

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> May 13, 2014		<b>DATE SUBMITTED:</b> April 17, 2014	
<b>DEPARTMENT OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Randy Haynes	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input checked="" 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 checked="" type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consideration of an ordinance 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 Office District (C-1) on property located at 1213 Ertle Street at the southwest corner of Ertle Street and N. Coulter Drive, approximately 280 feet south from its intersection with East William Joel Bryan Parkway, being Lot 24 of John F. Ertle Subdivision – Phase 2 in Bryan, Brazos County, Texas.			
<b>SUMMARY STATEMENT:</b> The subject property is about 0.476 acres in size and located at 1213 Ertle Street, at its intersection with North Coulter Drive. The subject property is currently vacant and zoned Residential District – 5000 (RD-5). RD-5 zoning surrounds the subject tract in all directions with single-family residences occupying most of the lots. Property to the northeast, across Ertle Street, is occupied by a church. North Coulter Drive is classified by Bryan’s Thoroughfare Plan as a major collector roadway. Briar Creek runs through the west side of the property, significantly limiting the developable area of this lot. Approximately 67% of the subject property lies within FEMA-designated floodplain for the creek.			
The RD-5 zoning classification is intended provide space for detached dwelling units and is designed primarily for residential use and does not easily lend itself to other types of nonresidential uses. Typically residential districts should only access local streets. The C-1 zoning classification is established to create a flexible district for low intensity office and professional uses generally in smaller buildings. Some light intensity retail uses are also permitted. Permitted uses should be compatible with adjacent residential areas by limiting heights to two stories and utilizing buffers and landscape materials.			
The owner/applicant, Mr. George Z. Lopez, proposes to operate a snow cone stand at this highly visible location near East William Joel Bryan Parkway. In the context of Bryan’s Zoning Ordinance, snow cone stands are allowed in C-1 zoning districts, but only with prior approval of a Conditional Use Permit. Under the current RD-5 zoning, a snow cone stand is not allowed to locate here.			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> During its meeting on April 17, 2014, the Planning and Zoning Commission concurred with staff and <u>unanimously recommended approving</u> this rezoning request.			
<ul style="list-style-type: none"> <li>• A change of the zoning designation to C-1 is appropriate for the subject tract and consistent with land use recommendations of Bryan’s Comprehensive Plan.</li> <li>• C-1 zoning district allows only low-intensity office and small-scale business uses. Should the requested zoning change to C-1 be approved, a no-development buffer area on the subject property will be applied along the west and southwest property lines where the subject property abuts a residential zoning district. Depending on the amount of landscaping provided, that buffer area will be from 15 to 25 feet wide. Unless costly land reclamation methods are employed, the width of undevelopable area imposed by the flood plain will effectively create a buffer from any development on the subject property to adjacent properties in excess of 50 feet.</li> </ul>			

- The subject property is located at a transitional location, on the periphery of a large residential subdivision and adjacent to a major thoroughfare. In this particular environment, rezoning to C-1 District is appropriate, as it would allow for a useful transition in land use intensities from the busy Coulter Drive and East William Joel Bryan Parkway and church property located to the north across Ertle Street, to the residential neighborhood that extends south, east, and west from the subject property.
- New single-family residential home construction on the subject property may not be feasible or desirable adjacent to a busy major collector street.

**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 P&Z meeting minutes of April 17, 2014; and
4. staff report to the Planning & Zoning Commission.

