ACTION FORM
BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING:	February 24, 2015	**DATE SUBMITTED:**	January 20, 2015
DEPARTMENT OF ORIGIN:	Development Services	**SUBMITTED BY:**	Matthew Hilgemeier

MEETING TYPE:	**CLASSIFICATION:**	**ORDINANCE:**	**STRATEGIC INITIATIVE:**
☐ **BCD**	☐ **PUBLIC HEARING**	☐ **1ST READING**	☐ **PUBLIC SAFETY**
☐ **SPECIAL**	☒ **CONSENT**	☒ **2ND READING**	☐ **SERVICE**
☒ **REGULAR**	☐ **STATUTORY**		☒ **ECONOMIC DEVELOP.**
☐ **WORKSHOP**	☐ **REGULAR**		☐ **INFRASTRUCTURE**
			☒ **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 0.52 acres of land currently addressed as 2210 West State Highway 21 and adjoining the northwest side of West State Highway 21, north from its intersection with Carver Street, being a part of Lot 6 in the Park Heights Addition in Bryan, Brazos County, Texas (case no. RZ14-22).

SUMMARY STATEMENT: The subject property is 0.52 acres in size, located at 2210 West State Highway 21, north from the intersection of West State Highway 21 and Carver Street. The applicant, Mr. Miguel Nieto, is requesting to change the zoning classification on these 0.52 acres of land from Agricultural – Open District (A-O) to Commercial District (C-3). The subject property has been zoned A-O District since the City of Bryan adopted zoning regulations on December 11, 1989. 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 subject property, which is currently vacant land, abuts land to the west that is zoned for commercial use (C-3 District) but is currently occupied by a manufactured home. Adjacent property to the northeast is zoned A-O District and is currently occupied and utilized for residential purposes. The rezoning is being requested to allow commercial development of the subject property in the future.

STAFF ANALYSIS AND RECOMMENDATION: During its regular meeting on January 15, 2015, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this rezoning request.

- Commercial land use on these 0.52 acres will allow this property to develop commercial uses that are appropriate for this area of town and would fit within the adopted goals and land use policies set out in the Comprehensive Plan.
- The subject property lies in an area that has developed over time as a mix of commercial and residential uses and this property would be better suited to allow commercial development thereby limiting the possibility of it developing for residential uses along one of the City's major corridors.

OPTIONS (In Suggested Order of Staff Preference):

1. approve the zone change as recommended by the Planning and Zoning Commission;
2. deny the requested zone change.

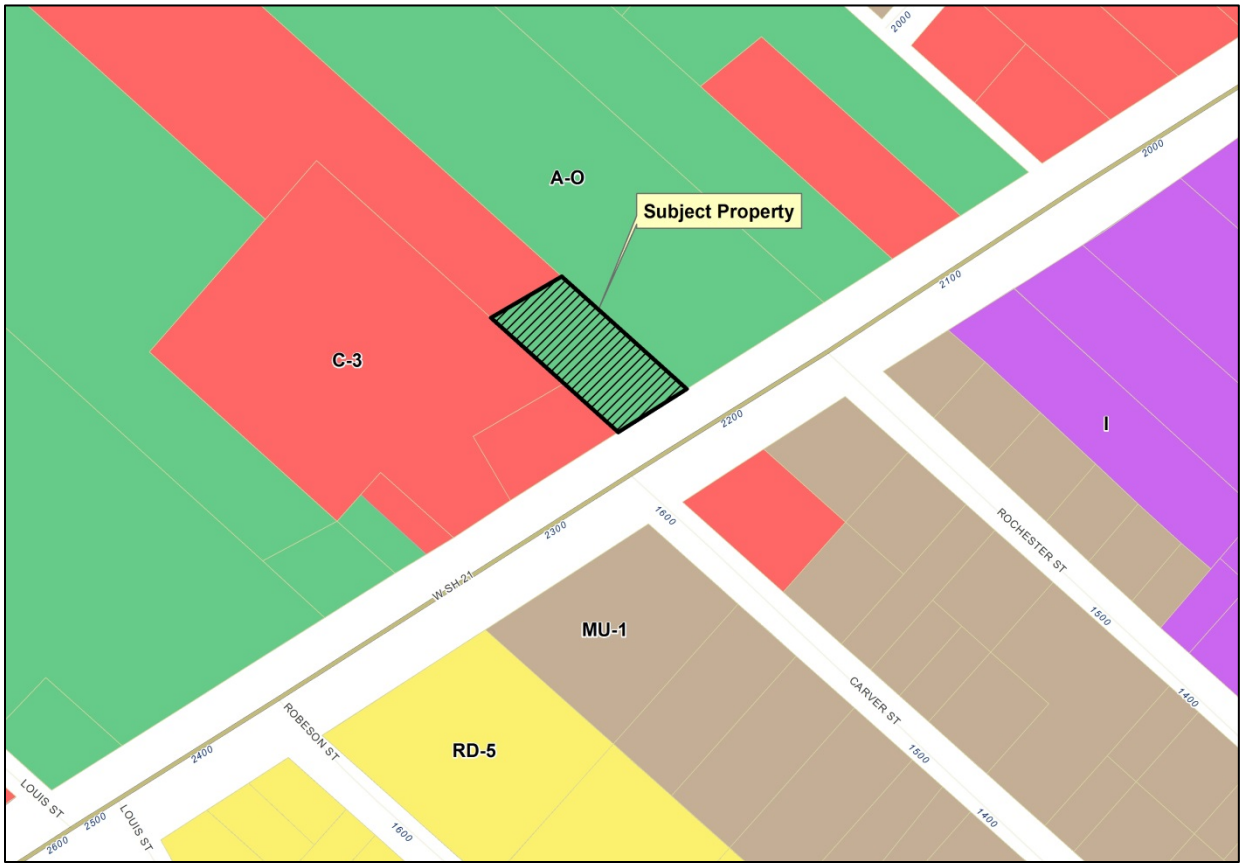
ATTACHMENTS:

