

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: July 8, 2014		DATE SUBMITTED: June 6, 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 Mixed-Use Residential District (MU-1) to Retail District (C-2) on property located at 3801 East State Highway 21 at the east corner of East State Highway 21 and Old Kurten Road, being Lot 1R in Block 1 of Castle Heights Subdivision in Bryan, Brazos County, Texas.			
SUMMARY STATEMENT: The subject property is 0.5628 acres in size and located at 3801 East State Highway 21, at its intersection with Old Kurten Road. The subject property is zoned Mixed-Use Residential District (MU-1) and currently occupied by a substandard commercial structure that has been ordered for demolition by the City's Building and Standards Commission. MU-1 zoning surrounds the subject tract in all directions with single-family residences occupying lots to the north and east. Industrial zoning and land uses are located to the east, across State Highway 21. An auto body repair shop is located on land to the south, across Old Kurten Road.			
<p>The MU-1 zoning classification is intended as a temporary district classification to aid in transition of certain areas of the City to a permanent zoning district classification in the future. The uses in the MU-1 District are envisioned to be primarily single-family detached dwellings. Due to the age, previous platting, and subdivision patterns, and location of these areas, they contain a variety of residential types and uses. This district allows mobile homes and manufactured homes on individual lots and certain other dwelling types.</p> <p>The owner/applicant, Mr. Juan Enrique Pachuca, is the prospective purchaser of the property and has requested that the zoning be changed to Retail District (C-2). 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 which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods.</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 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-2 District appears to be appropriate, as it would allow for a useful transition in land use intensities from the busy East State Highway 21 and existing industrial and commercial businesses to the residential neighborhood that extends north and east from the subject property. • A change of the zoning designation to C-2 is 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 intersections of major streets. • New single-family residential home construction on the subject property may not be feasible or desirable 			

adjacent to a busy freeway.

- Adjoining streets can be expected to be capable of accommodating traffic loads typically associated with small scale retail uses allowed in C-2 Districts.

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 & Zoning Commission.

FUNDING SOURCE: N/A

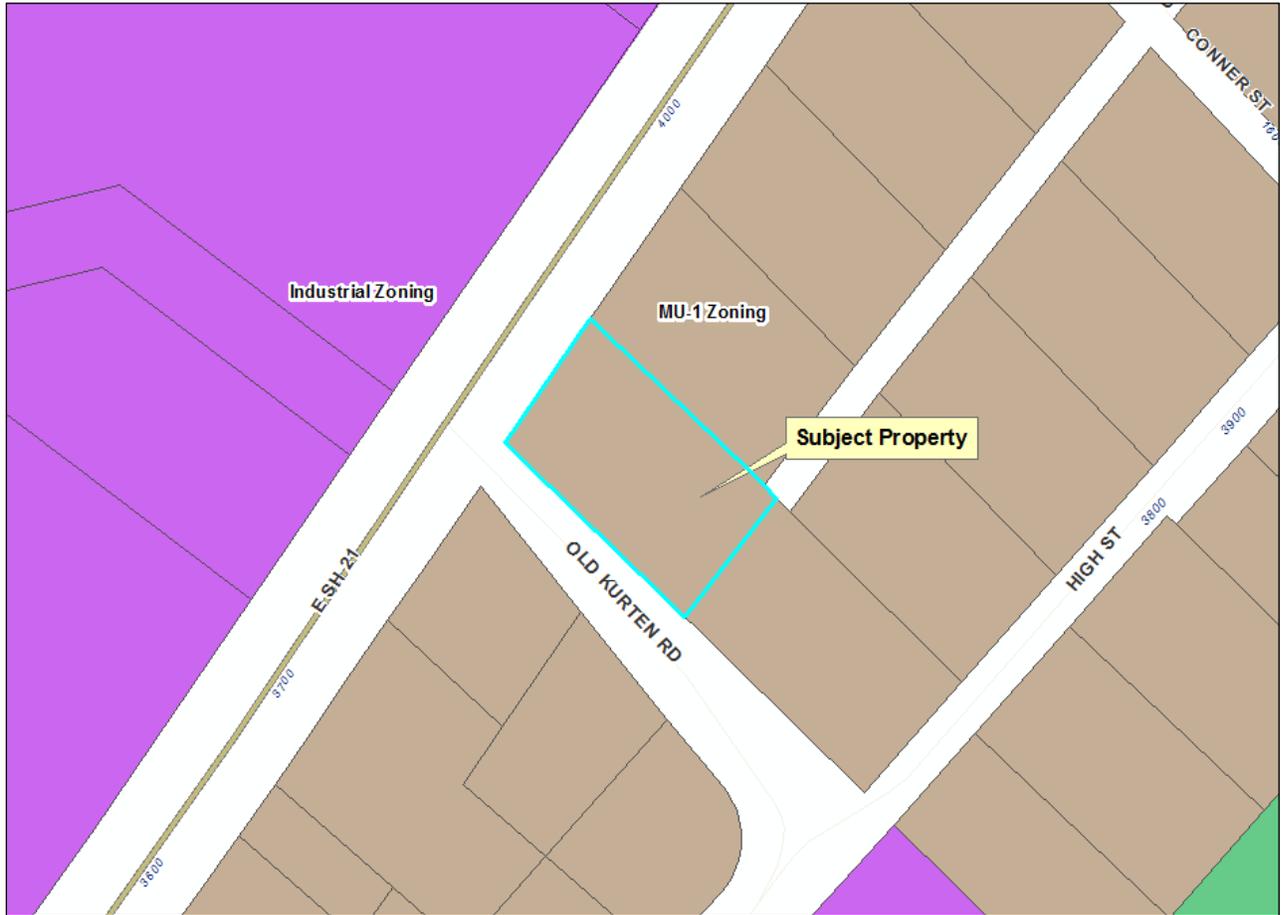
APPROVALS: Kevin Russell, 6-19-14; Joey Dunn, 6-24-14; Hugh R. Walker, 06/25/2014

