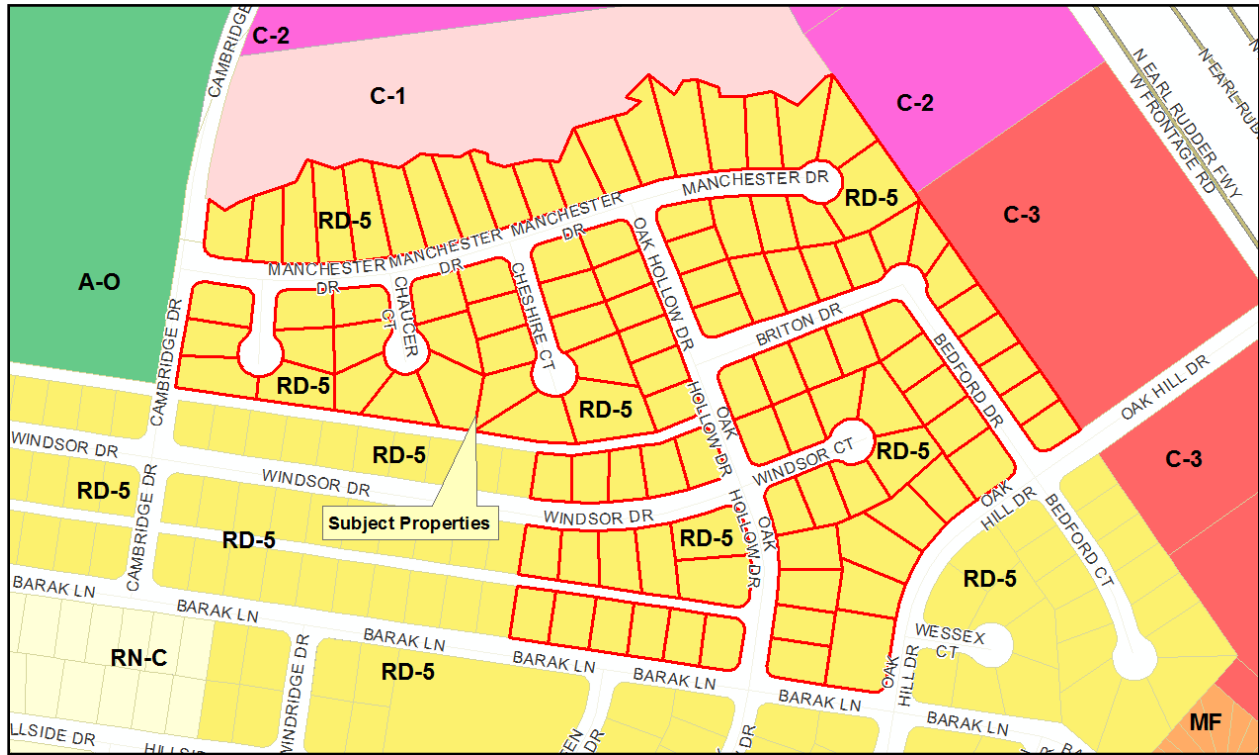


LOCATION MAP:



AERIAL PHOTOGRAPH, 2017:



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 RESIDENTIAL DISTRICT – 5000 (RD-5) TO RESIDENTIAL – NEIGHBORHOOD CONSERVATION DISTRICT (R-NC) ON ALL LOTS LOCATED IN PHASES 4 AND 5 OF WINDOVER EAST SUBDIVISION, IN BRYAN, BRAZOS COUNTY, TEXAS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; FINDING AND DETERMINING THAT THE MEETING 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 Residential District – 5000 (RD-5) to Residential – Neighborhood Conservation District (R-NC) on all lots located in Phases 4 and 5 of Windover East Subdivision, in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on September 6, 2018 (case no. RZ18-23);

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 Residential District – 5000 (RD-5) to Residential – Neighborhood Conservation District (R-NC) on all lots located in Phases 4 and 5 of Windover East Subdivision, 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That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.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 meeting at which this ordinance was passed was 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 meeting was given.

6.

This ordinance shall take effect immediately upon its first and only reading and passage.