1. location map;

2. draft ordinance with exhibits; 3. minutes from P&Z meeting on January 15, 2015; and 4. staff report to the Planning & Zoning Commission.
FUNDING SOURCE: **N/A**
APPROVALS: Kevin Russell, 1-22-15; Joey Dunn, 1-25-15; Hugh R. Walker, 01/27/2015
APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 01/26/2015
APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 02/02/2015

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, TO CHANGE THE ZONING CLASSIFICATION FROM AGRICULTURAL-OPEN DISTRICT (A-O) TO COMMERCIAL DISTRICT (C-3) ON 0.519 ACRES OF LAND ADJOINING THE NORTHWEST SIDE OF WEST STATE HIGHWAY 21, NORTH FROM ITS INTERSECTION WITH CARVER STREET, BEING A PART OF LOT 6 IN THE PARK HEIGHTS ADDITION AND CURRENTLY ADDRESSED AS 2210 WEST STATE HIGHWAY 21 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 on 0.519 acres of land adjoining the northwest side of West State Highway 21, north from its intersection with Carver Street, being a part of Lot 6 in the Park Heights Addition and currently addressed as 2210 West State Highway 21 in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on January 15, 2015 (case no. RZ14-22);

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 0.519 acres of land currently addressed as 2210 West State Highway 21 and adjoining the northwest side of West State Highway 21, north from its intersection with Carver Street, being a part of Lot 6 in the Park Heights Addition in Bryan, Brazos County, Texas said 0.519 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 10th day of February, 2015 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 24th day of February, 2015 by a vote of _____ yeses and _____ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

_____
Mary Lynne Stratta, City Secretary

CITY OF BRYAN:

_____
Jason P. Bienski, Mayor

APPROVED AS TO FORM:

_____
Janis K. Hampton, City Attorney

Exhibit "A":
METES AND BOUNDS DESCRIPTION
OF A
0.519 ACRE TRACT
PARK HEIGHTS
STEPHEN F. AUSTIN NO. 9 LEAGUE, A-62
BRYAN, BRAZOS COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE STEPHEN F. AUSTIN NO. 9 LEAGUE, ABSTRACT NO. 62, BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING THE REMAINDER OF LOT 6, PARK HEIGHTS ACCORDING TO THE PLAT RECORDED IN VOLUME 90, PAGE 456 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS AND BEING THE SAME TRACT OF LAND AS DESCRIBED BY A DEED TO MIGUEL TAVAREZ NIETO RECORDED IN VOLUME 11209, PAGES 180 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

BEGINNING AT A ½ INCH IRON ROD SET ON THE NORTHWEST LINE OF STATE HIGHWAY NO. 21 MARKING THE EAST CORNER OF SAID LOT 6 AND THE SOUTH CORNER OF LOT 5 OF SAID PARK HEIGHTS. REFERENCE, CITY OF BRYAN GPS MONUMENT NO. 116 BEARS: N 61° 22' 50" E FOR A DISTANCE OF 3317.51 FEET;

