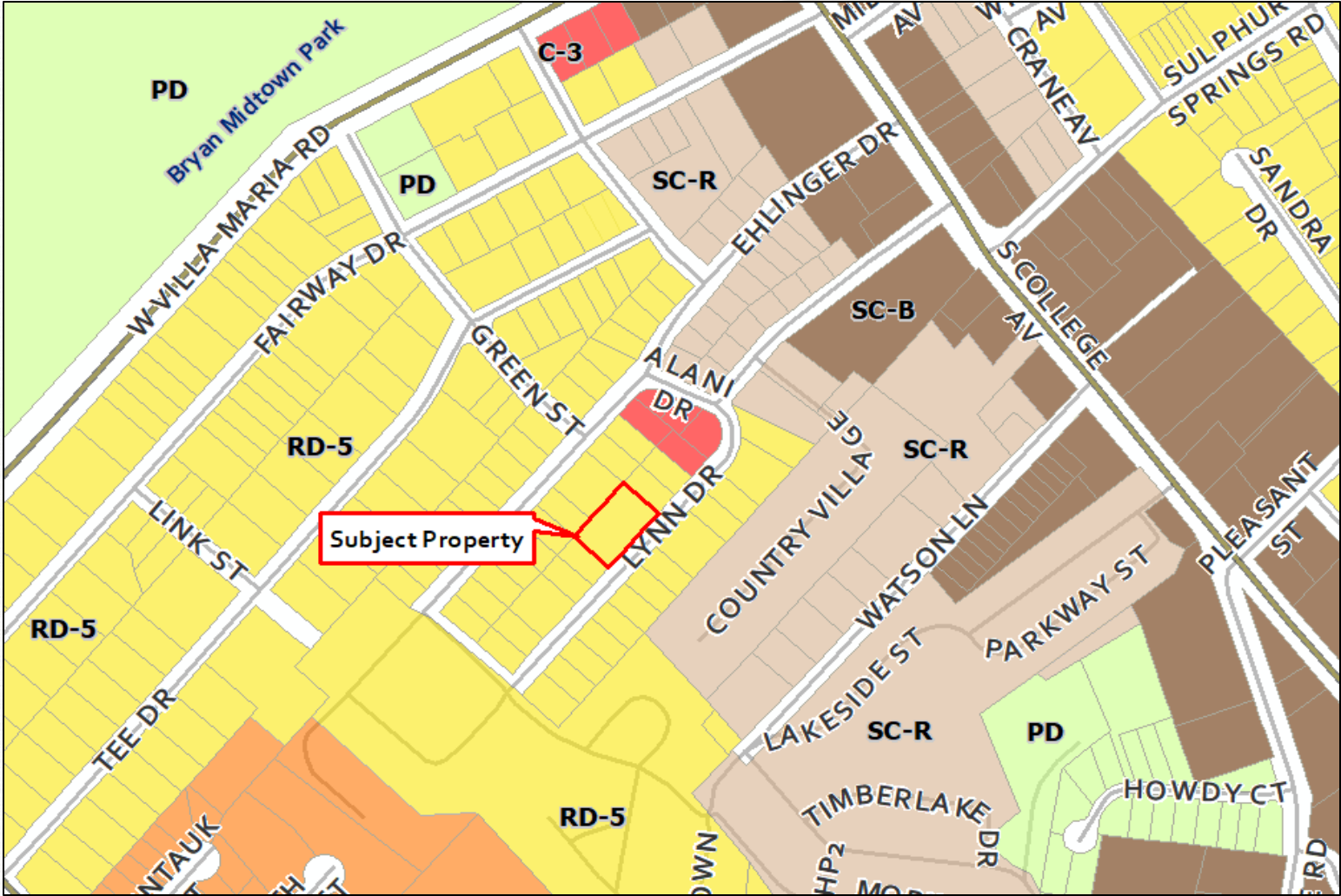


Appeal of Conditional Use Permit CU21-02

Appeal of the Planning and Zoning Commission's decision to approve a Conditional Use Permit (case no. CU21-02), to allow construction of five townhomes on property zoned Residential District – 5000 (RD-5), specifically on 0.49 acres of land adjoining the north side of Lynn Drive between Mabletown and Alani Drive, being Lots 28, 29, & 30 in Block B of the Munneryn Village Subdivision, and currently addressed as 214 Lynn Drive in Bryan, Brazos County, Texas.

