

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: August 6, 2013		DATE SUBMITTED: July 16, 2013	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Matthew Hilgemeier	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<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 checked="" type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> 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 Commercial District (C-3) to Retail District (C-2) on 1.26 acres of land located along the south side of West Villa Maria Road between Westwood Main and Shirewood Drive, being Lot 1 in Block 14 of the Shirewood Subdivision – Phase 2 and currently addressed as 1919 West Villa Maria Road.			
SUMMARY STATEMENT: The applicant, Mr. Patel, has requested to change the zoning on the subject property from C-3 to C-2 (Retail) District to reduce the size of the 75-foot buffer area required between properties zoned C-3 and RD-5 as well as to increase the buildable area of the lot.			
<p>The subject property is the remaining undeveloped lot of the Shirewood Subdivision which was originally platted in 1983. In 1995, the zoning classification for the property was changed from Residential District – 5000 (RD-5) to its current C-3 zoning classification. The subject property is located on the northern edge of the 55-acre residential portion of the Shirewood Subdivision, which is zoned RD-5 District. The property is separated from the residential lots to its south by a tributary of the Turkey Creek water system. A church and a small custom embroidery shop are located to the east of the property, while residential uses are located south and southwest from the property.</p> <p>The C-3 zoning classification is intended to provide opportunities for development with heavy retail and commercial uses of a service nature, including wholesale trade, retail sales, warehousing development, repair and service establishments, as well as heavy and bulk equipment supply dealers. The C-2 zoning classification is intended to provide opportunities for various types of general retail trade, business and service uses. The district allows shopping areas or uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods. The subject property also is located in the West Villa Maria Road/FM 2818/FM158 Corridor Overlay District, which requires additional development standards (e.g., or landscaping, off-street parking, and signage) to enhance aesthetics along this major corridor.</p>			
STAFF ANALYSIS AND RECOMMENDATION: Staff contends that due to the relatively small size of the subject property, changing the zoning of this 1.26-acre tract to C-2 District will still allow only development with small-scale commercial uses that will be beneficial to, and within walking distance from, the adjacent residential neighborhood. Changing the zoning classification to C-2 District on the subject property would eliminate the possibility of more intense uses allowed by right in the C-3 District to be developed here (e.g., a go-cart track, a lumberyard, a RV park, or a truck repair/truck stop). Land on the north side of the 1900 block of W. Villa Maria Road also is zoned C-2 District and abuts a residential neighborhood. Furthermore, the creek that extends along the property's southern property line, portions of which are up to 50 feet wide, provides a natural buffer to the adjoining residential neighborhood, in addition to buffer requirements that will apply for any new development on the subject property if rezoned to C-2 District. These buffers will help mitigate potential ill effects of non-residential development on this site for the living comfort in the single-family residential neighborhood to the south.			

During its meeting on July 18, 2013, the Planning and Zoning Commission unanimously recommended approving this rezoning request.

OPTIONS (In Suggested Order of Staff Preference):

1. approve the zone change, as recommended by the Planning and Zoning Commission; or
2. deny the requested zone change.

ATTACHMENTS:

1. location map;
2. draft ordinance with exhibits;
3. excerpt from July 18, 2013 Planning and Zoning Commission meeting minutes;
4. staff report to the Planning & Zoning Commission with attachments