THENCE: S 59° 53' 33" W ALONG THE SOUTHEAST LINE OF SAID LOT 6 FOR A DISTANCE OF 105.28 FEET (PLAT CALL DISTANCE: 104.30 FEET, 90/456) TO A 1 INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID LOT 6 AND THE EAST CORNER OF LOT 7 OF SAID PARK HEIGHTS. SAID IRON ROD FOUND MARKING THE EAST CORNER OF A CALLED 0.2896 ACRE TRACT OF LAND AS DESCRIBED AS TRACT TWO BY A DEED TO FRANK G. PENA, JR. RECORDED IN VOLUME 3709, PAGE 151 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. FOR REFERENCE, A 1/2 INCH IRON ROD FOUND BEARS: S 59° 53' 33" W FOR A DISTANCE OF 293.04 FEET AND A 1 INCH IRON PIPE FOUND BEARS: S 59° 53' 33" W FOR A DISTANCE OF 444.05 FEET;

THENCE: N 47° 30' 41" W ALONG THE COMMON LINE OF SAID LOTS 6 AND 7 FOR A DISTANCE OF 224.89 FEET TO A 1/2 INCH IRON ROD SET MARKING THE SOUTH CORNER OF A TRACT OF LAND AS DESCRIBED AS LOT 6 SAVE AND EXCEPT THE FRONT 225.00 FEET BY A DEED TO AMY PENA RECORDED IN VOLUME 5983, PAGE 16 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. SAID PENA TRACT BEING THE SAME TRACT OF LAND AS DESCRIBED IN VOLUME 403, PAGE 140 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS. FOR REFERENCE, A 1/2 INCH IRON ROD FOUND BEARS: N 47° 29' 56" W FOR A DISTANCE OF 903.25 FEET (DEED CALL DISTANCE: 915.00 FEET, 403/140);

THENCE: N 59° 53' 33" E THROUGH SAID LOT 6 AND ALONG THE SOUTHEAST LINE OF SAID PENA TRACT FOR A DISTANCE OF 105.28 FEET (PLAT CALL DISTANCE: 104.30 FEET, 90/456) TO A 1/2 INCH IRON ROD FOUND ON THE COMMON LINE OF SAID LOTS 5 AND 6 MARKING THE EAST CORNER OF SAID PENA TRACT. FOR REFERENCE, A 1/2 INCH IRON ROD FOUND MARKING THE NORTH CORNER OF SAID LOT 6 BEARS: N 47° 30' 41" W FOR A DISTANCE OF 934.25 FEET (DEED CALL DISTANCE: 925.00 FEET, 403/140);

THENCE: S 47° 30' 41" E ALONG THE COMMON LINE OF SAID LOTS 5 AND 6 FOR A DISTANCE OF 224.89 FEET (DEED CALL DISTANCE, 225.00 FEET, 403/140) TO THE **POINT OF BEGINNING** CONTAINING 0.519 OF AN ACRE OF LAND (22,592 SQ. FT.), AS SURVEYED ON THE GROUND OCTOBER, 2014. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION. SEE PLAT PREPARED OCTOBER, 2014, FOR MORE DESCRIPTIVE INFORMATION.

EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES OF JANUARY 15, 2015:

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 RZ14-22: Miguel Nieto
A request to change the zoning classification from Agricultural – Open District (A-O) to Commercial District (C-3) on 0.52 acres of land currently addressed as 2210 West State Highway 21 and adjoining the northwest side of West State Highway 21, north from its intersection with Carver Street, being a part of Lot 6 in the Park Heights Addition in Bryan, Brazos County, Texas. (M. Hilgemeier)

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

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Hickle moved to recommend approval of RZ14-22 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of the Commission. Commissioner Bienski seconded the motion.

The motion passed unanimously.

