

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> May 26, 2015		<b>DATE SUBMITTED:</b> April 21, 2015	
<b>DEPARTMENT OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Martin Zimmermann	
<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 checked="" 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 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 Agricultural - Open District (A-O) to Retail District (C-2) on 1.187 acres of land out of the Maria Kegan Survey, A-28, extending southeast from Elmo Weedon Road, approximately 825 feet north from its intersection with State Highway 30/F.M. 158 in Bryan, Brazos County, Texas (RZ14-21).			
<b>SUMMARY STATEMENT:</b> The subject property consists of 1.187 acres of land currently zoned Agricultural - Open District (A-O) and has been classified as such since the property was annexed into the city limits of Bryan on July 27, 1999. The subject property is currently vacant.			
The applicants, Texas KJ Investments, LLC, are requesting Retail District (C-2) zoning for this 1.187-acre property, to create opportunity for development with various types of general retail trade, business and service uses at this location. The C-2 zoning district allows shopping areas or uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods. Most of the subject property (11+ acres) is located within the city limits of Bryan. Of those acres, approximately 9.86 acres of these 11+ acres are already zoned C-2 District.			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> During its meeting on February 19, 2015, the Planning and Zoning Commission concurred with staff and <u>recommended approving</u> this rezoning request.			
<ul style="list-style-type: none"> <li>• Retail land use on these 1.187 acres will allow this property to develop retail uses that are appropriate for this area and would fit within the adopted goal and land use policies set forth in the Comprehensive Plan.</li> <li>• The current mixture of zoning classifications on the subject property will not allow development to the best and highest use.</li> <li>• The remaining land surrounding the subject property has or will likely be best developed to accommodate retail developments.</li> </ul>			
<b>OPTIONS (In Suggested Order of Staff Preference):</b>			
<ol style="list-style-type: none"> <li>1. approve the requested zone change;</li> <li>2. deny the requested zone change.</li> </ol>			
<b>ATTACHMENTS:</b>			
<ol style="list-style-type: none"> <li>1. location map/aerial photograph;</li> <li>2. draft ordinance;</li> <li>3. excerpt from Planning and Zoning Commission regular meeting minutes of February 19, 2015; and</li> </ol>			

4. staff report to the Planning & Zoning Commission.

**FUNDING SOURCE: N/A**

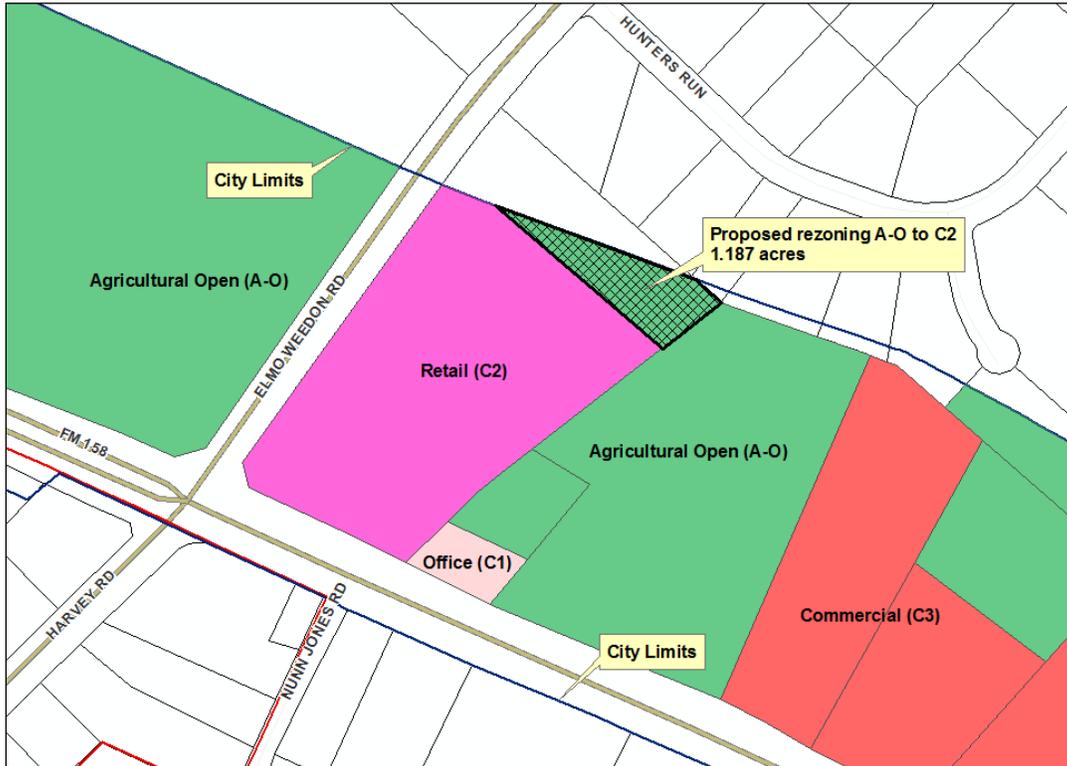
**APPROVALS:** Kevin Russell 4-23-15; Joey Dunn, 4-24-15; Hugh R. Walker, 04/28/2015