PASSED, ADOPTED AND APPROVED the 9th day of October, 2018 at a regular meeting of the City Council of the City of Bryan, Texas, by a vote of ___ yeses and ___ noes.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Andrew Nelson, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney

EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES OF SEPTEMBER 6, 2018:

6. REQUESTS FOR APPROVAL OF ZONING CHANGES – A PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission makes recommendation; City Council has final approval).

d. Rezoning RZ18-23: Windover East Subdivision - Fourth & Fifth Installments

A request to change the zoning classification on all properties located in the Fourth and Fifth Installments of the Windover East Subdivision that are zoned Residential District – 5000 (RD-5), to Residential – Neighborhood Conservation District (R-NC), being 133 lots located generally west of North Earl Rudder Freeway and Oak Hill Drive, between Cambridge and Oakside Drives, north of Barak Lane, in Bryan, Brazos County, Texas. (L. Hackett)

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

In response to questions from the Commission, Ms. Hackett stated that at least 58% of property owners in the subject area signed a petition in favor of rezoning to Residential – Neighborhood Conservation District (R-NC).

The public hearing was opened.

Mr. Ernest Forsthoff and Ms. Laura Forsthoff, 2505 Barak Lane, Bryan, TX, came forward to speak in opposition to the request, citing the following concerns:

- This request denies owners the right to market their properties for rental use.
- R-NC zoning would negatively affect the younger residents of this subdivision.
- An existing home in this area is used by a church as temporary housing for missionaries.
- They specifically purchased homes in this subdivision due to the lack of a homeowners' association or deed restrictions.
- City ordinances are already in place to address safety and noise concerns.

Ms. Shirley Carter, 2620 Manchester Drive, Bryan, TX, Ms. Mark Herro, 2609 Briton Drive, Bryan, TX, Ms. Cathy Cook, 3404 Oak Hollow Drive, Bryan, Mr. Fred Forsthoff, 3316 Oak Hollow Drive, Bryan, TX, and Mr. Nathan Cook, 3404 Oak Hollow Drive, Bryan, TX, came forward to speak in support of this request, stating the following:

- The requested zoning is necessary to protect the family-oriented character of this neighborhood.
- An increase in rental housing would negatively affect quality of life for current residents.
- Concerns about noise, crime, and on-street parking associated with student housing.
- Significant changes to property values, noise, crime statistics
- This rezoning is needed to accommodate the large percentage of elderly residents.

The public hearing was closed.

Commissioner Conlee moved to recommend approval of Rezoning RZ18-23 to the Bryan City Council, as requested, and to adopt the written staff report and analysis as the report, findings, and evaluation of the Commission. Commissioner Incardona seconded the motion.

Commissioners commented that:

- Rental use is allowed in R-NC districts, but is restricted to at most two unrelated occupants.
- The Commission is extremely concerned with protection of personal property rights.
- The intent of R-NC zoning is to allow residents to preserve the integrity of neighborhoods such as this one.
- The number of signatures in favor of this request warrants rezoning to R-NC district.

The motion passed unanimously.

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

September 6, 2018



Rezoning case no. RZ 18-23: Windover East Subdivision (Installments 4 and 5)

CASE DESCRIPTION: request to change the zoning classification from Residential District – 5000 (RD-5) to Residential – Neighborhood Conservation District (R-NC)

LOCATION: 133 lots located generally west of North Earl Rudder Freeway and Oak Hill Drive, between Cambridge and Oakeside Drives, north of Barak Lane

