

ACTION FORM BRYAN CITY COUNCIL

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| DATE OF COUNCIL MEETING: October 14, 2014 | | DATE SUBMITTED: September 22, 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, to change the zoning classification from Agricultural-Open District (A-O) to Commercial District (C-3) on 9.51 acres of land out of the Maria Kegans League adjoining the northeast side of State Highway 30, midway between Hardy Weedon and Elmo Weedon Roads and currently addressed as 10253 State Highway 30. | | | |
| SUMMARY STATEMENT: The subject property is 9.51 acres in size and located at 10253 State Highway 30, midway between Hardy Weedon and Elmo Weedon Roads. The property is currently occupied by a detached single-family residence, but is primarily vacant land. The applicant, Alberson LLC, is requesting to change the zoning classification on these 9.51 acres of land from Agricultural – Open District (A-O) to Commercial District (C-3). The subject property has been zoned A-O District since its annexation to the City of Bryan on July 27, 1999. | | | |
| The C-3 zoning classification is intended for heavy retail and commercial uses of a service nature which typically have operating characteristics or traffic service requirements of retail or shopping, but generally not with residential environments. The rezoning is being requested specifically to facilitate future commercial development of the subject property, which is not allowed under the current A-O zoning. | | | |
| STAFF ANALYSIS AND RECOMMENDATION: During its regular meeting on September 18, 2014, the Planning and Zoning Commission concurred with staff and <u>unanimously recommended approving</u> this rezoning request. | | | |
| <ul style="list-style-type: none"> • Commercial land use on these 9.51 acres appears to be appropriate at this particular location and in accordance with land use recommendations of the Comprehensive Plan. • The subject property lies in an area that has developed over time in a commercial manner. • The remaining vacant land surrounding the subject property will likely be best developed to accommodate commercial developments as well. | | | |
| OPTIONS (In Suggested Order of Staff Preference): | | | |
| <ol style="list-style-type: none"> 1. approve the zone change as recommended by the Planning and Zoning Commission; 2. deny the requested zone change. | | | |
| ATTACHMENTS: | | | |
| <ol style="list-style-type: none"> 1. location map; 2. draft ordinance with exhibits; 3. minutes from P&Z meeting on September 18, 2014; and 4. staff report to the Planning & Zoning Commission. | | | |
| FUNDING SOURCE: N/A | | | |