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 27Apr2015

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton, 05-03-2015

Revised 04/2013

**LOCATION MAP/AERIAL PHOTOGRAPH:**



**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 AGRICULTURAL - OPEN DISTRICT (A-O) TO RETAIL DISTRICT (C-2) ON 1.187 ACRES OF LAND OUT OF THE MARIA KEGANS SURVEY, A-28, EXTENDING SOUTHEAST FROM ELMO WEEDON ROAD, APPROXIMATELY 825 FEET NORTH FROM ITS INTERSECTION WITH STATE HIGHWAY 30/F.M. 158 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, by changing the zoning classification from Agricultural - Open District (A-O) to Retail District (C-2) on 1.187 acres of land out of the Maria Kegans Survey, A-28, extending southeast from Elmo Weedon Road, Approximately 825 feet north from its intersection with State Highway 30/F.M. 158 in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during a regular meeting on February 19, 2015 (case no. RZ14-21);

**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 Retail District (C-2) on 1.187 acres of land out of the Maria Kegans Survey, A-28, extending southeast from Elmo Weedon Road, Approximately 825 feet north from its intersection with State Highway 30 / F.M. 158 in Bryan, Brazos County, Texas, said 1.187 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 12<sup>th</sup> 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 26<sup>th</sup> 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:

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  
OF A  
1.187 ACRE TRACT  
MARIA KEGANS SURVEY, A-28  
BRYAN, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE MARIA KEGANS SURVEY, ABSTRACT NO. 28, BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 360.9 ACRE TRACT DESCRIBED AS TRACT I BY A DEED TO ALICE C. JOSEY RECORDED IN VOLUME 2774, PAGE 148 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

**BEGINNING** AT A 1/2 INCH IRON ROD FOUND MARKING THE EAST CORNER OF SAID JOSEY TRACT AND A NORTHERLY CORNER OF A CALLED 10.84 ACRE TRACT OWNED BY ALTA K. THANE ACCORDING TO BRAZOS COUNTY APPRAISAL DISTRICT, SAID THANE TRACT BEING A REMAINDER OF A CALLED 34 ACRE TRACT AS DESCRIBED IN VOLUME 37, PAGE 514 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, SAID IRON ROD FOUND BEING ON THE SOUTHWEST LINE OF BLOCK 1, HUNTER'S CREEK, ACCORDING TO THE PLAT RECORDED IN VOLUME 4490, PAGE 38 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, FOR REFERENCE A 5/8 INCH IRON ROD FOUND ON THE SOUTHEAST LINE OF ELMO WEEDON ROAD MARKING THE NORTH CORNER OF SAID JOSEY TRACT AND THE WEST CORNER OF SAID BLOCK 1 BEARS: N 44° 33' 02" W FOR A DISTANCE OF 692.38 FEET;

**THENCE:** S 54° 22' 44" W ALONG THE COMMON LINE OF SAID JOSEY TRACT AND SAID THANE TRACT FOR A DISTANCE OF 207.51 FEET TO THE SOUTH CORNER OF THIS HEREIN DESCRIBED TRACT, FOR REFERENCE A 1/2 INCH IRON ROD FOUND ON THE SOUTHEAST LINE OF SAID JOSEY TRACT MARKING A WEST CORNER OF SAID THANE TRACT BEARS: S 54° 22' 44" W FOR A DISTANCE OF 355.19 FEET;

**THENCE:** N 44° 33' 02" W THROUGH SAID JOSEY TRACT FOR A DISTANCE OF 505.15 FEET TO THE EXISTING CITY LIMITS OF BRYAN, BRAZOS COUNTY, TEXAS;

