

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: July 8, 2014		DATE SUBMITTED: June 17, 2014	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Maggie Dalton	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input checked="" type="checkbox"/> PUBLIC HEARING	<input 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 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, by changing the zoning classification from Agricultural - Open District (A-O) to Retail District (C-2) on 9.86 acres of land out of the Marie Kegan Survey, A-28, located at the northeast corner of State Highway 30 and Elmo Weedon Road in Bryan, Brazos County, Texas.			
SUMMARY STATEMENT: The 9.86-acre subject property is currently vacant land, zoned Agricultural – Open District (A-O), and part of a 13.08 acre tract located at the northeast corner of State Highway 30 and Elmo Weedon Road. A-O zoning surrounds the subject tract in three directions to the east, west and south, with the exception of a single lot to the southeast, which is zoned Office District (C-1) and occupied by a beauty salon. Land to the north is located in Bryan’s extraterritorial jurisdiction (ETJ) and developed with single-family homes on 1+ acre lots in the Hunter’s Creek Subdivision. There is approximately 200 feet of separation between the land for which C-2 zoning has been requested and residential home sites in Brazos County. To the west, across Elmo Weedon Road, lies the campus of Central Baptist Church.			
<p>The subject property has been zoned A-O District since its annexation into the City of Bryan on July 27, 1999. The A-O zoning district is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used primarily for agricultural purposes, but may become an urban area in the future. State Highway 30 has been developing with several commercial businesses in both the City of Bryan and the City of College Station’s extraterritorial jurisdiction, which adjoins the south side of Highway 30. 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 that are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods.</p> <p>The subject property lies within the FM158 Corridor Overlay District, which imposes higher development standards such as 75% non-metallic structures, the screening of utility equipment and open storage is prohibited. The purpose of the district is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City’s image as a desirable place to live, work, and shop.</p>			
STAFF ANALYSIS AND RECOMMENDATION: During its meeting on June 5, 2014, the Planning and Zoning Commission concurred with staff and <u>unanimously recommended approving</u> this rezoning request.			
<ul style="list-style-type: none"> The proposed change will allow retail development at an intersection of two major streets, Elmo Weedon Road and State Highway 30. C-2 zoning appears to be appropriate for the subject tract and consistent with land use recommendations of Bryan’s Comprehensive Plan, which suggests that commercial uses are appropriate at points of high visibility along arterial and major collector streets and at intersection of major streets. 			

- Allowing C-2 zoning on the subject property will support orderly urban growth in this vicinity where neighboring properties are being developed or are currently developed with commercial and/or retail establishments.
- C-2 zoning on these 9.86 acres is appropriate in this particular environment and will offer the exposure that most retail trade requires while maintaining separation from existing residential use in Brazos County.

OPTIONS (In Suggested Order of Staff Preference):

1. approve the requested zone change;
2. deny the requested zone change.

ATTACHMENTS:

1. location map;
2. draft ordinance;
3. excerpt from Planning and Zoning Commission meeting minutes of June 5, 2014; and
4. staff report to the Planning and Zoning Commission.

