ACTION FORM
BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING:	May 12, 2015	**DATE SUBMITTED:**	April 21, 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 5.5 acres of land out of Stephen F. Austin League No. 9, Abstract No. 62, adjoining the northeast corner of North Harvey Mitchell Parkway (F.M. 2818) and Beck Street in Bryan, Brazos County, Texas (RZ15-04).

SUMMARY STATEMENT: The applicant, Ms. Dory Howell, is requesting to change the zoning classification on these 5.5 acres of land from Agricultural – Open District (A-O) to Commercial District (C-3), to create opportunities for future commercial development at this location.

The subject property has been zoned A-O District since the City of Bryan adopted zoning regulations on December 11, 1989. The subject property has never been developed and is heavily wooded. A large portion of the subject property is encumbered with FEMA-recognized floodplain.

The currently vacant subject property abuts land to the north and the west that is also zoned for agricultural use and is also undeveloped. The property located to the south, across Beck Street, is also zoned A-O District, parts of which were recently developed with an RV Park. The Brazos County Industrial Park is located to the west of the subject property, across F.M. 2818, on land zoned Planned Development – Industrial District (PD-I).

STAFF ANALYSIS AND RECOMMENDATION: During its regular meeting on April 16, 2015, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this rezoning request.

- The requested zoning change, if approved, will allow commercial development at the intersection of an urban freeway (F.M. 2818) and a major collector street (Beck Street), both of which are heavily traveled roadways on a daily basis.
- 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, with commercial establishments.
- Commercial land use on these 5.5 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 adjacent portion of Beck Street, which was constructed less than 10 years ago, can reasonably be expected to be 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 Beck Street in front of the subject property.

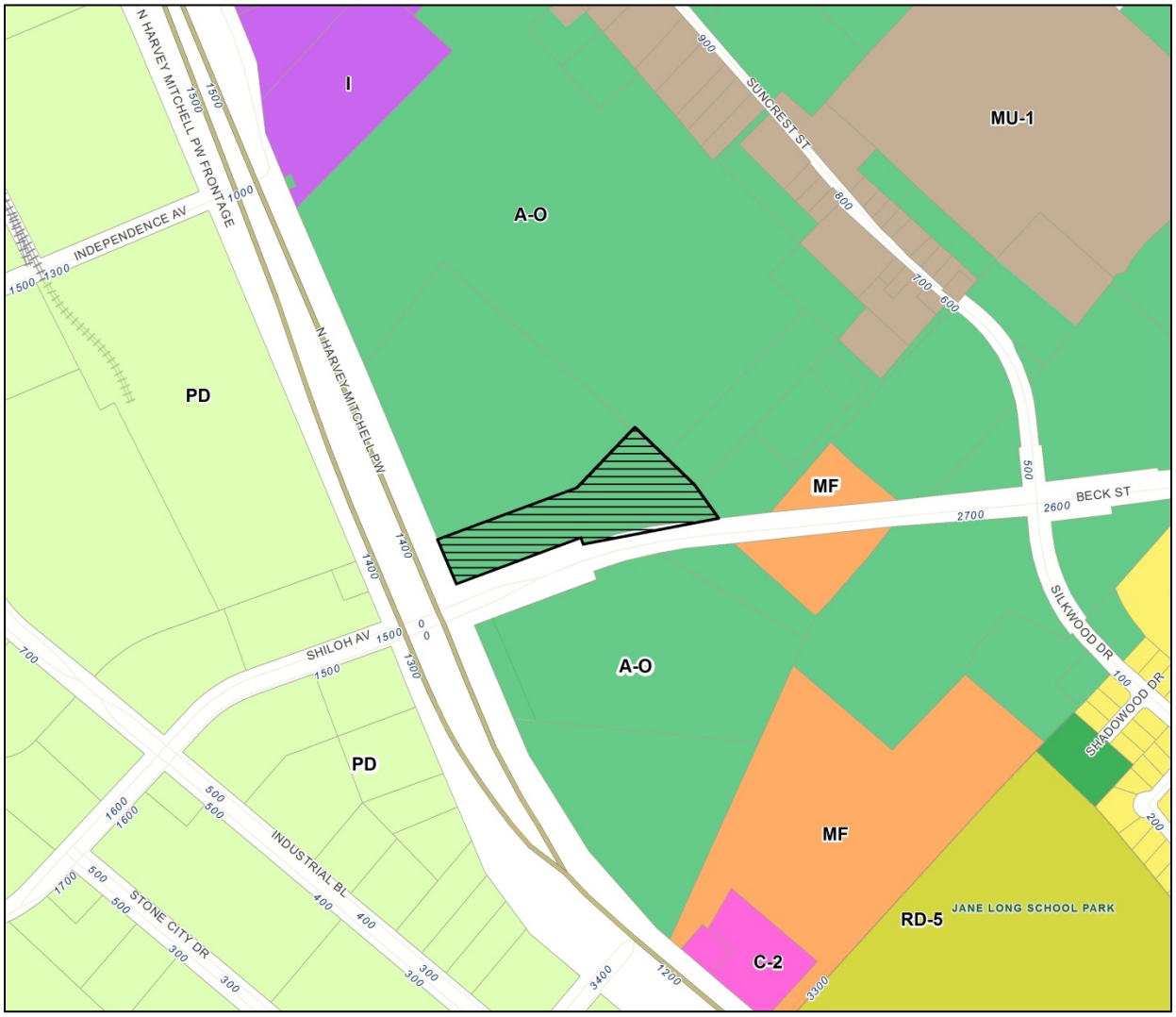
OPTIONS (In Suggested Order of Staff Preference):

