

## MEMORANDUM

**To:** City of Seguin Mayor and Council Members  
Douglas Faseler, City Manager

**From:** Pamela Centeno, Director of Planning & Codes

**Through:** Rick Cortes, Assistant City Manager

**Subject:** **ZC 05-18 (Annexed Area 1- FM 725)**  
**Request to assign a zoning designation of Single Family Residential (R-1) to the newly annexed area**

**Date:** April 11, 2018

The City of Seguin recently annexed two areas into the Seguin city limits. The annexation became effective on April 1, 2018. The City needs to establish zoning designations for properties annexed into the city limits. This request is for Area 1, which includes five properties that front on FM 725 and a portion of the right-of-way along FM 725.

This area is part of a growing residential area. There are two subdivisions proposed for development to the south and east of the newly annexed area. The timeline for development to the east is uncertain, but the development to the south is slated to begin construction this year. Also, an existing elementary school is immediately adjacent to the largest tract in this area. Considering the single family residential zoning to the east and south, the existing residential subdivision to the west in the un-zoned County jurisdiction, and the location of Vogel Elementary to the east, staff is recommending a zoning designation of Single Family Residential (R-1) for all five properties in Area 1.

Three of the properties have existing residential dwellings. The two larger tracts are undeveloped. The current owner of the two larger tracts is not in favor of the zoning designation proposed by the City of Seguin as they have expressed an interest in developing a subdivision that allows manufactured housing, which is not allowed in the R-1 zoning. An application for a preliminary plat for these two tracts was received by the City of Seguin on August 29, 2017. Per the applicant's letter, the proposed development was to be a single family residential subdivision with 120 lots. Per Section 2.9.1.D of the Seguin Unified Development Code, an application for a preliminary plat must contain legal authorization by the property owner for the City to proceed with the request. The developer proposing to subdivide the property signed the legal authorization as the property owner of record in order to move forward in the platting process. Months later, city staff was informed that the developer had not yet purchased the property and was not the property owner of record. Without legal authorization from the true property owner of record, the preliminary plat submitted in August 2017 is void.

The ownership of the properties changed during the annexation process when the developer purchased the properties. The new owner's attorney sent a letter opposing the proposed zoning designation to city staff via e-mail the same afternoon of the Planning and Zoning Commission meeting on April 10, 2018. A copy of the letter is attached. In the letter, the owner's attorney re-states Section 43.002(a)(2) of the Local Government Code:

“...a municipality may not, after annexing an area, prohibit a person from beginning to use land in the area in the manner that was planned for the land before the 90<sup>th</sup> day before the effective date of annexation if... a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.”

Since the application for the preliminary plat is void, no completed application exists prior to the start of the annexation proceedings, which were on November 7, 2017. Furthermore, even if a valid application had been submitted, the City of Seguin was not made aware of the developers' intention to market the subdivision for manufactured housing until after November 7, 2017. The City Attorney's response to the letter from the property owner's attorney is attached.

Both attorney's letters were given to the Planning and Zoning Commission at their meeting on April 10, 2018. As the applicant proposing the initial zoning designation for Area 1, city staff presented a recommendation to establish a zoning of Single Family Residential (R-1) to all five properties in Area 1. Following a public hearing, the Commission voted to recommend approval of the zoning change designation proposed by City staff. Attached please find copies of the Staff Report, attorney's letters, the Final Report of the Commission, the Ordinance for the zoning change, and the map exhibit showing the affected area.