

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: August 25, 2015		DATE SUBMITTED: July 17, 2015	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Randy Haynes	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<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
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 Agricultural-Open District (A-O) to Retail District (C-2) on 10.58 acres of land out of Maria Kegan Survey currently addressed as 10099 State Highway 30 and adjoining the northeast side of State Highway 30, approximately two-tenths of a mile southeast from its intersection with Elmo Weedon Road in Bryan, Brazos County, Texas (RZ15-13).			
SUMMARY STATEMENT: The subject property is 10.58 acres in size and is currently addressed as 10099 State Highway 30. The tract is located on the north side of State Highway 30, approximately two-tenths of a mile southeast from its intersection with Elmo Weedon Road. There exists two residential structures on the subject property, which is currently zoned Agricultural-Open District (A-O). The adjacent property located directly east of the subject tract is zoned Retail District (C-2) and is undeveloped. The adjacent property directly to the west is zoned Commercial District (C-3) and is in use as a golf driving range. The land to the north is outside of Bryan's city limits and therefore not regulated by zoning, and is developed with single-family homes on 1+ acre lots in the Hunter's Creek Subdivision. 700 feet to the west, across Elmo Weedon Road, lies the 112-acre campus of the Central Baptist Church.			
<p>The subject property has been zoned A-O District since its annexation to the City of Bryan on July 27, 1999. The applicant, Mr. Cody Hall, proposes the change to retail zoning to accommodate development of new businesses at this highly visible location along a major entrance corridor into the City of Bryan.</p> <p>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 several 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 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 that are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods.</p> <p>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 thoroughfares which serve as major entrances to the community.</p>			
STAFF ANALYSIS AND RECOMMENDATION: During its meeting on July 16, 2015, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this rezoning request.			
<ul style="list-style-type: none"> • The proposed change will allow retail development near the intersection of two major streets, Elmo Weedon 			

Road and State Highway 30.

- C-2 zoning appears to be 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 intersection of major streets.
- Allowing 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.
- C-2 zoning on these 10.58 acres is appropriate in this particular environment and will offer the exposure that most retail trade requires.

Objections to this request may include that the proposed C-2 zoning may not allow other uses that may be appropriate at this location in the future, and that zoning this property to C-2 District and thereby allowing larger-scale retail development on a 10+ acre site may increase traffic to and from this location.

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 P&Z meeting minutes of July 16, 2015; and
4. staff report to the Planning & Zoning Commission.