FUNDING SOURCE: N/A

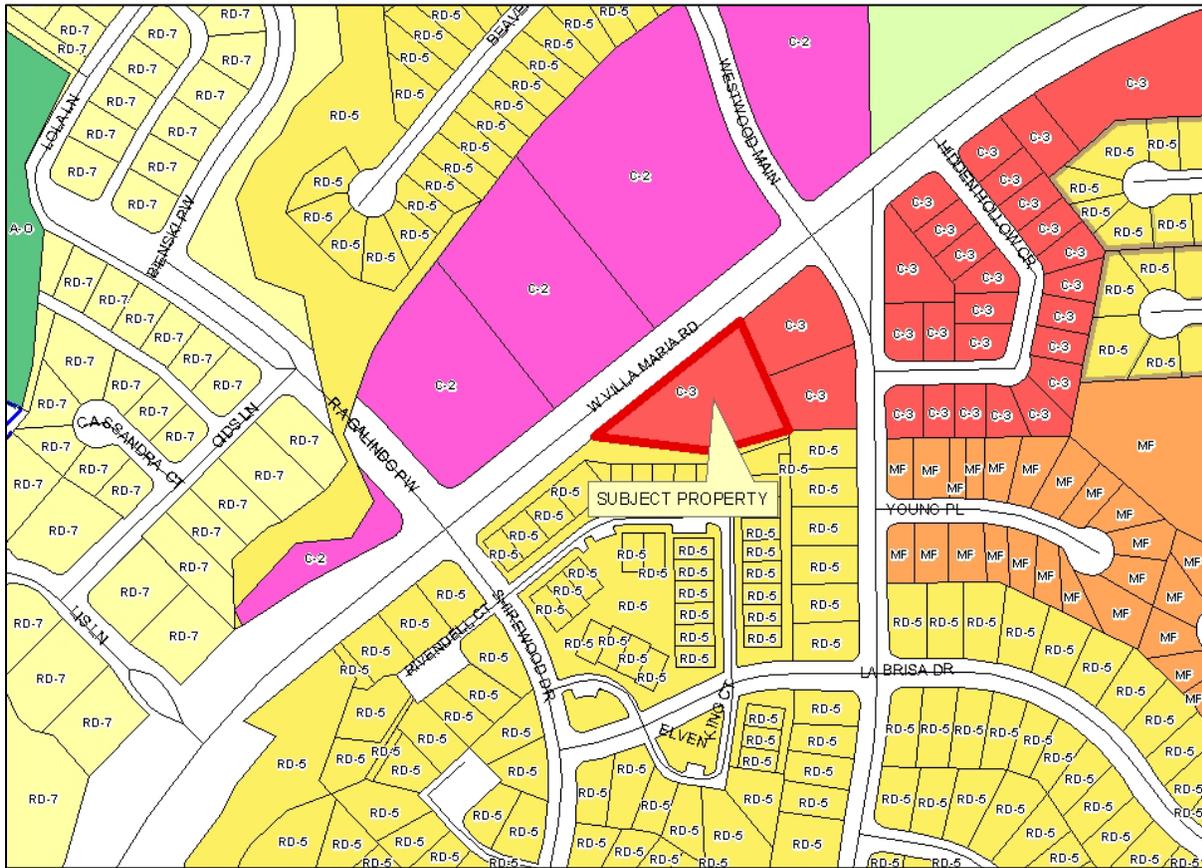
APPROVALS: Kevin Russell 7/19/13; Joey Dunn 7-23-13; Hugh R. Walker, 07/24/2013

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 COMMERCIAL DISTRICT (C-3) TO RETAIL DISTRICT (C-2) ON 1.26 ACRES OF LAND LOCATED ALONG THE SOUTH SIDE OF WEST VILLA MARIA ROAD BETWEEN WESTWOOD MAIN AND SHIREWOOD DRIVE, BEING LOT 1 IN BLOCK 14 OF THE SHIREWOOD SUBDIVISION – PHASE 2 AND CURRENTLY ADDRESSED AS 1919 WEST VILLA MARIA ROAD 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 1.26 acres of land located along the south side of West Villa Maria Road between Westwood Main and Shirewood Drive, being Lot 1 in Block 14 of the Shirewood Subdivision – Phase 2 and currently addressed as 1919 West Villa Maria Road in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on July 18, 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 Commercial District (C-3) to Retail District (C-2) on 1.26 acres of land located along the south side of West Villa Maria Road between Westwood Main and Shirewood Drive, being Lot 1 in Block 14 of the Shirewood Subdivision – Phase 2 and currently addressed as 1919 West Villa Maria Road in Bryan, Brazos County, Texas.

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 6th 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 27th 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

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF JULY 18, 2013:**

6. 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 RZ13-08: Devang Petal

A request to change the zoning classification from Commercial District (C-3) to Retail District (C-2) on 1.26 acres of vacant land currently addressed as 1919 West Villa Maria Road, being Lot 1 in Block 14 of Shirewood Subdivision – Phase 2 and adjoining the south side of W. Villa Maria Road between Westwood Main and Shirewood Drive in Bryan, Brazos County, Texas. (M. Hilgemeier)

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

The public hearing was opened.

Erin Womack, 2004 Wilderland, came forward to request clarification on how the zoning change would alter the buffer requirements at the rear of the property and how it would affect her neighboring property.