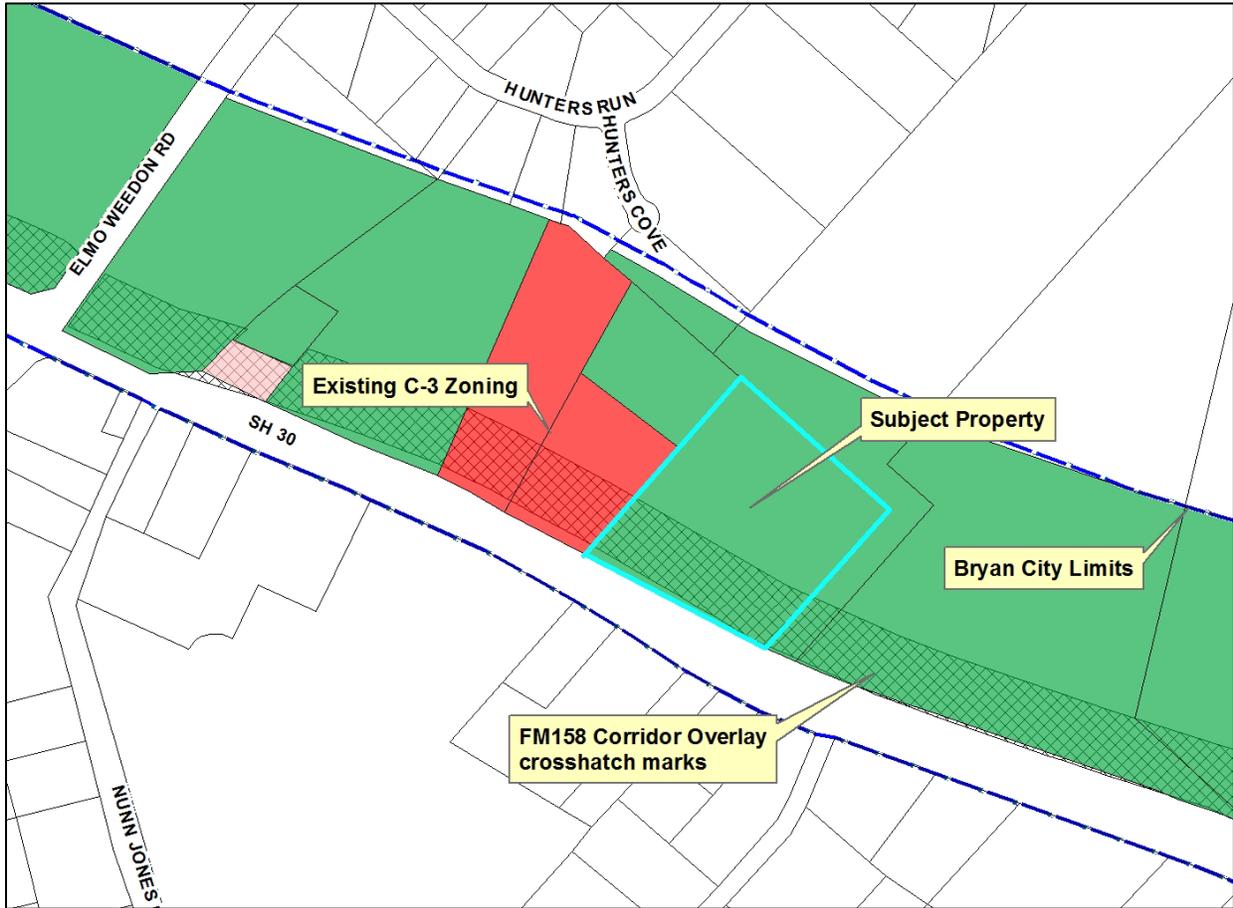
APPROVALS: Kevin Russell, 9-24-14; Joey Dunn, 9-30-14; Hugh R. Walker, 10/01/2014

APPROVED FOR SUBMITTAL: CITY MANAGER

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 09/30/2014

Revised 04/2013

LOCATION MAP:



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, TO CHANGE THE ZONING CLASSIFICATION FROM AGRICULTURAL-OPEN DISTRICT (A-O) TO COMMERCIAL DISTRICT (C3) ON 9.51 ACRES OF LAND OUT OF THE MARIA KEGANS LEAGUE ADJOINING THE NORTHEAST SIDE OF STATE HIGHWAY 30, MIDWAY BETWEEN HARDY WEEDON AND ELMO WEEDON ROADS AND CURRENTLY ADDRESSED AS 10253 STATE HIGHWAY 30 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 for 9.51 acres of land out of Maria Kegans League adjoining the northeast side of State Highway 30, midway between Hardy Weedon and Elmo Weedon Roads and currently addressed as 10253 State Highway 30 in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on September 18, 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 Commercial District (C-3) on 9.51 acres of land out of Maria Kegans League, adjoining the northeast side of State Highway 30, midway between Hardy Weedon and Elmo Weedon Roads and currently addressed as 10253 State Highway 30 in Bryan, Brazos County, Texas, said 9.51 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 14th day of October, 2014 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 28th day of October, 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**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE MARIA KEGANS LEAGUE, BRAZOS COUNTY, TEXAS, BEING PART OF A 34-ACRE TRACT CONVEYED BY J. R. EDEN TO J.W. CARROLL BY DEED DATED JULY 15, 1912, AND RECORDED IN VOLUME 37, PAGE 514, DEED RECORDS OF BRAZOS COUNTY, TEXAS, THE TRACT HEREIN CONVEYED BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHEAST LINE OF THE ABOVE MENTIONED CARROLL 34-ACRE TRACT WITH THE NORTHEAST RIGHT-OF-WAY LINE OF TEXAS FARM-TO-MARKET ROAD NO. 158;

THENCE: N 45° 00' E ALONG SOUTHEAST LINE OF THE CARROLL 34-ACRE TRACT FOR A DISTANCE OF 623.6 FEET AND CORNER AT THE EAST CORNER OF SAID 34-ACRE TRACT;