**THENCE:** S 65° 25' 56" E CONTINUING THROUGH SAID JOSEY TRACT AND ALONG THE BRYAN CITY LIMITS LINE FOR A DISTANCE OF 575.13 FEET TO THE **POINT OF BEGINNING** CONTAINING 1.187 ACRES OF LAND, MORE OF LESS, AS SURVEYED ON THE GROUND FEBRUARY 2012.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING  
MINUTES OF FEBRUARY 19, 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 RZ14-21: Texas KJ Investments, LLC**

*A request to change the zoning classification from Agricultural-Open District (A-O) to Retail District (C-2) on approximately 1.187 acres of land out of the Maria Kegan Survey, Abstract No. 28 extending southeast from Elmo Weedon Road, approximately 825 feet north from its intersection with State Highway 30/F.M. 158 in Bryan, Brazos County, Texas. (M. Dalton)*

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

The public hearing was opened.

Mr. Dale White, 9936 Hunters Run, College Station, TX, came forward to speak in opposition to the request. He is concerned about decreasing his property value as well as open opportunity for tall apartment buildings to be constructed right behind his property.

Mr. Rabon Metcalf, 1391 Seamist Lane, College Station, TX, project engineer, came forward to speak in favor of the request and to make himself available for questions.

The public hearing was closed.

In response to questions from the Commission, Ms. Dalton responded:

- C-2 District zoning allows for apartments to be constructed only with approval of a conditional use permit.
- She has no knowledge of what the applicant wishes to develop on the land.
- No complaints have been received from citizens concerning the case.

**Commissioner Gutierrez moved to recommend approval of RZ14-21 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Gonzalez seconded the motion.**

Commissioners

- appealed to the applicant to be sensitive to the neighbors' concerns; and
- added that the Commission must do what is best for the city while still taking to heart any concerns that citizens may have.

In response to questions, Mr. Zimmermann clarified that this rezoning case as well as the associated annexation case only includes vacant land and does not include any of the adjacent residential land in the Hunters Creek Subdivision.

**The motion passed by a vote of 6 in favor and 2 in opposition with Commissioners Incardona and Swearingen casting votes in opposition.**

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**



**February 19, 2015**

**Rezoning case no. RZ 14-21: Texas KJ Investments, LLC**

**CASE DESCRIPTION:** a request to change the zoning classification from Agricultural - Open District (A-O) to Retail District (C-2)

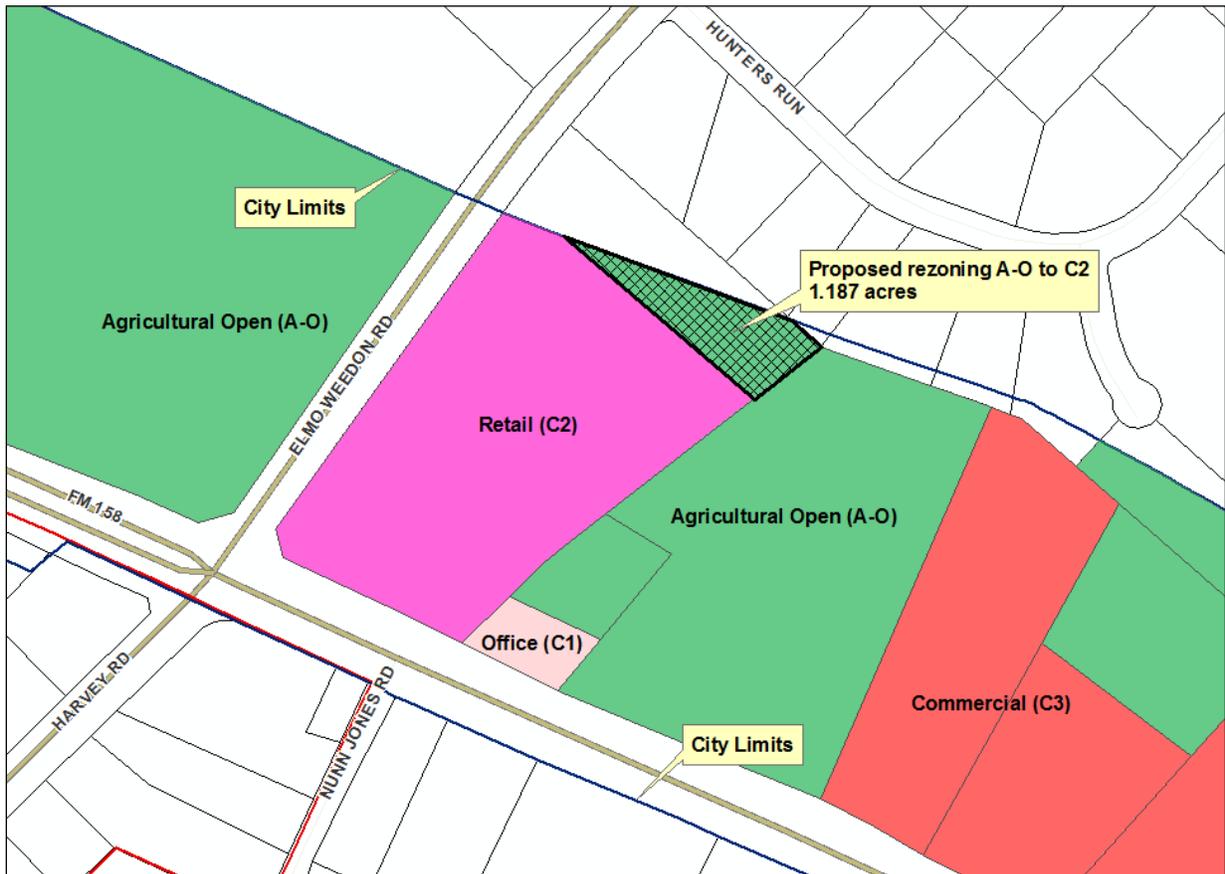
**LOCATION:** 1.187 acres of vacant land out of the Maria Kegan Survey, Abstract No. 28, extending southeast from Elmo Weedon Road, approximately 825 feet north from its intersection with State Highway 30/F.M. 158