FUNDING SOURCE: N/A

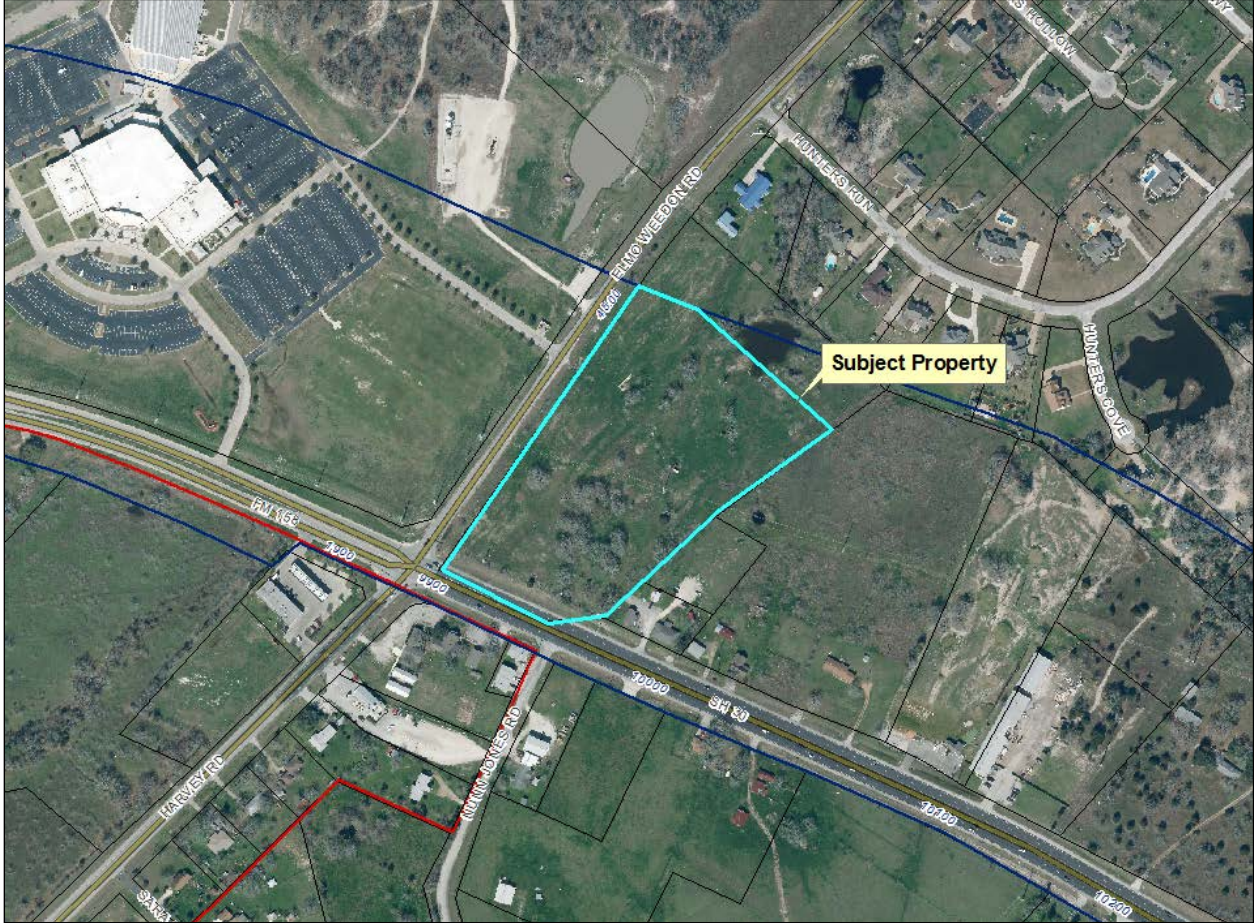
APPROVALS: Kevin Russell, 6-19-14; Joey Dunn, 6-24-14; Hugh R. Walker, 06/24/2014

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 06/30/2014

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 07/01/2014

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, BY CHANGING THE ZONING CLASSIFICATION FROM AGRICULTURAL-OPEN DISTRICT (A-O) TO RETAIL DISTRICT (C-2) ON 9.86 ACRES OF LAND OUT OF THE MARIE KEGAN SURVEY, A-28, LOCATED AT THE NORTHEAST CORNER OF STATE HIGHWAY 30 AND ELMO WEEDON 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, changing the zoning classification from Agricultural-Open District (A-O) to Retail District (C-2) on 9.86 acres of land out of the Marie Kegan Survey, A-28, located at the northeast corner of State Highway 30 and Elmo Weedon Road in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during a regular meeting on June 5, 2014;

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 Agricultural-Open District (A-O) to Retail District (C-2) on 9.86 acres of land out of the Marie Kegan Survey, A-28, located at the northeast corner of State Highway 30 and Elmo Weedon Road in Bryan, Brazos County, Texas, said 9.86 acres of land being described more particularly by metes-and-bounds on attached Exhibit "A".