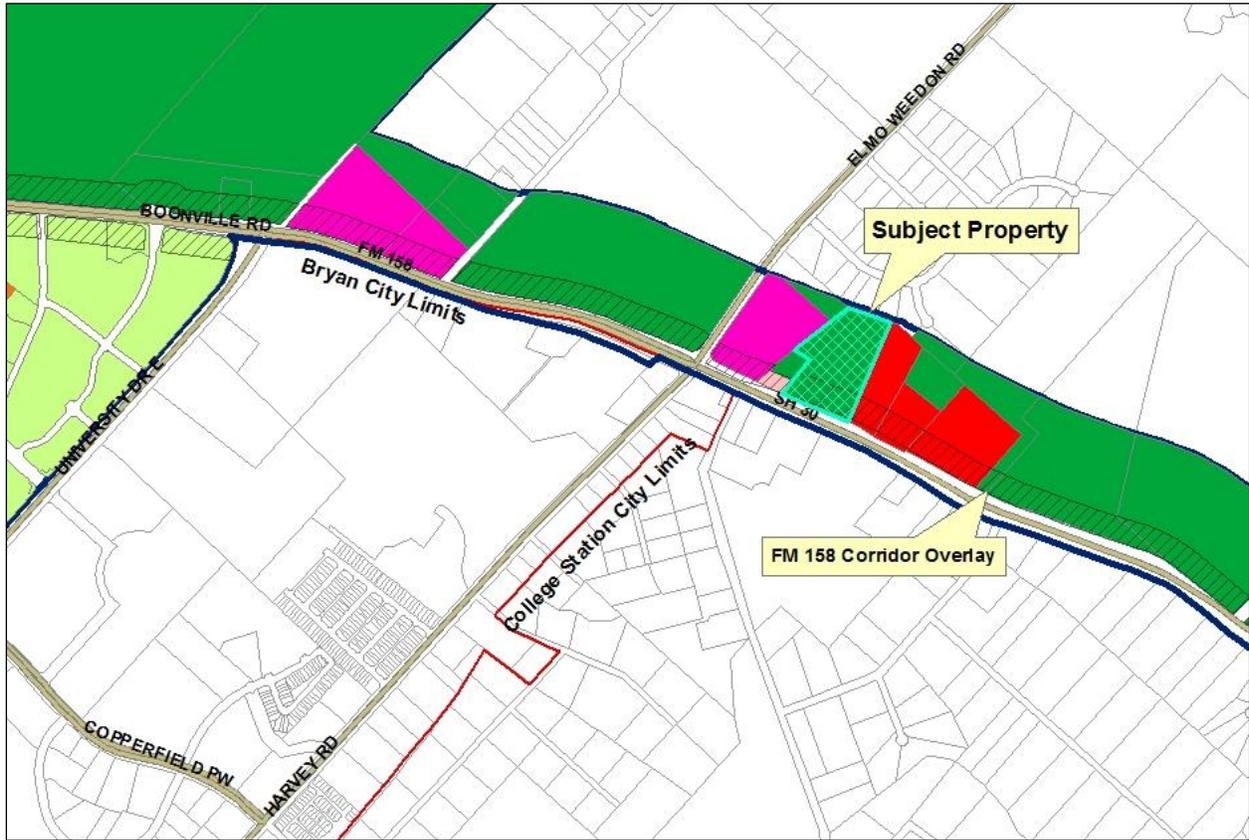
FUNDING SOURCE: N/A

APPROVALS: Kevin Russell, 7-17-15; Joey Dunn, 7-20-15; Hugh R. Walker, 07/22/2015

APPROVED FOR SUBMITTAL: CITY MANAGER

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis Hampton; 7/23/2015

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 AGRICULTURAL-OPEN DISTRICT (A-O) TO RETAIL DISTRICT (C-2) ON 10.58 ACRES OF LAND OUT OF MARIA KEGAN SURVEY CURRENTLY ADDRESSED AS 10099 STATE HIGHWAY 30 AND ADJOINING THE NORTHEAST SIDE OF STATE HIGHWAY 30, APPROXIMATELY TWO/TENTHS OF A MILE SOUTHEAST FROM ITS INTERSECTION WITH ELMO WEEDON ROAD 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 are made by adopting ordinances amending Chapter 130 for each particular permanent zoning change; and

WHEREAS, this requested change to Chapter 130 for 10.58 acres of land out of Maria Kegan Survey currently addressed as 10099 State Highway 30 and adjoining the northeast side of State Highway 30, approximately two/tenths of a mile southeast from its intersection with Elmo Weedon Road in Bryan, Brazos County, Texas; was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on July 16, 2015;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:

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 10.58 acres of land out of Maria Kegan Survey currently addressed as 10099 State Highway 30 and adjoining the northeast side of State Highway 30, approximately two/tenths of a mile southeast from its intersection with Elmo Weedon Road in Bryan, Brazos County, Texas, said 10.58 acres being more particularly described my metes-and-bounds on attached Exhibit "A".

2.

That 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 4th day of August, 2015 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 25th day of August, 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
10.349 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 THE REMAINDER OF A CALLED 10.84 ACRE TRACT AS DESCRIBED BY A DEED TO ALTA KATHERINE THANE RECORDED IN VOLUME 600, PAGE 476 OF THE OFFICIAL 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 ON THE NORTHEAST LINE OF STATE HIGHWAY NO. 30 (VARIABLE WIDTH R.O.W.) MARKING THE SOUTHEAST CORNER OF A CALLED 0.661 ACRE TRACT DESCRIBED AS TRACT ONE BY A DEED TO CAROL HUFF RECORDED IN VOLUME 11672, PAGE 129 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, AND THE SOUTHWEST CORNER OF SAID REMAINDER OF 10.84 ACRE TRACT;

THENCE: N 38° 43' 51" E ALONG THE COMMON LINE OF SAID REMAINDER OF 10.84 ACRE TRACT AND SAID 0.661 ACRE TRACT FOR A DISTANCE OF 367.09 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE EAST CORNER OF A CALLED 1.00 ACRE TRACT DESCRIBED AS TRACT TWO BY SAID HUFF DEED (11672/129);