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- 0.49 acres of land on northwest side of 200 block of Lynn Drive
- proposal: 5 townhomes on individual 2,500sf lots
- 3 bedrooms, 2 stories
- 17 off-street parking spaces (1.13 spaces per bedroom)
- 5 on-street parking spaces
- 16.1 % landscaping
- across the street from similar project with 9 townhomes by same developer which City Council upheld on appeal in January 2021 (case no. CU20-06)

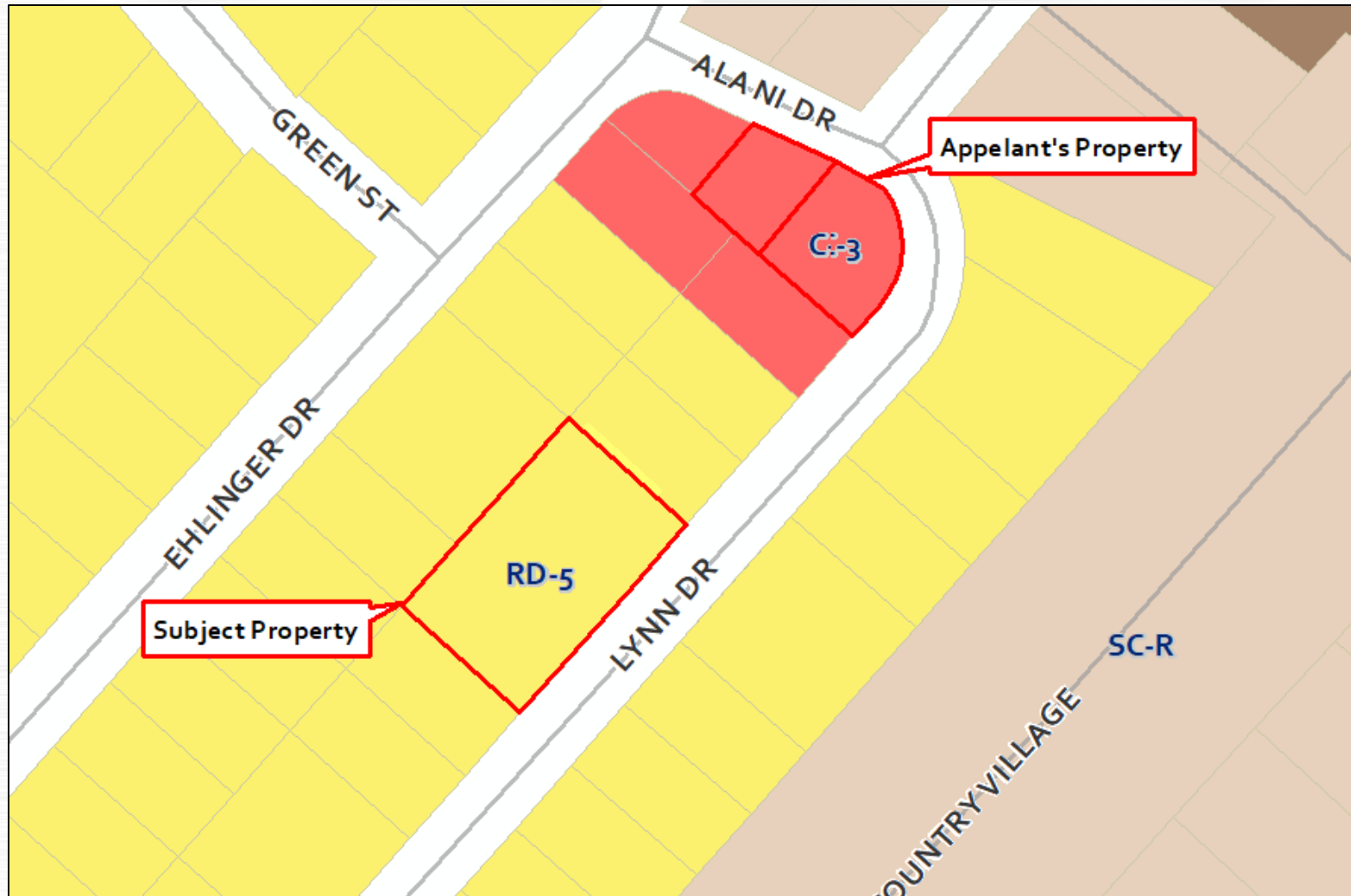
Appeal of Conditional Use Permit CU21-02