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 8th day of July, 2014 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 12th day of August, 2014 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

Exhibit "A":

METES AND BOUNDS DESCRIPTION OF A
9.68 ACRE TRACT

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE MARIA KEGANS SURVEY, ABSTRACT NO. 28, BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 360.9 ACRE TRACT DESCRIBED AS TRACT I AND A PORTION OF A CALLED 2.06 ACRE TRACT DESCRIBED AS TRACT III BY A DEED TO ALICE C. JOSEY RECORDED IN VOLUME 2774, PAGE 148 OF THE OFFICIAL PUBLIC RECORD OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A ½ INCH IRON ROD FOUND ON THE NORTHEAST LINE OF STATE HIGHWAY NO. 30 (VARIABLE WIDTH R.O.W.) MARKING THE WEST CORNER OF A CALLED 0.661 ACRE TRACT AS DESCRIBED BY A DEED TO BARBARA A. MOORE RECORDED IN VOLUME 2728, PAGE 272 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS FOR REFERENCE A CONCRETE RIGHT-OF-WAY MARKER FOUND BEARS: S 59°41'42" E FOR A DISTANCE OF 75.01 FEET.

THENCE: ALONG THE NORTHEAST LINE OF STATE HIGHWAY NO. 30 FOR THE FOLLOWING CALLS:

N 59°49'15" W FOR A DISTANCE OF 125.13 FEET TO A CONCRETE RIGHT-OF-WAY MARKER FOUND;

N 62°30'50" W FOR A DISTANCE OF 280.53 FEET TO A 5/8 INCH IRON ROD FOUND ON THE SOUTHEAST

THENCE: ALONG THE SOUTHEAST LINE OF ELMO WEEDON ROAD FOR THE FOLLOWING CALLS:

N 12°13'10" W FOR A DISTANCE OF 63.98 FEET TO A ½ INCH IRON ROD SET;

N 37°55'46" E FOR A DISTANCE OF 796.40 FEET TO THE CITY LIMITS OF BRYAN, BRAZOS COUNTY, TEXAS, FOR REFERENCE A ½ INCH IRON ROD FOUND ON THE NORTHWEST LINE OF ELMO WEEDON ROAD BEARS: N 37°55'46" E FOR A DISTANCE OF 28.07 FEET (THIS LINE WAS USED FOR BEARING ORIENTATION HONORING THE DEED CALL BEARING OF ELMO WEEDON ROAD (80' R.O.W.) PER VOLUME 1095, PAGE 74 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS);

THENCE: S 64°08'31" E THROUGH SAID JOSEY TRACT AND ALONG THE CITY LIMITS OF BRYAN FOR A DISTANCE OF 138.89 FEET;

THENCE: S 44°33'02" E CONTINUING THROUGH SAID JOSEY TRACT, 205.00 FEET FROM AND PARALLEL TO THE SOUTHWEST LINE OF BLOCK 1, HUNTER'S CREEK, ACCORDING TO THE PLAT RECORDED IN VOLUME 4490, PAGE 38 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS FOR A DISTANCE OF 505.15 FEET TO THE COMMON LINE OF SAID JOSEY TRACT AND A CALLED 10.84 ACRE TRACT BEING A REMAINDER OF A CALLED 34 ACRE TRACT AS DESCRIBED IN VOLUME 37, PAGE 514 OF THE DEED RECORDS BRAZOS COUNTY, TEXAS, FOR A REFERENCE A ½ INCH IRON ROD FOUND ON THE SOUTHWEST LINE OF SAID BLOCK 1 MARKING THE COMMON CORNER OF SAID JOSEY TRACT AND SAID THANE TRACT BEARS: N 54°22'44" E FOR A DISTANCE OF 207.51 FEET;

THENCE: S 54°22'44" W ALONG THE COMMON LINE OF SAID JOSEY TRACT AND SAID THANE TRACT FOR A DISTANCE OF 355.19 FEET TO A ½ INCH IRON ROD FOUND MARKING THE NORTH CORNER OF A CALLED 1.00 ACRE TRACT AS DESCRIBED BY A DEED TO ROBERT KENNETH BONNET AND PATSY SUE CONNET RECORDED IN VOLUME 7680, PAGE 235 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: ALONG THE COMMON LINE OF SAID JOSEY TRACT AND SAID 1.00 ACRE FOR THE FOLLOWING CALLS:

S 54°25'19" W FOR A DISTANCE OF 93.61 FEET TO A 6 INCH FENCE POST FOUND;

S 52°38'53" W FOR A DISTANCE OF 69.90 FEET TO A 42 INCH POST OAK TREE FOUND;