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 April 16, 2015; and 4. staff report to the Planning & Zoning Commission.
FUNDING SOURCE: **N/A**
APPROVALS: Kevin Russell, 4-23-15; Joey Dunn, 4-28-15; Hugh R. Walker, 04/28/2015
APPROVED FOR SUBMITTAL: CITY MANAGER
APPROVED FOR SUBMITTAL: CITY ATTORNEY

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 5.5 ACRES OF LAND OUT OF STEPHEN F. AUSTIN LEAGUE NO. 9, ABSTRACT NO. 62, ADJOINING THE NORTHEAST CORNER OF N. HARVEY MITCHELL PARKWAY (F.M. 2818) AND BECK STREET 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 5.5 acres of land out of Stephen F. Austin League No. 9, Abstract No. 62, adjoining the northeast corner of N. Harvey Mitchell Parkway (F.M. 2818) and Beck Street in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on April 16, 2015 (case no. RZ15-04);

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 5.5 acres of land out of Stephen F. Austin League No. 9, Abstract No. 62, adjoining the northeast corner of N. Harvey Mitchell Parkway (F.M. 2818) and Beck Street in Bryan, Brazos County, Texas, said 5.5 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 12th day of May, 2015 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 26th day of May, 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
5.50 ACRE TRACT
STEPHEN F. AUSTIN LEAGUE NO. 9, A-62
BRYAN, BRAZOS COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE STEPHEN F. AUSTIN LEAGUE NO. 9, ABSTRACT NO. 62, BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 47.202 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO RICHARD W. VAUGHAN, TRUSTEE, RECORDED IN VOLUME 321, PAGE 660 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

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

COMMENCING AT A 1/2 INCH IRON ROD FOUND ON THE NORTHEAST LINE OF N. HARVEY MITCHELL PARKWAY - FM 2818 (R.O.W. VARIES) MARKING THE WEST CORNER OF SAID 47.202 ACRE TRACT AND THE SOUTHWEST CORNER OF THE REMAINDER OF A CALLED 32.66 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO I. C. CUNNINGHAM RECORDED IN VOLUME 101, PAGE 619 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 22° 52' 17" E ALONG THE NORTHEAST LINE OF FM 2818 (DEED CALL BEARING: S 21° 08' 48" E, 321/660) FOR A DISTANCE OF 719.52 FEET TO A 1/2 INCH IRON ROD SET MARKING THE **POINT OF BEGINNING** OF THIS HEREIN DESCRIBED TRACT;