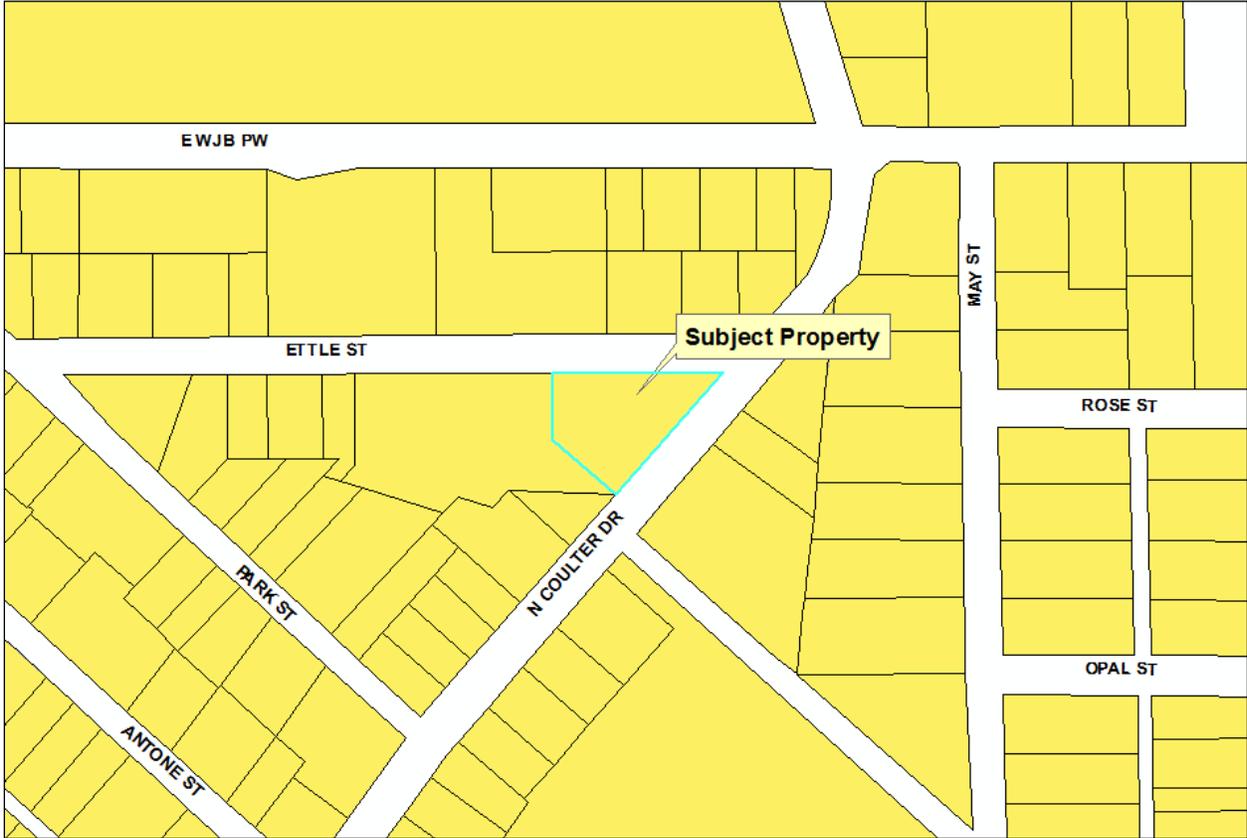
**FUNDING SOURCE: N/A**

**APPROVALS:** Kevin Russell, 3-21-14; Joey Dunn, 4-23-14; Hugh R. Walker, 04/24/2014

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 5/2/2014

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton, 5.05/2014

**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 RESIDENTIAL DISTRICT – 5000 (RD-5) TO OFFICE DISTRICT (C-1) ON PROPERTY LOCATED AT 1213 ETTLE STREET AT THE SOUTHWEST CORNER OF ETTLE STREET AND N. COULTER DRIVE, APPROXIMATELY 280 FEET SOUTH FROM ITS INTERSECTION WITH EAST WILLIAM JOEL BRYAN PARKWAY, BEING LOT 24 OF JOHN F. ETTLE SUBDIVISION – PHASE 2 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 Residential District – 5000 (RD-5) to Office District (C-1) on property located at 1213 Ettle Street at the southwest corner of Ettle Street and N. Coulter Drive, approximately 280 feet south from its intersection with East William Joel Bryan Parkway, being Lot 24 of John F. Ettle Subdivision – Phase 2 in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during a regular meeting on April 17, 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 Residential District – 5000 (RD-5) to Office District (C-1) on property located at 1213 Ettle Street at the southwest corner of Ettle Street and N. Coulter Drive, approximately 280 feet south from its intersection with East William Joel Bryan Parkway, being Lot 24 of John F. Ettle Subdivision – Phase 2 in Bryan, Brazos County, Texas.