S 47°39'50" W FOR A DISTANCE OF 98.20 FEET TO A 4 INCH FENCE POST FOUND MARKING THE NORTH CORNER OF THE AFOREMENTIONED 0.661 ACRE TRACT (2728/272);

THENCE: S 48°39'42" W ALONG THE COMMON LINE OF SAID JOSEY TRACT AND SAID 0.661 ACRE TRACT FOR A DISTANCE OF 140.27 FEET TO THE POINT OF BEGINNING CONTAINING 9.86 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND FEBRUARY 2012.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF JUNE 5, 2014:**

7. 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 RZ14-11: Sam Trinh

A request to change the zoning classification from Agricultural – Open District (A-O) to Retail District (C-2) on 9.86 acres of land out of the Marie Kegan Survey, A-28, located at the northeast corner of State Highway 30 and Elmo Weedon Road in Bryan, Brazos County, Texas. (M. Dalton)

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

Public hearing was opened.

Rabon Metcalf, 3800 State Highway 6, College Station, the applicant's engineer gave an overview of the project.

Public hearing was closed.

Commissioner Madison moved to recommend approval of Rezoning RZ14-11 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Bienski seconded the motion.

The motion passed unanimously.

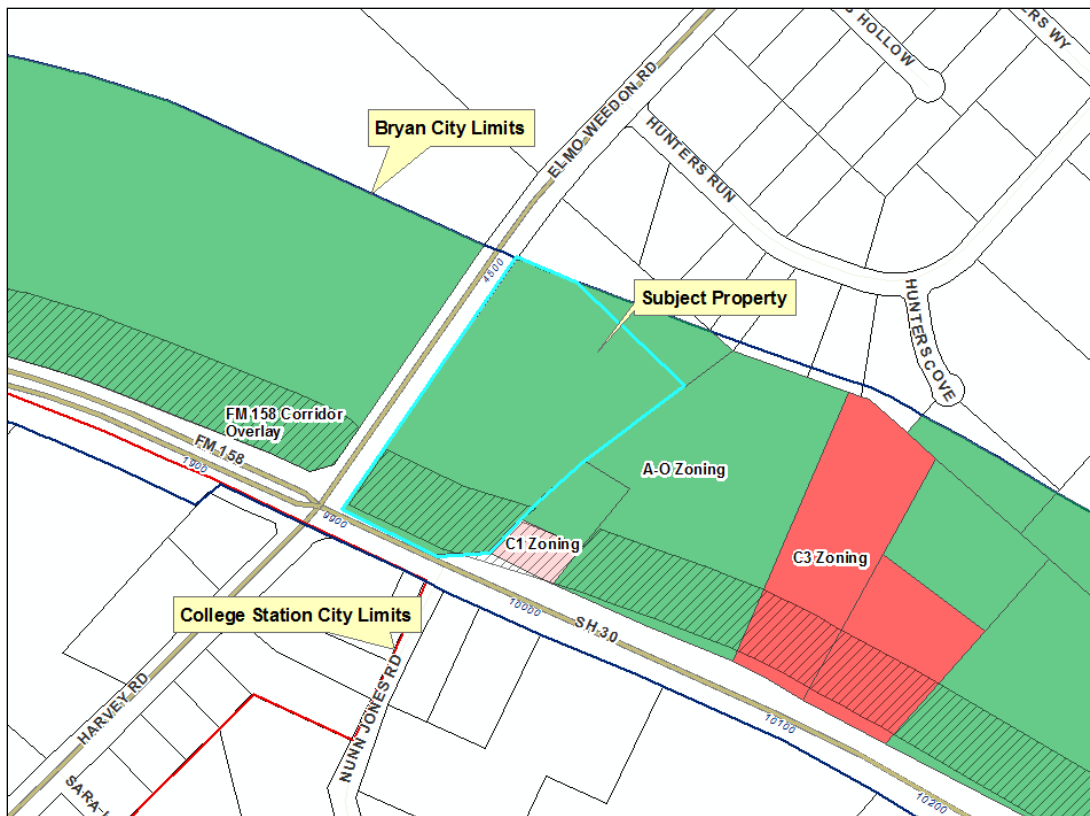
**PLANNING AND ZONING COMMISSION
STAFF REPORT**