THENCE: THROUGH SAID 47.202 ACRE TRACT FOR THE FOLLOWING CALLS:

N 69° 40' 13" E FOR A DISTANCE OF 567.01 FEET TO A ½ INCH IRON ROD SET;

N 43° 45' 36" E FOR A DISTANCE OF 318.84 FEET TO A ½ INCH IRON ROD SET ON THE COMMON LINE OF SAID 47.202 ACRE TRACT AND SAID 32.66 ACRE TRACT. FOR REFERENCE, A 1/2 INCH IRON ROD FOUND BEARS: N 46° 14' 24" W FOR A DISTANCE OF 178.25 FEET;

S 46° 14' 24" E ALONG SAID COMMON LINE, PASS THE COMMON CORNER OF SAID 32.66 ACRE TRACT AND A CALLED 3 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO J. E. JOHNSON RECORDED IN VOLUME 173, PAGE 589 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, CONTINUE ON ALONG THE COMMON LINE OF SAID 47.202 ACRE TRACT AND SAID 3 ACRE TRACT FOR A TOTAL DISTANCE OF 316.79 FEET (TOTAL DEED CALL: S 44° 38' 06" E - 494.66 FEET, 321/660) TO A ½ INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID 3 ACRE TRACT AND THE WEST CORNER OF A CALLED 3.063 ACRE TRACT OF LAND AS DESCRIBED AS TRACT ONE BY A DEED TO NICOLASA RODRIGUEZ RECORDED IN VOLUME 9610, PAGE 126 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 35° 30' 46" E (DEED CALL BEARING: S 33° 51' 02" E, 321/660) FOR A DISTANCE OF 162.33 FEET TO A 3/8 INCH IRON ROD FOUND ON THE NORTHWEST LINE OF BECK STREET (R.O.W. VARIES, 528/375 & 6985/1);

THENCE: ALONG THE NORTHWEST LINE OF BECK STREET FOR THE FOLLOWING CALLS:

S 84° 15' 59" W FOR A DISTANCE OF 106.63 FEET TO A 3/8 INCH IRON ROD FOUND MARKING THE BEGINNING OF A COUNTER-CLOCKWISE CURVE HAVING A RADIUS OF 1718.99 FEET. FOR REFERENCE, A 1/2 INCH IRON ROD SET ON THE SOUTHEAST LINE OF BECK STREET BEARS: S 05° 50' 59" E FOR A DISTANCE OF 100.00 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14° 01' 54" FOR AND ARC DISTANCE OF 420.98 FEET (CHORD BEARS: S 77° 08' 04" W - 419.93 FEET) TO A ½ INCH IRON ROD FOUND MARKING THE END POINT OF SAID CURVE;

N 19° 53' 17" W FOR A DISTANCE OF 25.00 FEET (DEED CALL: N 18° 53' 15" W - 25.00 FEET, 6985/1) TO A 1/2 INCH IRON ROD FOUND;

S 69° 40' 13" W FOR A DISTANCE OF 506.68 FEET (DEED CALL: S 70° 42' 58" W - 505.87 FEET, 6985/1) TO A 1/2 INCH IRON ROD FOUND ON THE NORTHEAST LINE OF N. HARVEY MITCHELL PARKWAY - FM 2818 (R.O.W. VARIES). FOR REFERENCE, A 1/2 INCH IRON ROD FOUND ON THE SOUTHEAST LINE OF BECK STREET BEARS: S 22° 53' 42" E FOR A DISTANCE OF 160.15 FEET

THENCE: N 22° 52' 17" W ALONG THE NORTHEAST LINE OF FM 2818 (DEED CALL BEARING: N 21° 08' 48" W, 321/660) FOR A DISTANCE OF 196.05 FEET TO THE **POINT OF BEGINNING** CONTAINING 5.50 ACRES OF LAND, MORE OF LESS, AS SURVEYED ON THE GROUND FEBRUARY, 2015. SEE PLAT PREPARED FEBRUARY, 2015, FOR MORE DESCRIPTIVE INFORMATION. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED BY GPS OBSERVATION.

EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES OF APRIL 16, 2015:

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 RZ15-04: Morgan Lane, LP
A request to change the zoning classification from Agricultural – Open District (A-O) to Commercial District (C-3) on 5.5 acres of currently vacant land out of Stephen F. Austin League No. 9, A-62 and located at the northeast corner of N. Harvey Mitchell Parkway (F.M. 2818) and Beck Street, in Bryan, Brazos County, Texas. (M. Hilgemeier)

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

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Bienski moved to recommend approval of RZ15-04 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Madison seconded the motion.

Commissioners discussed

- the rezoning is appropriate in this situation; and
- this area of town has developed nicely and the Commission pleased to see commercial development on this side of town.

The motion passed unanimously.

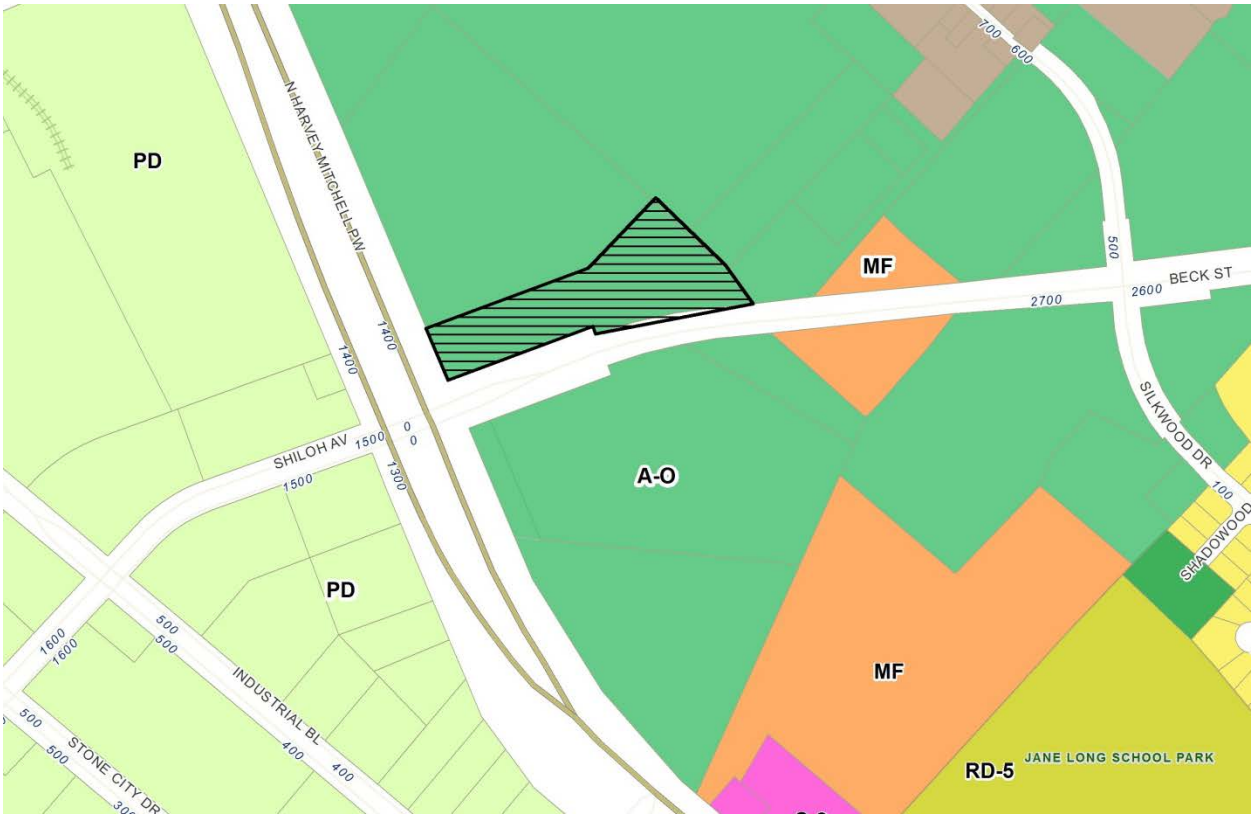
PLANNING AND ZONING COMMISSION
STAFF REPORT