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 13<sup>th</sup> day of May, 2014 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 27<sup>th</sup> day of May, 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

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING  
MINUTES OF APRIL 17, 2014:**

**6. 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 RZ14-09: George Z. Lopez**

*A request to change the zoning classification from Residential District – 5000 (RD-5) to Office District (C-1) on property located at 1213 Ertle Street at the southwest corner of Ertle Street and N. Coulter Drive, approximately 280 feet south from its intersection with East William Joel Bryan Parkway, being Lot 24 of John F. Ertle Subdivision – Phase 2 in Bryan, Brazos County, Texas. (R. Haynes)*

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

The public hearing was opened.

None came forward.

The public hearing was closed.

**Commissioner Beckendorf moved to recommend approval of Rezoning RZ14-09 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Gutierrez seconded the motion.**

Commissioners discussed:

- Inability of residential development to occur here

**The motion passed unanimously.**

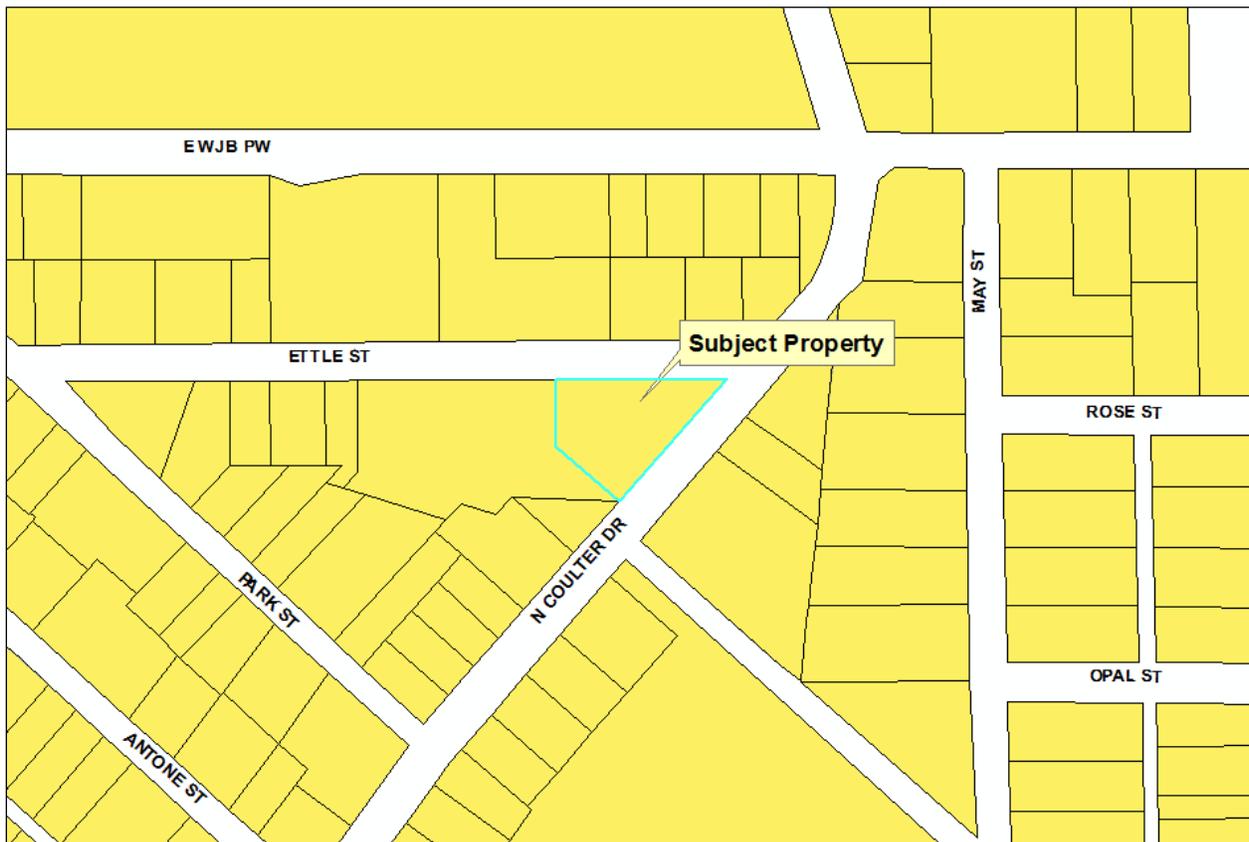
PLANNING AND ZONING COMMISSION  
STAFF REPORT