THENCE: N 45° 00' W ALONG THE NORTHEAST LINE OF SAID CARROLL 34-ACRE TRACT FOR A DISTANCE OF 628.0 FEET AND CORNER;

THENCE: S 45° 00' W FOR A DISTANCE OF 757.0 FEET AND CORNER IN THE NORTHEAST RIGHT-OF-WAY LINE OF THE BEFOREMENTIONED TEXAS FARM-TO-MARKET ROAD NO. 158;

THENCE: S 56° 21' E ALONG SAID NORTHEAST RIGHT-OF-WAY LINE FOR A DISTANCE OF 451.0 FEET TO THE BEGINNING OF A CURVE TO THE LEFT;

THENCE, IN A SOUTHEASTERLY DIRECTION ALONG SAID NORTHEASTERLY RIGHT-OF-WAY OF TEXAS FARM-TO-MARKET NO.158. SAME BEING A CURVE TO THE LEFT HAVING A RADIUS OF 3679.65 FEET, THE **CHORD BEARS** S 58° 18' E FOR A DISTANCE OF 211.1 FEET TO THE PLACE OF BEGINNING, CONTAINING 10.0 ACRES OF LAND, MORE OR LESS, ACCORDING TO A SURVEY MADE BY B. J. KLING, REGISTERED PUBLIC SURVEYOR, ON OCTOBER 23, 1961, AND BEING THE SAME PROPERTY CONVEYED TO TRUMAN O. FLYNT **ET UX** BY A. J. CARROLL **ET UX** OF DEED DATED NOVEMBER 3, 1961, AND RECORDED IN VOLUME 215, PAGE 290, DEED RECORDS OF BRAZOS COUNTY, TEXAS, TO WHICH REFERENCE IS HERE MADE FOR ALL PURPOSES.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF SEPTEMBER 18, 2014:**

8. 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 RZ14-17: Alberson, LLC

A request to change the zoning classification from Agricultural - Open District (A-O) to Commercial District (C-3) on 9.51 acres of land out of Maria Kegans League adjoining the northeast side of State Highway 30, approximately midway between Elmo Weedon and Hardy Weedon Roads and currently addressed as 10253 State Highway 30 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.

Ms. Norma Bueren, 10333 State Highway 30, came forward with questions regarding the allowed uses of the proposed zoning designation.

The public hearing was closed.

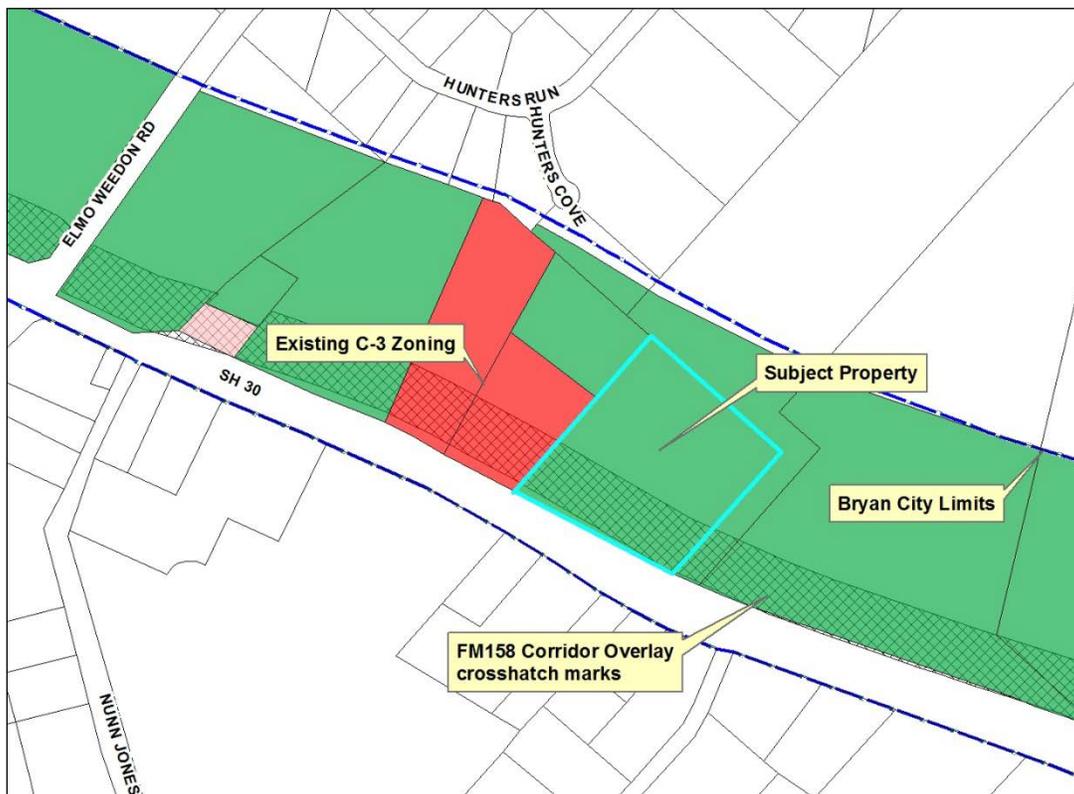
Commissioner Beckendorf moved to recommend approval of RZ14-17 and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Bienski seconded the motion.

