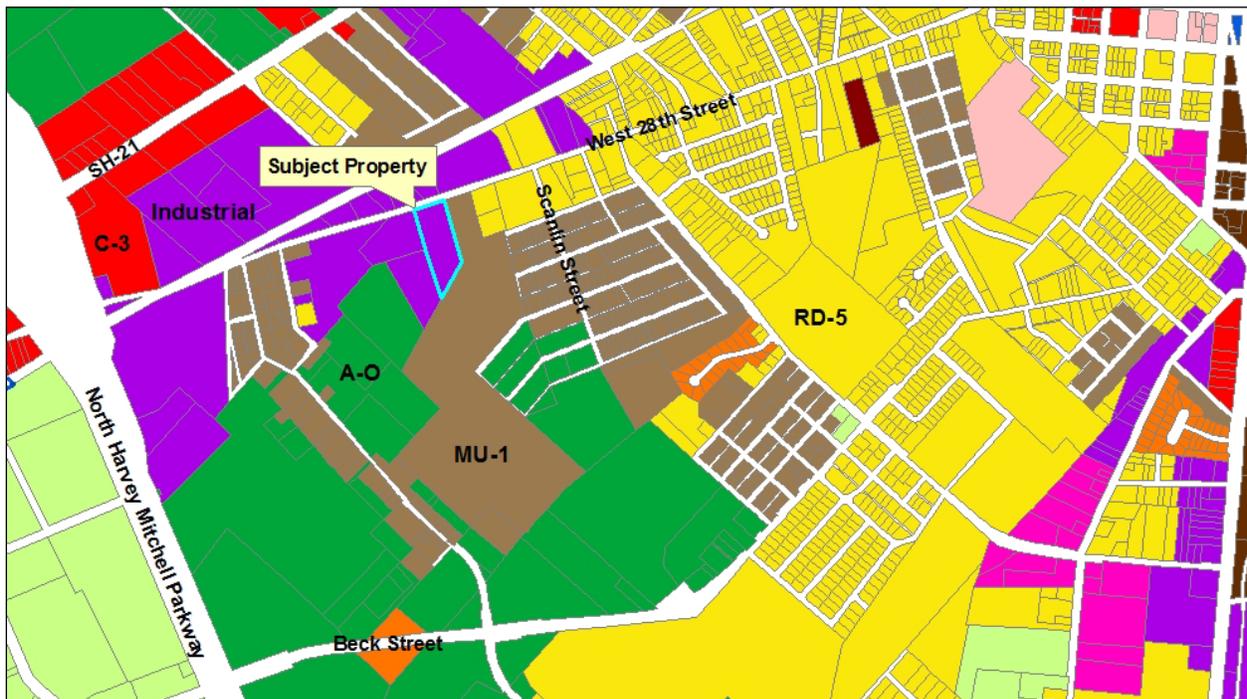
PLANNING AND ZONING COMMISSION  
STAFF REPORT



April 4, 2013

**Rezoning case no. RZ13-04: Sabine Featherston**

- CASE DESCRIPTION:** a request to change the zoning classification from Industrial District (I) to Residential District – 5000 (RD-5)
- LOCATION:** 4.24 acres of land out of Stephen F. Austin League No. 9, adjoining the south side of West 28<sup>th</sup> Street, approximately 0.2 miles southwest from its intersection with Scanlin Street and currently addressed as 2111 West 28<sup>th</sup> Street
- LEGAL DESCRIPTION:** SFA #9, Block 14, Lot 7 (TR136)
- EXISTING LAND USE:** Residential and Commercial
- APPLICANT(S):** Sabine Featherston
- STAFF CONTACT:** Randy Haynes, Project Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** this rezoning request.



## **AERIAL PHOTOGRAPH (2011):**



## **BACKGROUND:**

The subject property is 4.24 acres in size and located at 2111 West 28<sup>th</sup> Street, 0.2 miles southwest of the intersection of Scanlin and West 28<sup>th</sup> Streets. The property is currently occupied by a single detached residence and a small workshop housing an auto transmission repair business owned by the applicant. Undeveloped land amounting to approximately 90 acres zoned Industrial District (I), Mixed Use Residential District (MU-1) and Agricultural – Open District (A-O) surround the subject property on three sides. Located across West 28<sup>th</sup> Street to the north is land also zoned for industrial use but developed with single-family detached residences. West 28<sup>th</sup> Street is classified as a collector roadway on Bryan's Thoroughfare Plan.

The property owner, Ms. Sabine Featherston, has requested to change the zoning of the subject property to RD-5. It is Ms. Featherston's wish to subdivide the land to create one additional lot in order to build a residence for a family member. The property was zoned for industrial use upon the initial implementation of zoning in Bryan on December 11, 1989. Mrs. Featherston has acknowledged that if rezoning of the property is approved, the commercial use currently operating on a portion of the property will become legally nonconforming, and as such may not be at any time expanded or reopened if closed for more than a year.

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 RD-5 District is intended for single-family residential development opportunities on lots of not less than 5,000 square feet in size.

Allowed uses in the Mixed Use Residential (MU-1) area located on the adjacent 100+ acres east and southeast of the subject property are the same as the RD-5 zoning requested, with the addition of manufactured homes on individual lots.

## **RELATION TO BRYAN'S COMPREHENSIVE PLAN:**

The Comprehensive Plan includes policy recommendations related to various use specific types of development.

### **5.5 Land Use Policies**

Low Density Residential land serves to provide housing and living units for a variety of people with a range of incomes and needs. It predominantly consists of detached single family dwellings but may consist of other housing types as long as densities remain low; up to 8 dwelling units per acre. These uses should be located in areas that are:

- Protected from but accessible to the major roadway network, commercial establishments, work places and entertainment areas;
- Accessible to collector and arterial streets, but directly access only local streets; and
- Not adjacent to major arterials and freeways without adequate buffering and access management.

### **5.6 Goals, Objectives and Action Statements**

**GOAL #2: Facilitate orderly, efficient and attractive development, redevelopment and infill.**

**Objective A: Provide for an efficient development process.**

*Action Statement 1:* Reevaluate the current zoning code to identify inconsistencies and impediments to development.

## **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.

**Although adjacent to a collector roadway, staff believes that single-family residential use is appropriate at this location due to the proximity of other single-family detached residences, the relatively large amount of open space near the subject property where residential development is likely, and the small amount of nearby industrial development. Staff contends that the land uses allowed in the RD-5 district will be compatible in the immediate area surrounding the subject property and would fit within the adopted goals and land use policies set out in the Comprehensive Plan.**

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.

**Public infrastructure is adequate to support the development of an additional residence on the subject property. Staff finds that the proposed change will have no immediate impact on infrastructure needs in the area.**

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 a large amount of undeveloped land available for single-family detached residential construction adjacent to the subject property. 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 development is occurring 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.

**Other areas of Bryan zoned for single-family detached residential development will be unaffected by the proposed amendment.**

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

**Due to the collector classification of the roadway serving the property, added vehicle access to West 28<sup>th</sup> Street at this location could create a condition that would prove unsafe. City ordinance specifies that when single-family dwellings take direct access to a collector road, adequate on-site maneuvering space must be provided, as vehicles will not be allowed to back directly into the street. Since the dimensions of the subject property will allow for subdivision in a manner in which the new lot may share access to West 28<sup>th</sup> Street with that existing currently, the possibility of creating an unsafe traffic access condition can be avoided. 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 RD-5 District on the subject property.