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 MIXED-USE RESIDENTIAL DISTRICT (MU-1) TO RETAIL DISTRICT (C-2) ON PROPERTY LOCATED AT 3801 EAST STATE HIGHWAY 21 AT THE EAST CORNER OF EAST STATE HIGHWAY 21 AND OLD KURTEN ROAD, BEING LOT 1R IN BLOCK 1 OF CASTLE HEIGHTS SUBDIVISION 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 Mixed-Use Residential District (MU-1) to Retail District (C-2) on property located at 3801 East State Highway 21 at the east corner of East State Highway 21 and Old Kurten Road, being Lot 1R in Block 1 of Castle Heights Subdivision 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 Mixed-Use Residential District (MU-1) to Retail District (C-2) on property located at 3801 East State Highway 21 at the east corner of East State Highway 21 and Old Kurten Road, being Lot 1R in Block 1 of Castle Heights Subdivision 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 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

**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).

b. Rezoning RZ14-12: Juan Enrique Pachuca

A request to change the zoning classification from Mixed-Use Residential District (MU-1) to Retail District (C-2) on property located at 3801 East State Highway 21 at the east corner of East State Highway 21 and Old Kurten Road, being Lot 1R in Block 1 of Castle Heights Subdivision 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.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Gutierrez moved to recommend approval of Rezoning RZ14-12 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Beckendorf seconded the motion.

The motion passed unanimously.

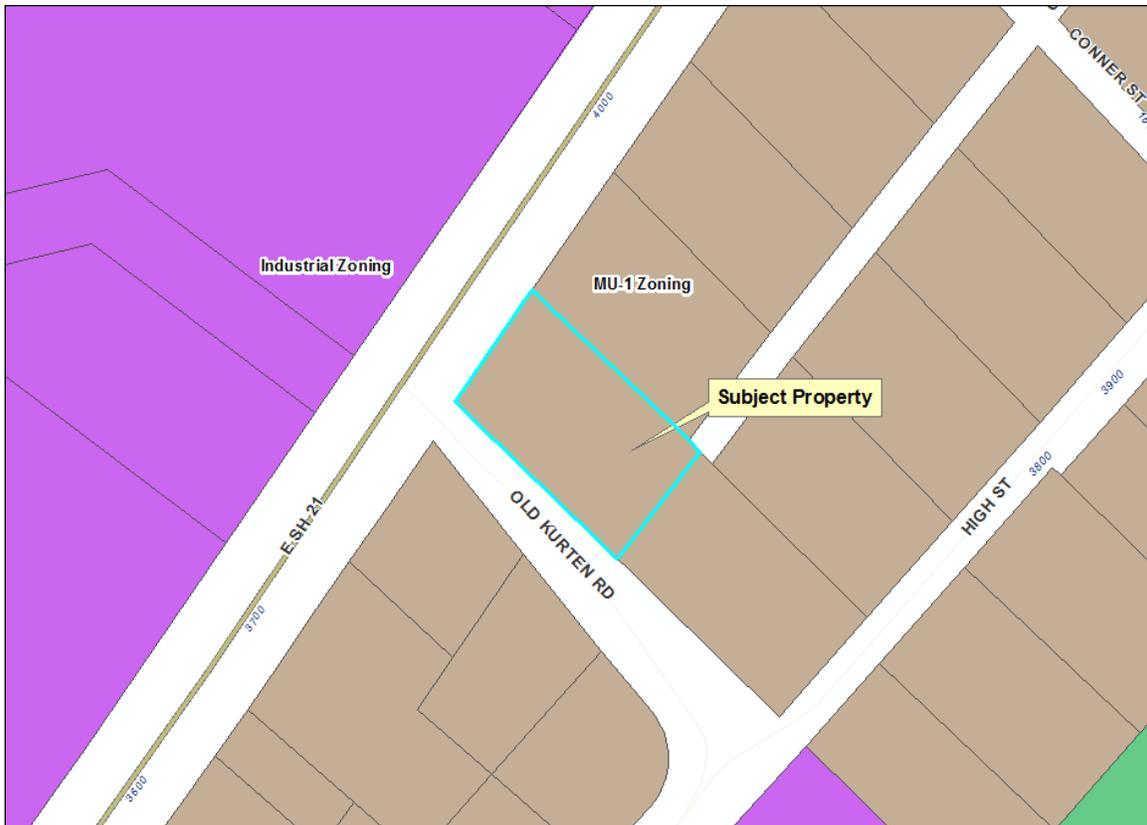
**PLANNING AND ZONING COMMISSION
STAFF REPORT**