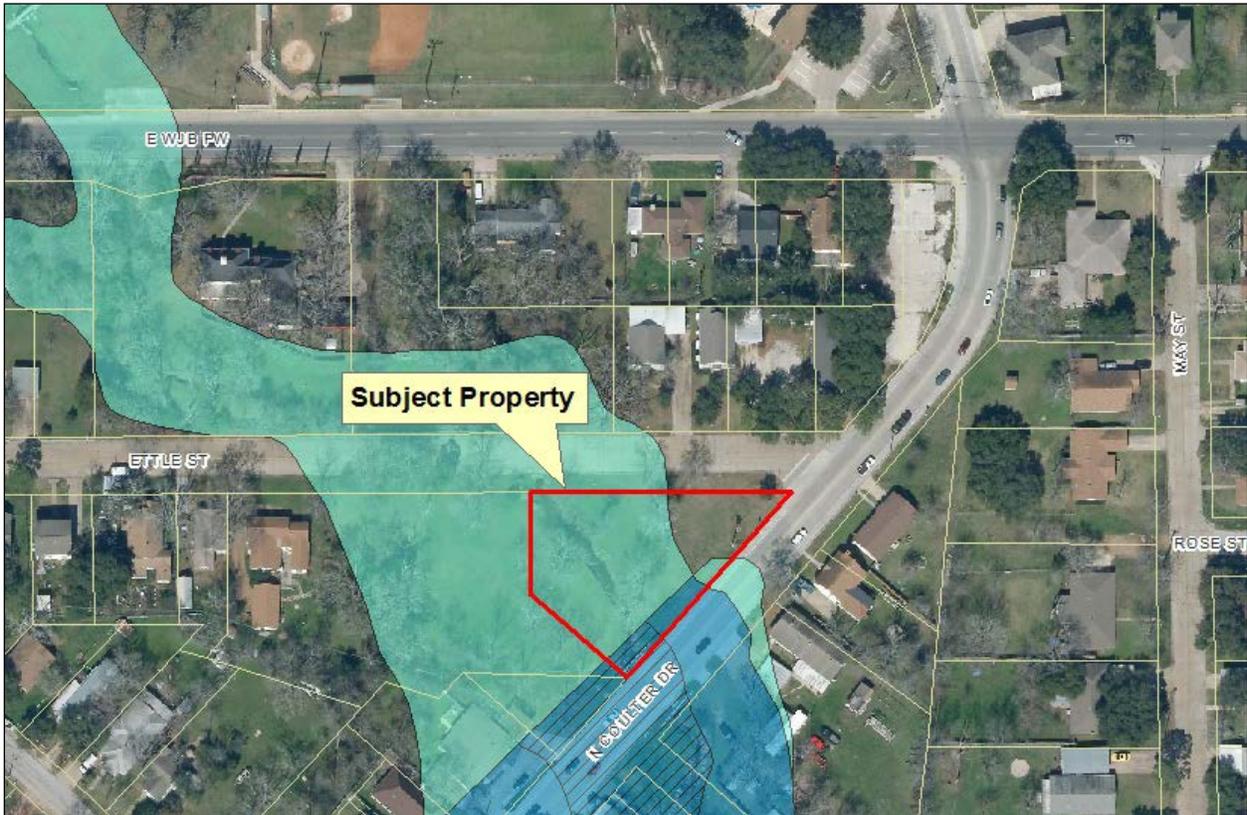
April 17, 2014

**Rezoning case no. RZ 14-09: George Z. Lopez**

- CASE DESCRIPTION:** a request to change the zoning classification from Residential District – 5000 (RD-5) to Office District (C-1)
- LOCATION:** 1213 Ettle Street at the southwest corner of Ettle Street and N. Coulter Drive, approximately 280 feet south from its intersection with East William Joel Bryan Parkway
- LEGAL DESCRIPTION:** Lot 24, Block 2 in John F. Ettle Subdivision – Phase 2
- EXISTING LAND USE:** vacant lot
- APPLICANT(S):** George Z. Lopez
- STAFF CONTACT:** Randy Haynes, Senior Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** this rezoning request.