April 16, 2015

Rezoning case no. RZ15-04: Morgan Lane, LP

CASE DESCRIPTION:	a request to change the zoning classification from Agricultural-Open District (A-O) to Commercial District (C-3)
LOCATION:	5.5 acres of land adjoining the northeast corner of N. Harvey Mitchell Parkway (F.M. 2818) and Beck Street
LEGAL DESCRIPTION:	5.5 acres out of Stephen F. Austin League No. 9, Abstract No. 62
EXISTING LAND USE:	vacant land
PROPERTY OWNER(S):	Dory Howell of Morgan Lane, LP
APPLICANT(S):	same as owner
STAFF CONTACT:	Matthew Hilgemeier, Staff Planner

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



AERIAL VIEW (2013):

BACKGROUND:

The applicant, Ms. Dory Howell, is requesting to change the zoning classification on these 5.5 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 has never been developed and is heavily wooded. A large portion of the subject property is encumbered with FEMA-recognized floodplain. The rezoning is being requested in order to create opportunities for commercial development of the subject property in the future.

The currently vacant subject property abuts land to the north and the west that is also zoned for agricultural use and is also undeveloped. The property located to the south, across Beck Street, is also zoned A-O District, parts of which were recently developed with an RV Park. The Brazos County Industrial Park is located to the west of the subject property, across F.M. 2818, on land zoned Planned Development – Industrial District (PD-I).

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. 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.

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:

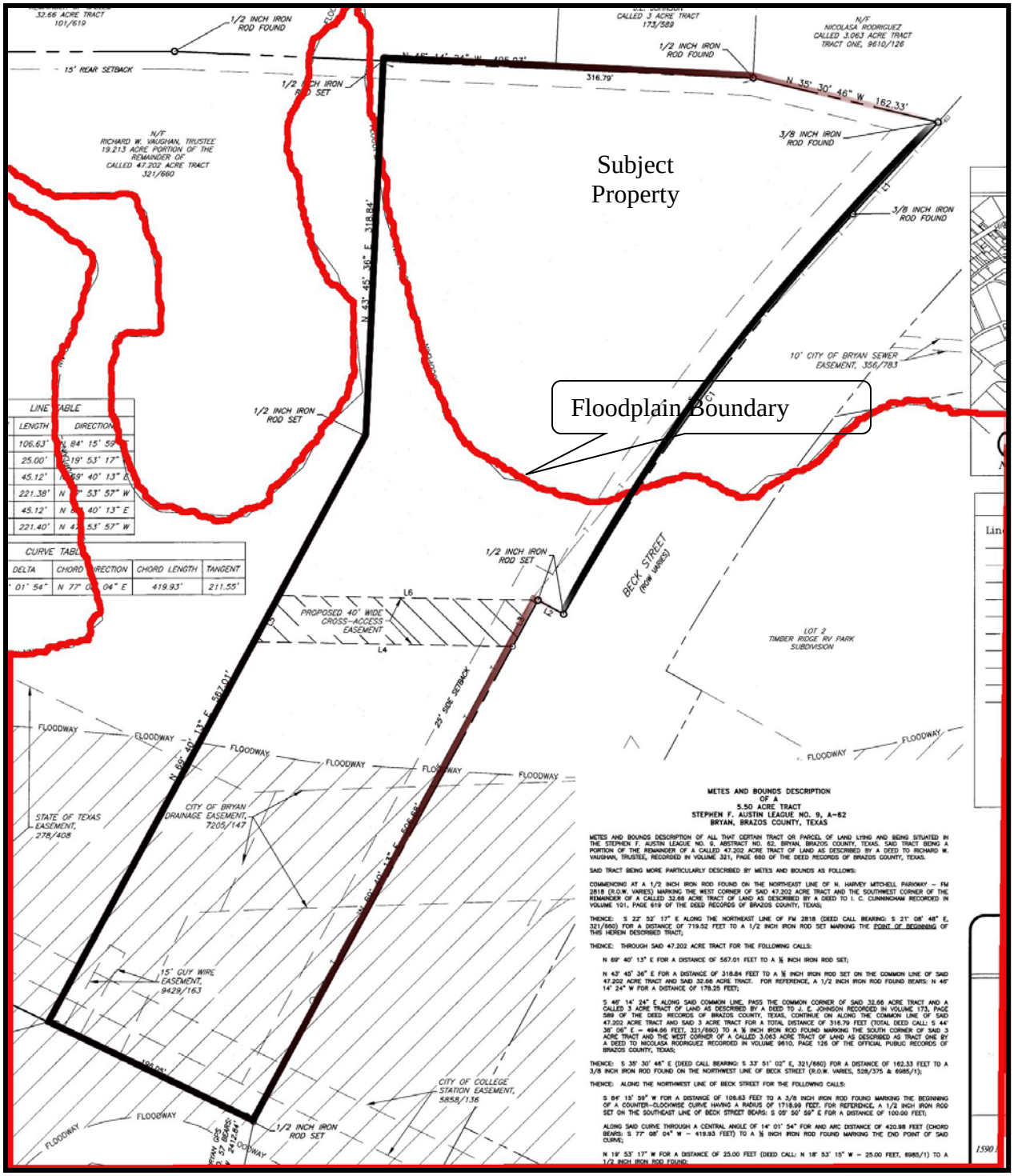
In making its recommendation regarding a proposed zoning change, the Planning and Zoning Commission shall consider the following factors:

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 requested zoning change, if approved, will allow commercial development at the intersection of an urban freeway (F.M. 2818) and a major collector street (Beck Street), both of which are heavily traveled roadways on a daily basis. This portion of F.M. 2818 has been developing as commercial and industrial 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, with commercial establishments. Staff contends that due to the location of the property and the surrounding land uses, a change to C-3 zoning district will allow this property to develop with commercial uses that are appropriate for this area of town and conform to 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.

Due to the existence of FEMA-recognized floodplain on the property being located along the portion of the property directly adjacent to F.M. 2818, any development on this property will be located such that it would not take direct access to F.M. 2818 (see graphic below), but would be required to take access off of Beck Street.



The adjacent portion of Beck Street, which was constructed less than 10 years ago, can reasonably be expected to be 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 Beck Street in front of the subject property. Staff believes that the proposed zoning 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.

The closest land zoned C-3 District is located 0.6 miles north along F.M. 2818 from the subject property. 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. Staff contends that the requested change in zoning classification from A-O District to C-3 District could have the effect of promoting 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 5.50 acres of land.

ATTACHMENTS:

1. Excerpt from applicant's rezoning application.

Rezoning
Supplement A

Minimum Requirements:

- ☒ Metes and Bounds description of property
- ☐ If Planned Development required, then include 15 folded copies and a .pdf of the development site plan

Please list the reasons for this rezoning request:

The property is currently raw land that has not been platted or zoned previously for development. With this rezoning request, the property will be developed for a commercial/retail site to house Pro-Star Industries and Howell Cleaning Services. These two companies sell cleaning supplies & equipment and provide commercial cleaning services, respectively.

List the changed or changing conditions in the area or City which make this zone change necessary:

This property fronts a major arterial roadway that has both industrial and commercial developments neighboring this development. In addition, with the extension and upgrades of Beck Street, this property is now a corner lot that has made the site viable for development.

Indicate whether or not this zone change is in accordance with the Future Land Use Plan. If it is not, explain why the Plan is incorrect:

The proposed zoning is in accordance with the Future Land Use Plan and is compatible with the existing and proposed developments neighboring this site.

List any other reasons to support this zone change:

NA.