

STAFF REPORT

To: City Council
From: Public Works and Engineering Department
Date: June 6, 2024
Re: Rezoning request (Application No. ZC# 2024-01): A request from the applicant Sitterle Homes LTD, on behalf of the property owner, Oak Bend Forest, L.C. to change the zoning classification of 149 acres generally located northwest of the intersection of Ralph Fair Road and Honeycomb Rock, platted as Oak Bend Estates subdivision from Rural Residential (RR) to Neighborhood Residential (NR)

SUMMARY:

The applicant is requesting rezoning to allow for an appropriate zoning classification to be placed on the subject property that is currently zoned Rural Residential (RR). The RR zone requires a lot size of minimum 5 acres.

The property is governed by an existing Water Supply Agreement that was approved prior to the adoption of the 2018 Comprehensive Plan and zoning regulations. Based on the lot density contained in the Agreement the subsequent subdivision plat created single-family, one-acre+ lots. To come into conformance with the approved Agreement and the recorded subdivision plat, the applicant is requesting a rezoning amendment to Neighborhood Residential (NR).

SITE HISTORY:

The previous approvals on the subject property are listed below:

- October 19, 2006 - Ordinance 153.0 accepting the City of San Antonio's Ordinance 2006-6-29-9772 releasing approximately 3258 acres of property directly adjacent to the North, East, and Southwest of Fair Oaks Ranch city limit line from the City of San Antonio's Extraterritorial Jurisdiction was approved.
- October 19, 2006 - Ordinance 154.0 voluntarily annexed the Grona Property into the City of Fair Oaks Ranch.
- September 2, 2008 - Water Supply Agreement, for 15 years, is executed between Oak Bend Forest, LC and the City of Fair Oaks Ranch for the reservation of water service capacity for 130 single-family Living Unit Equivalentents ("LUE'S") on 149 acres.
- September 23, 2008 - The City and GBRA enter into a Second Amendment to the 2000 Agreement to increase the Raw Water Reservation amount by 250 acre-feet per year and the Annual Commitment by 50-acre feet per year.
- February 17, 2011 - The City Council approved a Subdivision Plat of Oak Bend Estates consisting of 130 one-acre+ lots. Shortly thereafter, the plat was recorded in Comal County.
- February 16, 2017 – Ordinance 2017-02 amended Chapter 1; Article 1.02 of the City's code of ordinances by adopting vested rights pursuant to LGC 245 (Vested Rights). It provides an opportunity for landowners or developers to "grandfather" or "vest" government regulations that apply to development at the time of the filing of a permit application.

- May 2018 – The Planning & Zoning Commission (“P&Z”) approved and advanced a preliminary report creating draft zoning district boundaries, inclusive of a draft zoning map. The City Council received the P&Z’s preliminary report and a joint public hearing on May 21, 2018 was conducted with no action.
- June 2018 – The P&Z approved and advanced a final report to the City Council creating zoning district boundaries, inclusive of a zoning map. Ordinance 2018-05 adopting zoning district boundaries was approved by City Council. The zoning map designated by the subject property as Rural Residential (5+ acre lots) creating a conflict with the Agreement.
- October 17, 2022 – The City confirms a vested right does exist for the Oak Bend Estates project as of September 2, 2008 (plat recordation date).
- March 21, 2024 – Resolution 2024-13 extended the 2008 Water Supply agreement for 110 single-family Living Unit Equivalents, reducing the number of lots from 130. Doing so preserves the geological features on the property.
- April 3, 2024 – In accordance with the 2011 recorded plat, the property owner filed a Future Land Use Amendment application requesting NR land use designation and Rezoning application requesting NR zoning designation.
- May 9, 2024 – P&Z conducted a public hearing and heard public testimony from residents regarding the one classification amendment for Oak Bend Estates. During the consideration item of the meeting, the P&Z reviewed the request and discussed the beneficial reduction of the total number of lots, the protection of geological features, and the proposed emergency exit. The P&Z unanimously recommended approval of the proposed Amendment to Neighborhood Residential (NR).