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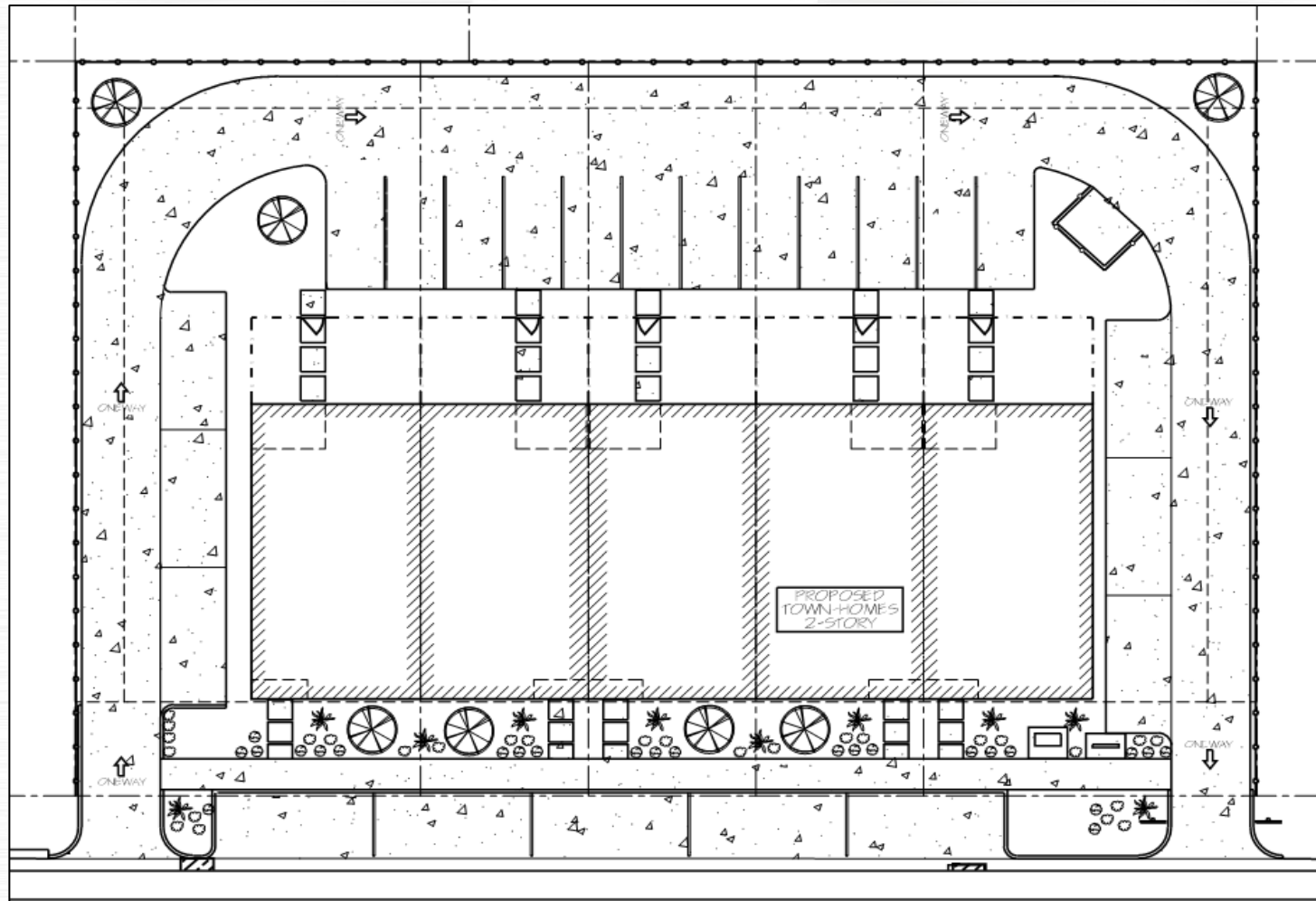
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- On July 1, 2021, the Planning and Zoning Commission **unanimously voted to approve** this Conditional Use Permit request, **subject to the following conditions** that require
 - privacy fence construction,
 - the direction of lighting away from neighboring properties,
 - on- and off-street parking space construction,
 - required landscaping and public utility extensions, and
 - a formal replat of the subject property.

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- The Planning and Zoning Commission finds that
 - The property is located in an area recommended for low density residential according to the City's Comprehensive Plan (BluePrint 2040) Future Land Use Plan;
 - The development meet or exceed all applicable regulations and standards for townhomes;
 - the proposed townhomes on the subject tract will be compatible with existing uses nearby and on all abutting sides;
 - the proposed townhome development is appropriate at this particular location in the RD-5 District within which it is proposed;
 - the proposed townhome configuration will be compatible with or exceed the surrounding area in terms of building height, bulk and scale, landscaping, access and circulation;

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- The Planning and Zoning Commission finds that (cont.'d):
 - the proposed arrangement offers an attractive and compatible option for residential development on the subject property;
 - the proposal includes construction of five (5) on-street parking spaces as well as a 5-foot wide sidewalk along Lynn Drive and thereby will support pedestrian traffic as well as public parking for visitors;
 - approval of this Conditional Use Permit will not negatively impact the safety and convenience of traffic flow in the area, as it has been mitigated to an extent that it will not cause harm to the surrounding area;
 - there will be adequate and convenient off-street parking provided at this location in accordance with adopted standards; and
 - the proposed development will have few (if any) ill effects on properties or improvements in the vicinity.