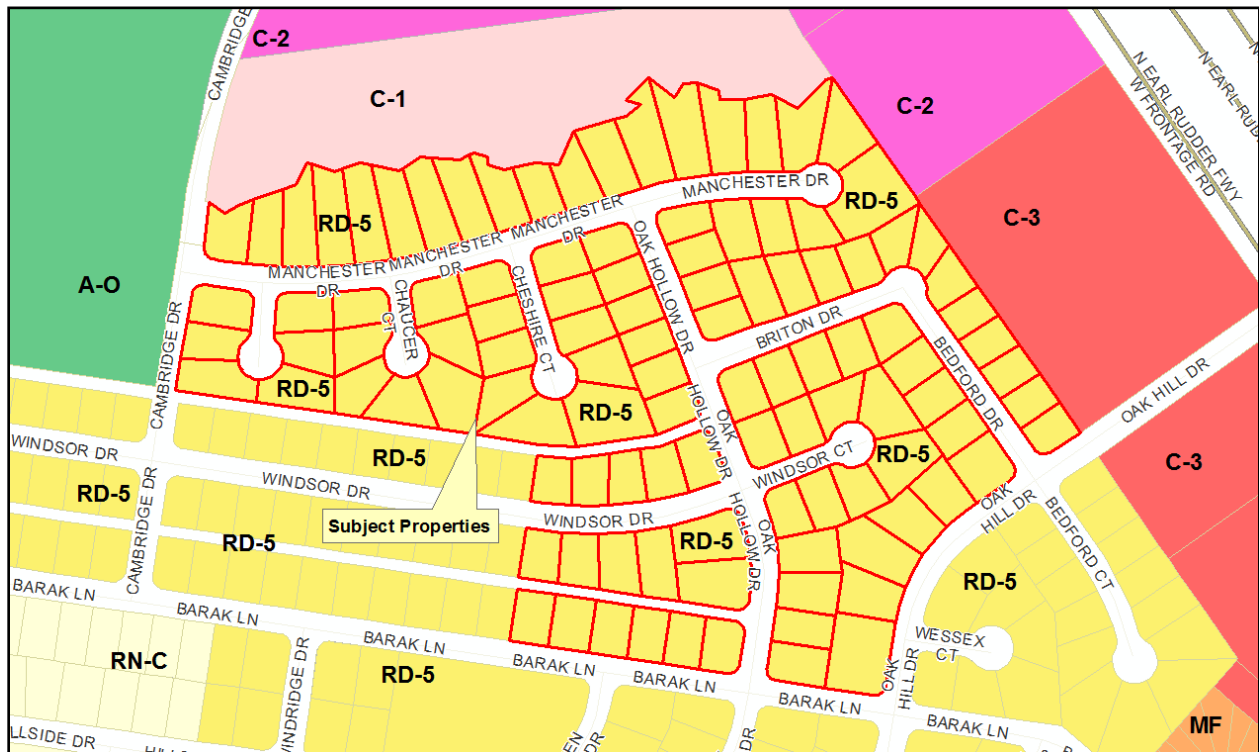
LEGAL DESCRIPTION: Windover East Subdivision (Installments 4 & 5)

EXISTING LAND USE: single-family home sites

APPLICANT(S): City of Bryan (by petition of subdivision property owners)

STAFF CONTACT: Lindsay Hackett, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** R-NC zoning for all eligible lots in this subdivision phase, as requested.





BACKGROUND:

The Residential – Neighborhood Conservation District (R-NC) was created on March 28, 2006. The Zoning Ordinance now provides for a process for city-initiated rezoning to R-NC District of properties zoned Residential District – 5000 (RD-5), Residential District – 7000 (RD-7), South College – Residential District (SC-R) and Historic Preservation Overlay District (HP), by property owner petition.