PLANNING AND ZONING COMMISSION
STAFF REPORT

January 15, 2015

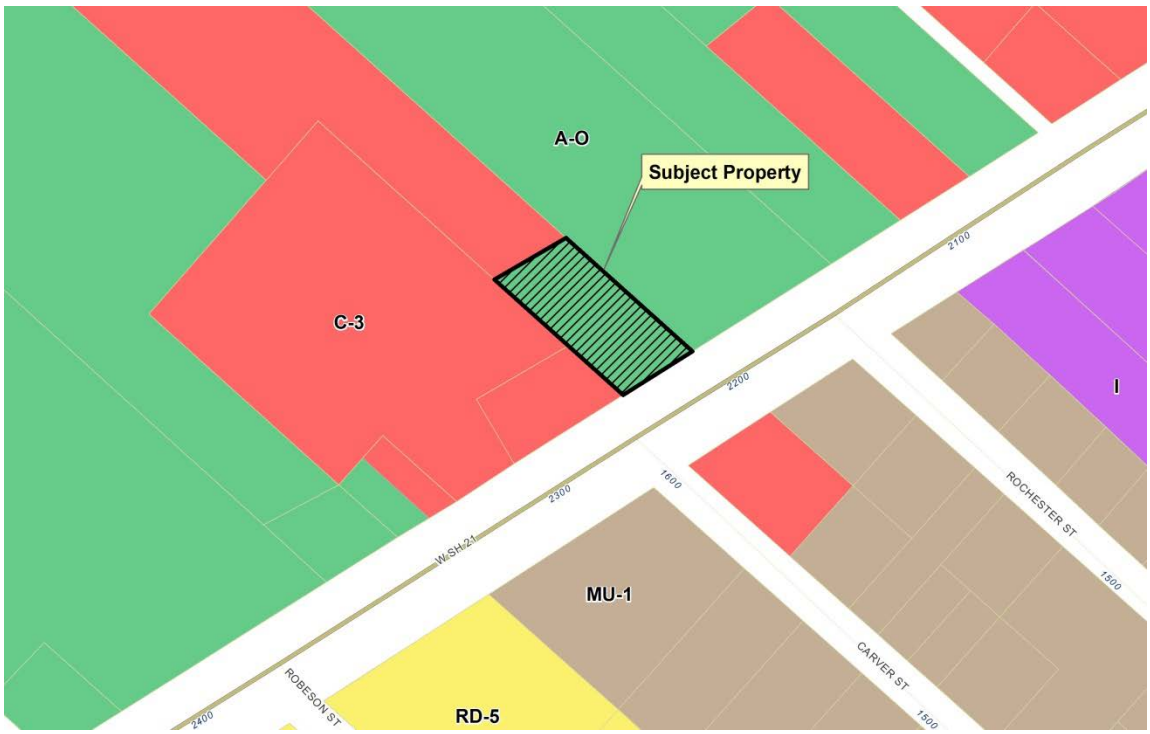
CITY OF BRYAN

Rezoning case no. RZ14-22: Miguel Nieto

CASE DESCRIPTION:	a request to change the zoning classification from Agricultural-Open District (A-O) to Commercial District (C-3)
LOCATION:	0.52 acres of land adjoining the northwest side of West State Highway 21 currently addressed as 2210 West State Highway 21 and adjoining the northwest side of West State Highway 21, directly adjacent to the intersection of West State Highway 21 and Carver Street
LEGAL DESCRIPTION:	0.52 acres being parts of Lot 6 in the Park Heights Addition
EXISTING LAND USE:	vacant land
PROPERTY OWNER(S):	Miguel Nieto
APPLICANT(S):	Same as owner
STAFF CONTACT:	Matthew Hilgemeier, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** this rezoning request.

ZONING



AERIAL VIEW (2013):

BACKGROUND:

The applicant, Mr. Miguel Nieto, is requesting to change the zoning classification on these 0.52 acres of land from Agricultural – Open District (A-O) to Commercial District (C-3). The subject property has been zoned A-O District since the City of Bryan adopted zoning regulations on December 11, 1989. The subject property, which is currently vacant land, abuts land to the west that is zoned for commercial use (C-3) but is currently occupied by a manufactured home. The adjacent property located to the northeast is zoned A-O District and is currently occupied and utilized for residential purposes. The rezoning is being requested in order to allow commercial development of the subject property in the 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. Over the years, this portion of State Highway 21 (SH 21) has been developed and redeveloping as a mix of residential and commercial uses. It is staff's opinion that this property would be better suited to allow commercial development thereby limiting the possibility of it developing for residential uses.

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 located directly adjacent to the subject property across SH 21which are occupied by commercial uses.

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, W. State Highway 21. The area along the State Highway 21 corridor west of William J. Bryan Parkway has been slowly developing and redeveloping with commercial uses in recent years. Expanding C-3 zoning onto the subject property will support orderly urban growth in this vicinity where surrounding properties are being developed or are currently developed as commercial establishments. Staff contends that due to the location of the property and the surrounding uses, a change to the C-3 zoning district will allow this property to develop commercial uses that are appropriate for this area of town and would fit within the adopted goals and land use policies set out in the Comprehensive Plan.

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.

   Highway 21 is capable of accommodating traffic loads typically associated with commercial development. The subject property has adequate access to public sewer and water facilities which are located along the property line along Highway 21. Staff finds that the proposed change will have no immediate impact on infrastructure needs in the area.

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.

   Development pressure in the vicinity of the property has been light compared to other areas of the city mainly due to the current mix of commercial and residentially developed and zoned

properties. Staff contends that the requested change in zoning classification from A-O District to C-3 District could have the effect of promoting a more cohesive zoning pattern and offer more commercial development opportunities along this gateway corridor into 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 encourage an orderly zoning pattern and orderly urban development in this vicinity.

RECOMMENDATION:

Staff recommends **approving** the proposed C-3 zoning, as requested, on these 0.52 acres of land.