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- The Planning and Zoning Commission finds that (cont.'d):
 - uphold the Commission's decision to approve the request, including approved conditions (deny the appeal);
 - uphold the Commission's decision to approve the request (deny the appeal) with additional conditions for approval the Council deems necessary to assure that the use meets the criteria set forth in Subsection 130-33(a) of the Zoning Ordinance (may require consideration at a future City Council meeting); or
 - reverse the Planning and Zoning Commission's decision and deny the request (approve the appeal).

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Questions

Appeal of Conditional Use Permit CU21-02

- **March 30, 2021** – Applicant submits Conditional Use Permit application and site plan for five (5) townhomes on the subject property.
- **June 17, 2021** – Development Services staff send notices to all property owners within 200-feet of the subject property, being at least 10 days before the hearing date in accordance with Zoning Ordinance Section 130-33(b).
- **June 28, 2021** – Mr. Alani delivers a letter to the City Secretary's office stating that he received the notification on June 25, 2021 but claimed it was in violation of Texas Local Government Code §212.015, stating ***replats requiring a variance or exception require 15 days notice***. As no replat was being considered, nor was a variance or exception required, it was determined that the statute and additional notification was not applicable to this case.
- **July 1, 2021** – Planning and Zoning Commission considers the ***Conditional Use Permit*** request and evaluates all related criteria, then approves request subject to list of conditions.
- **July 8, 2021** – Mr. Alani submits his letter of appeal to the City Secretary's office on the grounds that staff did not provide appropriate notification for the hearing.

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- **July 16, 2021** – City staff received additional correspondence from Mr. Alani stating that he expects the City to comply with State statutes governing replatting for the subject property of Conditional Use Permit case no. CU21-02, and for the property across the street for which Conditional Use Permit case no. CU20-06 was approved on January 12, 2021. In his letter, Mr. Alani also claims that the City has failed to adhere to notification requirements of Zoning Ordinance Section 130-33(b), because he did not receive the notification at least 10 days prior to the hearing.

Appeal of Conditional Use Permit CU21-02

(f) *Appeal to city council.* Approval or denial of an application for a conditional use permit, may be appealed to the city council by the applicant for the permit or any owner of property located within 200 feet of the subject property. **Written notice of appeal specifying the grounds for the appeal** must be delivered to the planning and development services department within ten calendar days after the date of the planning and zoning commission's decision.

- Mr. Alani's grounds for appeal are based on his claim that the City of Bryan violated notification requirements. Mr. Alani first cites Texas Local Government Code §212.015, stating **replats** requiring a variance or exception require 15 days notice. As no replat was being considered, nor was a variance or exception required, it was determined that the statute and additional notification was not applicable to this case.
- Mr. Alani then states that City of Bryan is still in violation of notification requirements (Zoning Ord. §130-33(b)) because despite being mailed 14 days in advance of the hearing, he did not **receive** said notice at least 10 days in advance.

Sec. 130-33. - Conditional use permits.



- (a) *Purpose.* The purpose of the conditional use permit process is to identify those uses which might be appropriate within a zoning district but, due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them so as to mitigate or eliminate such adverse impacts.
- (b) *Authority.* The planning and zoning commission may approve a conditional use permit for a use in any district in which such use is authorized under the conditional use list following proper application, and **after notice to landowners within 200 feet of the subject property ten days before the date** of the public hearing and in accordance with the procedures and criteria herein established.

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- City staff contends that required public notice was timely mailed in this particular case.
- City staff also has every intention to comply with all applicable State statutes concerning replats, including replats on the subject properties for these two Conditional Use Permits.
- HB3314, approved in 2019, amended the notification requirements for replats when no variances or waivers are requested. Instead of a 15-day prior written notice and newspaper publication, HB3314 now gives cities the option to mail notices to property owners within 200 feet after a Planning and Zoning Commission decision in these replat cases.
- Bryan City Council updated notification and public hearing requirements in the City's Subdivision Ordinance in February 2021, requiring only a post meeting notice for replats when no variances are requested, within fifteen (15) days of a Planning and Zoning Commission decision.

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Appeal of Conditional Use Permit CU21-02

- The replat related to the previously-approved Conditional Use Permit (CU20-06) was assigned case no. RP20-40. City records show that a post meeting notices for that replat case were mailed to surrounding property owners, including Mr. Alani, on December 7, 2020, four (4) days after the replat was approved by the Planning and Zoning Commission on December 3, 2020.

Appeal of Conditional Use Permit CU21-02



Questions