Debra Dandridge, 1911 Wilderland, came forward to request clarification on the West Villa Maria Corridor Overlay standards, lighting standards, and express concerns about potential development. She expressed concerns that new development could potentially alter the ingress and egress of her neighborhood and use lighting which created a nuisance to her property.

The public hearing was closed.

Commissioner Jones moved to recommend approval of Rezoning RZ13-08 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of the Commission. Commissioner Hardeman seconded the motion.

In response to questions, Mr. Hilgemeier explained the differences in buffering requirements for properties zoned C-2 or C-3 and what type of uses the C-2 zoning allowed.

Commissioners discussed:

- Buffering requirements
- Nearby development
- The potential for less intense uses

The motion passed unanimously.

PLANNING AND ZONING COMMISSION
STAFF REPORT



July 18, 2013

Rezoning case no. RZ 13-08: Devang Patel

CASE DESCRIPTION: a request to change the zoning classification from Commercial District (C-3) to Retail District (C-2)

LOCATION: 1.26 acres of land located along the south side of West Villa Maria Road between Westwood Main and Shirewood Drive and currently addressed as 1919 West Villa Maria Road.

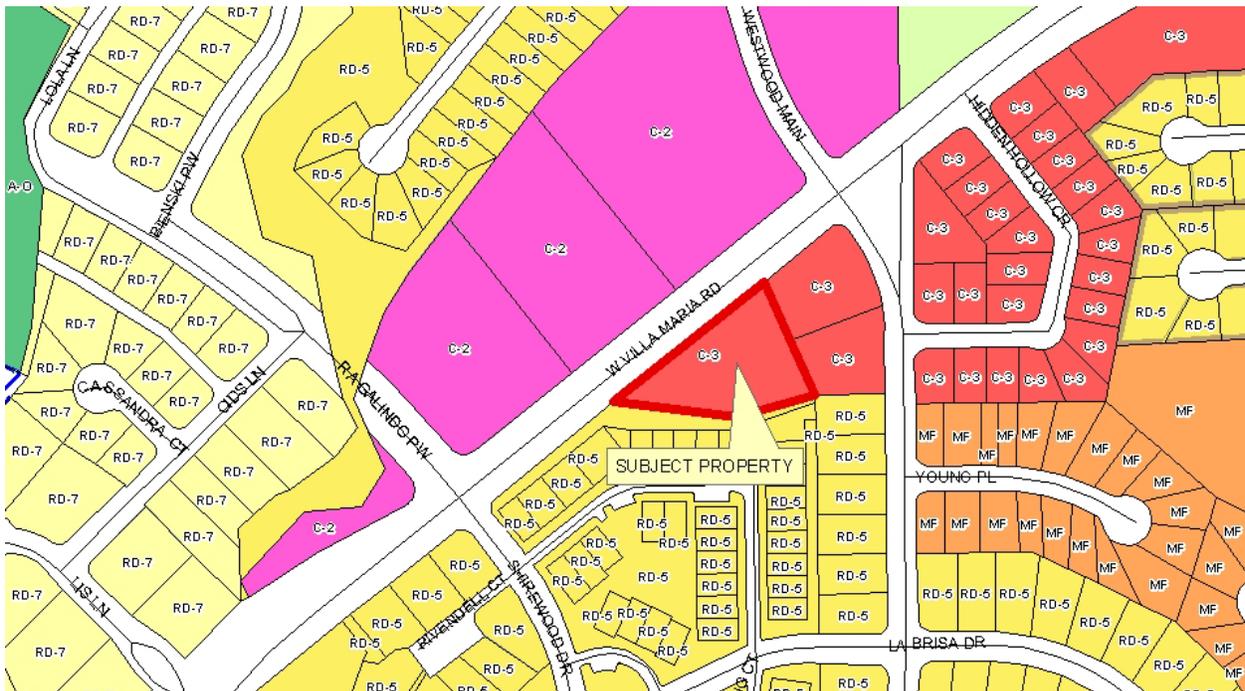
LEGAL DESCRIPTION: Lot 1 in Block 14 of the Shirewood Subdivision – Phase 2

EXISTING LAND USE: vacant lot

APPLICANT(S): Devang Petal

STAFF CONTACT: Matthew Hilgemeier, Staff Planner

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



AERIAL PHOTOGRAPH (2011):