June 5, 2014

Rezoning case no. RZ 14-12: Juan Enrique Pachuca

- CASE DESCRIPTION:** a request to change the zoning classification from Mixed Use - Residential (MU-1) to Retail District (C-2)
- LOCATION:** 3801 East State Highway 21 at the east corner of East State Highway 21 and Old Kurten Road
- LEGAL DESCRIPTION:** Lot 1R, Block 1 of Castle Heights Subdivision
- EXISTING LAND USE:** substandard commercial structure
- APPLICANT(S):** Juan Enrique Pachuca
- STAFF CONTACT:** Maggie Dalton, Staff Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** this rezoning request.



AERIAL PHOTOGRAPH (2013):



BACKGROUND:

The subject property is 0.5628 acres in size and located at 3801 East State Highway 21, at its intersection with Old Kurten Road. The subject property is zoned Mixed-Use Residential District (MU-1) and currently occupied by a substandard commercial structure that has been ordered for demolition by the City's Building and Standards Commission. MU-1 zoning surrounds the subject tract in all directions with single-family residences occupying lots to the north and east. Industrial zoning and land uses are located to the east, across State Highway 21. An auto body repair shop is located on land to the south, across Old Kurten Road. The applicant, Mr. Juan Enrique Pachuca, is a prospective purchaser of the property and has requested that the zoning be changed to Retail District (C-2).

The MU-1 zoning classification is intended as a temporary district classification to aid in transition of certain areas of the city to a permanent zoning district classification in the future. The uses in the MU-1 District are envisioned to be primarily single-family detached dwellings. Due to the age, previous platting, and subdivision patterns, and location of these areas, they contain a variety of residential types and uses. This district allows mobile homes and manufactured homes on individual lots and certain other dwelling types. Most of the areas zoned for MU-1 already have a high percentage of mixed residential uses. The use of this district is limited predominantly to areas platted and containing a variety of residential uses.

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

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 C-2 zoning classification is intended to provide opportunities for various types of general retail trade, business and service uses. Staff contends that a change of the zoning designation to C-2 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 on the periphery of a residential neighborhood (Castle Heights). However, staff contends that the C-2 zoning district allows for business uses that are currently not available along this portion of East State Highway 21. Should the requested zoning change to C-2 be approved, a development buffer area will be required on the subject property and will be applied along the northeast and southeast property lines where the subject property abuts a residential zoning district. Depending on the amount of landscaping provided, that buffer area will be between 30 and 50 feet wide.

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-2 District is appropriate, as it would allow for a useful transition in land use intensities from the busy East State Highway 21 and existing industrial and commercial businesses to the residential neighborhood that extends north and east 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 freeway.

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 along Old Kurten Road. East State Highway 21 is classified on Bryan's Thoroughfare Plan as a freeway while Old Kurten Road is 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 small scale retail uses allowed in C-2 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 retail use along this portion of East State Highway 21. Property zoned for retail/commercial use exists approximately 660 feet southwest from the subject tract along East State Highway 21. 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, development is occurring at a slow pace. Development pressure for retail 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 retail 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-2 District on the subject property.