June 5, 2014

Rezoning case no. RZ 14-11: Sam Trinh

- CASE DESCRIPTION:** a request to change the zoning classification from Agricultural - Open District (A-O) to Retail District (C-2)
- LOCATION:** 9.86 acres of vacant land out of the Marie Kegan Survey, A-28, located at the northeast corner of State Highway 30 and Elmo Weedon Road
- LEGAL DESCRIPTION:** 9.86 acres of a 13.08 acre tract of land out of the Marie Kegan Survey, A-28
- EXISTING LAND USE:** vacant lot
- APPLICANT(S):** Mr. Sam Trinh
- STAFF CONTACT:** Maggie Dalton, Staff Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** this rezoning request.



AERIAL PHOTOGRAPH (2013):



BACKGROUND:

The subject property is 9.86 acres in size and part of an approximately 13 acre tract located at the northeast corner of Elmo Weedon Road and State Highway 30. The subject property is currently vacant and zoned Agricultural-Open District (A-O). A-O zoning surrounds the subject tract in three directions to the east, west and south, with the exception of a single lot to the southeast which is zoned Office District (C-1) and the location of a beauty salon. Land to the north is located in Bryan's extraterritorial jurisdiction (ETJ) and developed with single-family homes on 1+ acre lots in the Hunter's Creek Subdivision. There is approximately 200 feet of separation between the land for which C-2 zoning has been requested and residential home sites in Brazos County. To the west, across Elmo Weedon Road, lies the campus of Central Baptist Church.

The subject property has been zoned A-O District since its annexation to the City of Bryan on July 27, 1999. The applicant, Mr. Sam Trinh, proposes new retail business at this highly visible location at one of the main corridors into the City of Bryan.

The A-O zoning district is intended to provide a location principally undeveloped or vacant land situated on the fringe of an urban area and used primarily for agricultural purposes, but may become an urban area in the future. State Highway 30 has been developing with several commercial businesses in both the City

of Bryan and the City of College Station's extraterritorial jurisdiction, which adjoins the south side of Highway 30. The C-2 zoning classification is intended to provide opportunities for of 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 lies within the FM158 Corridor Overlay District, which imposes higher development standards such as 75% non-metallic structures, the screening of utility equipment and open storage is prohibited. The purpose of the district is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the city's image as a desirable place to live, work, and shop.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan adopted a new Comprehensive Plan in January 2007. The plan includes policy recommendations related to the various physical development aspects. The plan identified a number of issues that have been, according to the committee members, an impediment to the healthy growth of the community. 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 also suggests that commercial uses are appropriate at points of high visibility along arterial and major collector streets and at intersection of major streets.

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.

The proposed change will allow retail development at a major intersection along a super arterial street, State Highway 30. Allowing C-2 zoning on the subject property will support orderly urban growth in this vicinity where neighboring properties are being developed or are currently developed with commercial and/or retail establishments. Staff believes that C-2 zoning on the subject property is compatible with anticipated surrounding land uses and existing development. The remaining surrounding properties are either vacant land or are developed as office businesses. Staff believes that proposed C-2 zoning on these 9.86 acres is appropriate in this particular environment and will offer the exposure which most retail trade requires while maintaining separation from existing residential use in Brazos County.

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 subject property adjoins State Highway 30 and Elmo Weedon Road which are classified on Bryan's Thoroughfare Plan as super arterial street and major collector street, respectively. These roads can be expected to be capable of accommodating traffic loads typically associated with retail development on the subject property. Water services for any development at this location would be provided by the Wickson Creek Special Utility District.

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 and elsewhere in the City unavailable for 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 commercial developments are developing at a slow to average pace in this vicinity and elsewhere in the City.

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.

If the proposed zone change was approved, staff believes there to be few, if any, effects on other areas designated for similar developments. Many of the properties in the immediate vicinity are developed as commercial businesses, and several vacant parcels are available for future commercial development.

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

In this case, staff believes that the requested rezoning to C-2 District should have no adverse effects on adjacent properties. Staff contends that allowing a retail development at this location will create an orderly zoning pattern and allow for a useful diversification in land use intensities and orderly urban development in this vicinity.

RECOMMENDATION:

Based on all these considerations, staff recommends **approving** the requested zone change to C-2 District on the subject property.