**EXISTING LAND USE:** vacant

**APPLICANT(S):** Texas KJ Investments, LLC

**STAFF CONTACT:** Maggie Dalton, Staff Planner

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



**AERIAL PHOTOGRAPH (2013):**



**BACKGROUND:**

The subject property is 1.187 acres in size and part of an approximately 13+ acre tract at the northeast corner of State Highway 30 and Elmo Weedon Road. Most of this property (11+ acres) is located within the city limits of Bryan. 9.86 acres of these 11+ acres are zoned Retail District (C-2). The remaining approximately 1.187 acres of land are zoned Agricultural – Open District (A-O).

To the north of the subject property is a 2.032-acre portion of this same 13+ acre tract that currently lies outside the City limits and has been requested to be annexed (with case no. ANNEX15-01). During its meeting on February 19, 2015, the Planning and Zoning Commission is also scheduled to make a recommendation to the City Council regarding that annexation request.

Further north, on land in Bryan’s extraterritorial jurisdiction (ETJ), lies Hunter’s Creek Subdivision, a single-family residential subdivision with 1+ acre lots. To the west, across Elmo Weedon Road, lies the campus of Central Baptist Church on land zoned Agricultural-Open District (A-O). Property to the immediate east is also zoned A-O District and is predominantly vacant with some structures fronting State Highway 30.

The applicants, Texas KL Investments, LLC, are requesting C-2 zoning for this 1.187-acre property, to create opportunity for development with various types of general retail trade, business and service uses at this location. The C-2 zoning district allows shopping areas or uses which are generally compatible near

or adjacent to, but not usually directly in, residential neighborhoods. 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.

#### **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 proposed change will allow retail development at a major intersection along a super arterial street, State Highway 30. Extending C-2 zoning on the subject property will support orderly urban growth in this vicinity where neighboring properties are being developed or are currently developed with commercial and/or retail establishments. Staff believes that C-2 zoning on the subject property is compatible with anticipated surrounding land uses and existing development. The remaining surrounding properties are either vacant land or are developed as office businesses. Staff believes that proposed C-2 zoning on these 1.187 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 and Elmo Weedon Road which are classified on Bryan's Thoroughfare Plan as super arterial street and major collector street, respectively. These roads can be expected to be capable of accommodating traffic loads typically associated with retail development on the subject property. Water services for any development at this location would be provided by the Wickson Creek Special Utility District. The property is**

**within the City of College Station's sanitary sewer CCN, and is provided with sewer services by the City of College Station under both the CCN and an interlocal agreement executed by the cities of Bryan and College Station on December 15, 2011.**

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 a slow to 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-2 District should have no adverse effects on adjacent properties. Staff contends that allowing a retail development at this location will create an orderly zoning pattern and allow for a useful diversification in land use intensities and orderly urban development in this vicinity.**

#### **RECOMMENDATION:**

Based on all these considerations, staff recommends **approving** the requested zone change to C-2 District on the subject property.