The motion passed unanimously.

September 18, 2014

Rezoning case no. RZ14-17: Alberson LLC

- CASE DESCRIPTION:** a request to change the zoning classification from Agricultural-Open District (A-O) to Commercial District (C-3)
- LOCATION:** 9.51 acres of land adjoining the northeast side of State Highway 30 midway between Hardy Weedon and Elmo Weedon Roads and currently addressed as 10253 State Highway 30
- LEGAL DESCRIPTION:** 9.51 acres of land out of Maria Kegans League
- EXISTING LAND USE:** single-family residence
- PROPERTY OWNER(S):** Joe and Ruth Baggett
- APPLICANT(S):** Tyler Alberson with Alberson LLC
- STAFF CONTACT:** Maggie Dalton, Staff Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** this rezoning request.



AERIAL VIEW (2013):



BACKGROUND:

The applicant, Mr. Tyler Alberson with Alberson LLC, is requesting to change the zoning classification on these 9.51 acres of land from Agricultural – Open District (A-O) to Commercial District (C-3). The subject property has been zoned A-O District since its annexation to the City of Bryan on July 27, 1999. The parcel is mainly vacant land with a single-family residential structure. The rezoning is being requested in order to allow commercial development of the subject property in the near future.

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 many 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 Planning and Zoning Commission considered a similar request for C-3 zoning (case no. RZ13-10) during its regular meeting on August 1, 2013. The Commission unanimously recommended approval of that request to the City Council. During the regular City Council meeting on August 27, 2013, a motion to approve the rezoning failed due to a lack of a second, essentially denying that request.

The C-3 zoning classification is intended for heavy retail and commercial uses of a service nature which typically have operating characteristics or traffic service requirements of retail or shopping, but generally

not with residential environments. There are existing C-3-zoned properties directly adjacent to the subject property occupied by Aggieland Golf driving range and a multi-tenant commercial structure.

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. The applicant was made aware of the overlay district requirements with regards to development before the application was made for the rezoning.

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 of the community. These aspects are supported by a set of goals and objectives. 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.

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 commercial development at a mid-block location along a super arterial street, State Highway 30. Expanding C-3 zoning onto the subject property will support orderly urban growth in this vicinity where neighboring properties are being developed or are currently developed as commercial establishments. Staff believes that C-3 zoning on the subject property is compatible with surrounding and existing development. The remaining surrounding properties are either vacant land or are developed as commercial businesses. Staff believes that proposed C3 zoning on these 9.51 acres is appropriate in this particular environment.

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, which is classified as a super arterial street on Bryan's Thoroughfare Plan. This highway can be expected to be capable of accommodating traffic loads typically associated with commercial development on the subject property. Sewer service to this property will be provided by the City of College Station (as per the Interlocal Agreement where Bryan provides service to the BioCorridor). The City of Bryan is currently working toward easement acquisition for the proposed sewer line and once all are obtained,

College Station will begin the design and construction of the line. Water services 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 an 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-3 District should have no adverse effects on adjacent properties. Staff contends that allowing a commercial development at this location will sustain an orderly zoning pattern and allow for a useful diversification in land use intensities and orderly urban development in this vicinity.

RECOMMENDATION:

Staff recommends **approving** the proposed C-3 zoning, as requested, on these 9.51 acres of land.