BACKGROUND:

The subject property is 1.26 acres in size and located at 1919 West Villa Maria Road between Shirewood Drive and Westwood Main. The subject property is the remaining undeveloped lot of the Shirewood Subdivision which was originally platted in 1983. In 1995, the zoning classification for the property was changed from Residential District – 5000 (RD-5) to its current C-3 zoning classification. The subject property is located on the northern edge of the 55-acre residential portion of the Shirewood Subdivision, which is zoned RD-5 District. The property is separated from the residential lots to its south by a tributary of the Turkey Creek water system. A church and a small custom embroidery shop are located to the east of the property, while residential uses are located south and southwest from the property.

The applicant, Mr. Patel, has requested to change the zoning on the subject property from C-3 to C-2 (Retail) District to reduce the size of the 75-foot buffer area required between properties zoned C-3 and RD-5 as well as to increase the buildable area of the lot. The C-3 zoning classification is intended to provide opportunities for development with heavy retail and commercial uses of a service nature, including wholesale trade, retail sales, warehousing development, repair and service establishments, as well as heavy and bulk equipment supply dealers. The C-2 zoning classification is intended to provide opportunities for various types of general retail trade, business and service uses. The district allows shopping areas or uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods. The subject property is also located in the West Villa Maria Road/FM 2818/FM158 Corridor Overlay District which requires additional development standards, for example, for landscaping, off-street parking, and signage, to enhance aesthetics along this major corridor.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan adopted the Comprehensive Plan Update in 2007. The plan is the framework for the establishment of zoning and other regulatory tools and includes policies and recommendations related to the various physical development aspects of the community. These aspects are supported by a set of goals and objectives. Among the 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 further suggests that office/light commercial uses be located at points of high visibility along non-residential arterials and major collectors, in areas convenient and accessible to residential areas, and where such uses can provide a transitional land use 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; relationship to general area and the City as a whole.

Staff contends that due to the relatively small size of the subject property, changing the zoning of this 1.26-acre tract to C-2 District will still allow only its development with small-scale commercial uses which will be beneficial to, and within walking distance from, the adjacent residential neighborhood. Changing the zoning classification to C-2 District on the subject property would eliminate the possibility of more intense uses allowed by right in the C-3 District to be developed here, for example, a go-cart track, a lumberyard, an RV park, or a truck repair/truck stop. Land on the north side of the 1900 block of W. Villa Maria Road is also zoned C-2 District and abuts a residential neighborhood. Furthermore, the creek that extends along the property's southern property line, portions of which are up to 50 feet wide, provides a natural buffer to the adjoining residential neighborhood, in addition to buffer requirements that will apply for any new development on the subject property if rezoned to C-2 District. These buffers will help mitigate any potential ill effects of non-residential development on this site on the living comfort in the single-family residential neighborhood to the south.

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.

The proposed change in zoning classification would not affect any existing or proposed plans for providing public schools, water supply, sanitary sewers, and other utilities in the area. 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.

Staff believes that this zone change request, if approved, will not make land classified for similar development in the vicinity or elsewhere in the City unavailable for development. The subject property is the remaining 1.26 acres of undeveloped land in the Shirewood Subdivision. In 1995, the zoning classification was changed from RD-5 to C-3 to encourage commercial development along the West Villa Maria Road corridor. While there are 2.35 acres of vacant land currently zoned C-2 located northwest of the subject property and across West Villa Maria Road, it is encumbered by the same tributary of Turkey Creek that extends along the south side of this property, which will make its future development challenging.

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.

Development pressure for smaller retail/neighborhood services uses in the vicinity of the property has been light compared to other areas of the city. Staff contends that a change to a less intense zoning classification will protect the adjacent residential neighborhood from uses that are deemed incompatible which are allowed by right with the current zoning classification and can be developed with the larger commercial development up the road.

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 designated for retail use will be unaffected should the proposed zoning change be approved. As stated earlier the only other vacant tract in the vicinity with the same zoning classification is bisected by small creek which makes the property unsuitable for development. Staff contends that areas designated for similar development would not be affected if the proposed zoning amendment is approved.

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 C-2 District on the subject property. The same C-2 zoning may also be appropriate for the two tracts adjoining the property to the east at the intersection of W. Villa Maria Road and Westwood Main.