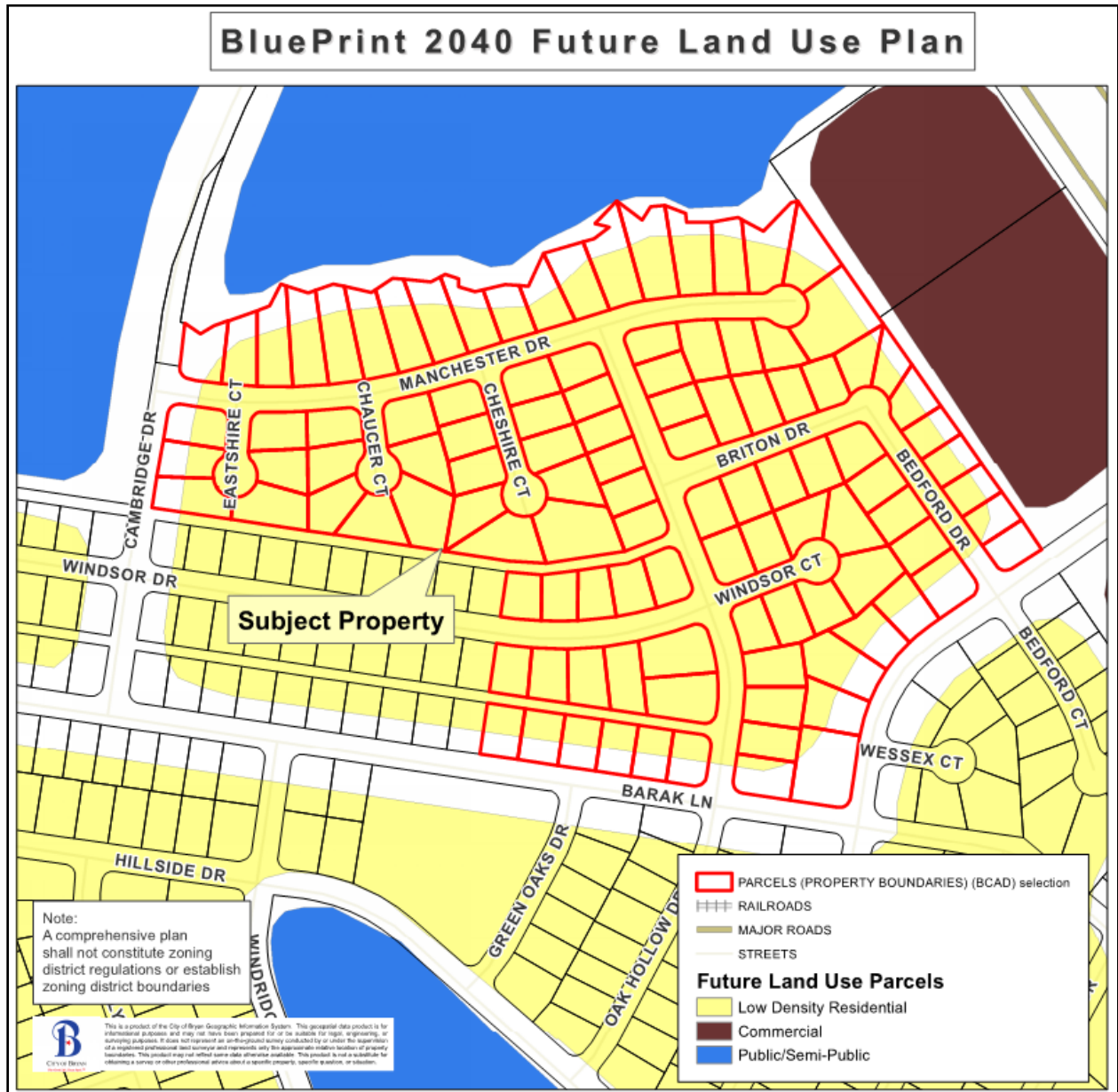
Property owners within the 4th and 5th Installments of the Windover East Subdivision have submitted a complete petition for a City-initiated zoning change from RD-5 District to R-NC District on 133 lots in this subdivision. The City Secretary certified the application’s sufficiency on August 17, 2018.

RELATION TO BRYAN’S COMPREHENSIVE PLAN:

The City of Bryan’s Comprehensive Plan (“BluePrint 2040”) includes policy recommendations related to the various physical development aspects of the community. The plan includes policy recommendations related to the various physical development aspects of the community. The Comprehensive Plan states that it is a goal of the City to achieve a balanced and sustainable mix of land uses within the City by planning for a mix of land use types in suitable locations, densities and patterns. 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. City-wide land use policies articulated in the Comprehensive Plan suggest that single-family residential land uses should be located in areas that are protected from, but accessible to the major roadway network, commercial establishments, work places and

entertainment areas.

BRYAN COMPREHENSIVE PLAN: BLUEPRINT 2040 FUTURE LAND USE MAP:



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 R-NC zoning for eligible lots in this subdivision appears to conform to the intent and purpose of this zoning classification, which is designed to preserve, protect and enhance the character of established residential neighborhoods, by limiting the number of unrelated individuals that may occupy a single dwelling unit to two.

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.

Changing the zoning designation to R-NC District will not affect any public improvements.

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 currently little to no vacant land zoned R-NC District in this vicinity or elsewhere in the City. Staff contends that approving this zone change requests will not make land classified for similar development unavailable for residential 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 there appears to be a moderate demand to rezone lots in established residential neighborhoods to R-NC District.

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.

Staff believes approval of the proposed zone change would have no effect on other areas designated for similar development.

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

Staff does not believe this proposed zone change would adversely affect health, safety, morals, or general welfare.

RECOMMENDATION:

Staff recommends **approving** R-NC zoning for all eligible lots in this subdivision, as requested.