REASON FOR THE REQUEST:

To develop the subdivision with one-acre lots as per the Agreement, the applicant seeks a zone change to NR. Currently, Oak Bend Estates subdivision is zoned as RR which requires a minimum lot size of 5 acres. Any zone change must be in accordance with the FLUM. The land use designation and zoning changes must occur before the applicant can submit a replat designating a reduced number of lots. This amendment will remove the conflict between the approved existing Agreement and zoning map, allowing for the appropriate development of the property.

A summary of the surrounding land uses and zoning classification can be found in the following table:

Zoning		Land Use
NORTH	Rural Residential (RR), Existing Residential 2 (ER 2), Neighborhood Commercial (NC)	Vacant, Single Family Residential
SOUTH	Existing Residential 2 (ER 2), Neighborhood Commercial (NC), Parks & Open Space (OS), Civic & Community Facilities (CF), Mixed	Vacant, Single Family Residential

Zoning		Land Use
	Use Village (MU), Existing Residential 3 (ER 3), Rural Residential (RR)	
WEST	Existing Residential 4 (ER 4)	Single Family Residential
EAST	Existing Residential 2 (ER 2), Neighborhood Commercial (NC)	Vacant, Single Family Residential

PUBLIC COMMENTS:

As required, a notice of the public hearing was published in the Boerne Star newspaper on April 21, 2024. Additionally, all real property owners within 200 feet were notified via US Mail. Staff will provide a summary of responses received from the public at the public hearing.

APPLICATION CONFORMANCE:

- The Future Land Use Map (FLUM) adopted in June of 2018 designates this property as RR. However, as stated earlier, the applicant is requesting an amendment to the Comprehensive Plan to change the land use designation in the FLUM from RR to NR. The proposed zoning category will be in conformance with the amended land use designation of NR.
- As per the UDC, the property is zoned as RR which requires a minimum lot size of 5 acres. Based on the lot density contained in the agreement the subsequent subdivision plat created one-acre lots. Therefore, RR zoning is not appropriate for the approved development. The proposed zoning of NR that permits lots with a minimum size of one acre will ensure that the approved Oak Bend Estates development is in conformance with the UDC.
- Single family residential developments permitted by the proposed zoning will be compatible with the existing development in the area and future uses permitted by zoning of surrounding properties.
- The development will be adequately serviced by Fair Oaks Ranch Utilities. The applicant has indicated that the lots will contain private sewer systems.
- The traffic generated by the proposed development will impact Ralph Fair Road, from which the site is accessed. Ralph Fair Road is designed as an Arterial and the UDC requires further study and coordination with TxDOT. A traffic study will be performed to determine the extent of improvements during the replat stage.

CRITERIA FOR REVIEW:

According to Section 3.7 (4) of the UDC, zoning changes may be approved if the following criteria are met:

- i. *The zoning change is consistent with the Comprehensive Plan;*
- ii. *The zoning change promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City;*

- iii. *The zoning change is compatible with and conforms with uses of nearby property and the character of the neighborhood;*
- iv. *The property affected by the zoning change is suitable for uses permitted by the proposed amendment to the zoning map;*
- v. *Infrastructure, including roadway adequacy, sewer, water and storm water facilities, is or is committed to be available that is generally suitable and adequate for the proposed use.*

STAFF RECOMMENDATION:

Staff recommends the consideration of the following in approving this proposed zoning change request:

- A. The zoning change will be consistent with the approved Agreement for the property that preceded adoption of the Comprehensive Plan and UDC (zoning).
- B. The zoning change will be consistent with the proposed amended Comprehensive Plan.
- C. The single-family residential uses permitted by this zoning change are compatible with the surrounding properties and the character of the neighborhood, that are predominantly single family residential in nature.
- D. The developer will be required to undertake improvements as indicated by the traffic study and infrastructure analysis at time of site development.
- E. The proposed use will not have a significant impact on public services such as police and fire protection and solid waste collection.
- F. The reduction of lots from 130 to 110 will enable preservation of geological features on site and provide a second emergency entrance/exit to the development.

Exhibits

- A. Subject Property Aerial Map
- B. Zoning Map, Existing and Proposed
- C. Universal Application and Specific Application (Rezoning/FLUM Amendment)
- D. Property Owner Notification and Response Map
- E. Property Owner Comment Forms