**AERIAL PHOTOGRAPH (2013):**



**VIEW SOUTHWEST FROM ETTLE STREET:**



## **BACKGROUND:**

The subject property is about 0.476 acres in size and located at 1213 Ertle Street, at its intersection with North Coulter Drive. The subject property is currently vacant and zoned Residential District – 5000 (RD-5). RD-5 zoning surrounds the subject tract in all directions with single-family residences occupying most of the lots. Property to the northeast, across Ertle Street, is occupied by a church. North Coulter Drive is classified by Bryan's Thoroughfare Plan as a major collector roadway. Briar Creek runs through the west side of the property, significantly limiting the developable area of this lot. Approximately 67% of the subject property lies within FEMA-designated floodplain for the creek.

The RD-5 zoning classification is intended provide space for detached dwelling units and is designed primarily for residential use and does not easily lend itself to other types of nonresidential uses. Typically residential districts should only access local streets. The C-1 zoning classification is established to create a flexible district for low intensity office and professional uses generally in smaller buildings. Some light intensity retail uses are also permitted. Permitted uses should be compatible with adjacent residential areas by limiting heights to two stories and utilizing buffers and landscape materials.

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## **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. North Coulter Drive is classified by the Bryan Transportation Plan as a major collector roadway. Land use policies in the comprehensive plan suggest that low-density residential land uses should access only local 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 C-1 zoning classification is intended to provide opportunities for development of business, professional and financial offices. The character of commercial development allowed in C-1 Districts is purposefully intended to be of relatively low intensity, in comparison with retail activity allowed in Retail (C-2) and other nonresidential zoning districts.**

**Staff contends that a change of the zoning designation to C-1 is appropriate for the subject tract and consistent with land use recommendations of Bryan's Comprehensive Plan. Staff acknowledges the potential concern that the subject property is located in the middle of an established residential neighborhood. However, staff contends that the C-1 zoning district allows only low-intensity office and small-scale business uses. Should the requested zoning change to C-1 be approved, a no-development buffer area on the subject property will be applied along the west and southwest property lines where the subject property abuts a residential zoning district. Depending on the amount of landscaping provided, that buffer area will be from 15 to 25 feet wide. Unless costly land reclamation methods are employed, the width of undevelopable area imposed by the flood plain will effectively create a buffer from any development on the subject property to adjacent properties in excess of 50 feet.**

**Uses allowed by right within the Office District include:**

- **Assisted Living Facilities**
- **Banks**
- **Charitable uses**
- **Child care--Class B and C**
- **Community centers**
- **Fraternal organizations**
- **General office uses**
- **Medical facilities or clinics**
- **Museum/art galleries**
- **Schools**
- **Personal service shops**
- **Pharmacies**

**The subject property is located at a transitional location, on the periphery of a large residential subdivision and adjacent to a major thoroughfare. Staff believes that, in this particular environment, rezoning to C-1 District is appropriate, as it would allow for a useful transition in land use intensities from the busy Coulter Drive and East William Joel Bryan Parkway and church property located to the north across Ertle Street, to the residential neighborhood that extends south, east, and west from the subject property. Staff believes that new single-family residential home construction on the subject property may not be feasible or desirable adjacent to a busy major collector street.**

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 has direct access to water and wastewater services and lies at the intersection of North Coulter Drive and Ertle Street. North Coulter Drive is classified as a major collector street while Ertle Street is classified as a local street. Staff believes that, in this particular case, these adjoining streets can be expected to be capable of accommodating traffic loads typically associated with low-intensity office and professional uses as well as small scale retail uses potentially allowed in C-1 Districts.**

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.

**Currently, there is no other land zoned specifically for office use along this portion of North Coulter Drive between East William Joel Bryan Parkway and East 29<sup>th</sup> Street. Property zoned for commercial use exists approximately 0.5 miles from the subject tract along East William Joel Bryan Parkway. Staff believes that this zone change request, if approved, will not make land classified for similar development in the vicinity or 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.

**In the immediate area of the subject tract, residential development is at a slow pace as this neighborhood is almost completely developed. To the northeast, across E. William Joel Bryan Parkway, a retail use recently developed in a Planned Development District. Development pressure for office uses in the vicinity of the property has been light compared to other areas of 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.

**Staff finds that other areas designated for office use will be unaffected should the proposed zoning change be approved.**

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

**Staff is unable to identify additional factors other than those mentioned above that might affect health, safety, morals, or general welfare if this rezoning were approved.**

#### **RECOMMENDATION:**

Based on all these considerations, staff recommends **approving** the requested zone change to C-1 District on the subject property.