THENCE: N 58° 38' 14" W ALONG THE COMMON LINE OF SAID REMAINDER OF 10.84 ACRE TRACT AND SAID 1.00 ACRE TRACT FOR A DISTANCE OF 158.33 FEET TO A 1/2 INCH IRON ROD FOUND ON THE SOUTHEAST LINE OF A CALLED 13.08 ACRE TRACT AS DESCRIBED BY A DEED TO TEXAS KJ INVESTMENTS, LLC, RECORDED IN VOLUME 12213, PAGE 112 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, MARKING THE NORTH CORNER OF SAID 1.00 ACRE TRACT;

THENCE: N 51° 13' 48" E ALONG THE COMMON LINE OF SAID REMAINDER OF 10.84 ACRE TRACT AND SAID 13.08 ACRE TRACT FOR A DISTANCE OF 562.69 FEET TO A 1/2 INCH IRON ROD FOUND ON THE SOUTHERLY LINE OF HUNTER'S CREEK, ACCORDING TO THE PLAT RECORDED IN VOLUME 4490, PAGE 38 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, MARKING THE NORTH CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: S 69° 48' 10" E ALONG THE COMMON LINE OF SAID REMAINDER OF 10.84 ACRE TRACT AND HUNTER'S CREEK, AT 95.93 FEET PASS A 1/2 INCH IRON ROD FOUND, AT 240.91 FEET A 1/2 INCH IRON ROD FOUND BEARS: S 20° 11' 50" W FOR A DISTANCE OF 0.20 FEET, CONTINUE ON FOR A TOTAL DISTANCE OF 373.63 FEET TO THE NORTHWEST CORNER OF AGGIELAND GOLF ACADEMY SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN VOLUME 10883, PAGE 264 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, FOR REFERENCE A 1/2 INCH IRON ROD FOUND BEARS: S 69° 48' 10" E FOR A DISTANCE OF 40.59 FEET;

THENCE: S 23° 45' 29" W ALONG THE COMMON LINE OF SAID REMAINDER OF 10.84 ACRE TRACT AND AGGIELAND GOLF ACADEMY SUBDIVISION, AT 0.90 FEET PASS A 3/8 INCH IRON ROD FOUND, CONTINUE ON FOR A TOTAL DISTANCE OF 884.78 FEET TO THE NORTHEAST LINE OF STATE HIGHWAY 30 MARKING THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 1145.94 FEET, FOR REFERENCE A 3/8 INCH IRON ROD FOUND BEARS: S 23° 45' 29" W FOR A DISTANCE OF 0.66 FEET;

THENCE: ALONG THE NORTHEAST LINE OF STATE HIGHWAY 30 FOR THE FOLLOWING CALLS:

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11° 46' 21" FOR AN ARC DISTANCE OF 235.45 FEET (CHORD BEARS: N 69° 18' 54" W - 235.04 FEET) TO THE END OF SAID CURVE;

N 75° 12' 04" W FOR A DISTANCE OF 43.32 FEET TO THE REMAINS OF A CONCRETE RIGHT-OF-WAY MARKER FOUND;

N 65° 02' 58" W FOR A DISTANCE OF 292.96 FEET TO THE **POINT OF BEGINNING** CONTAINING 10.349 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND JULY 2015. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

C:/WORK/MAB/15-66

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF JULY 16, 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 RZ15-13: Dennis Thane

A request to change the zoning classification from Agricultural-Open District (A-O) to Retail District (C-2) on 10.58 acres of land currently addressed as 10099 State Highway 30 and adjoining the northeast side of State Highway 30, approximately two-tenths of a mile southeast from its intersection with Elmo Weedon Road in Bryan, Brazos County, Texas. (R. Haynes)

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

In response to questions, Mr. Haynes responded:

- the property directly to the north of the subject property was recently changed from Agricultural-Open (A-O) zoning to Retail District (C-2) zoning; and
- a notification letter was sent out to property owners within 200 feet of the subject property and no public response was received.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Gonzalez moved to recommend approval of Rezoning RZ15-13 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Hardeman seconded the motion.

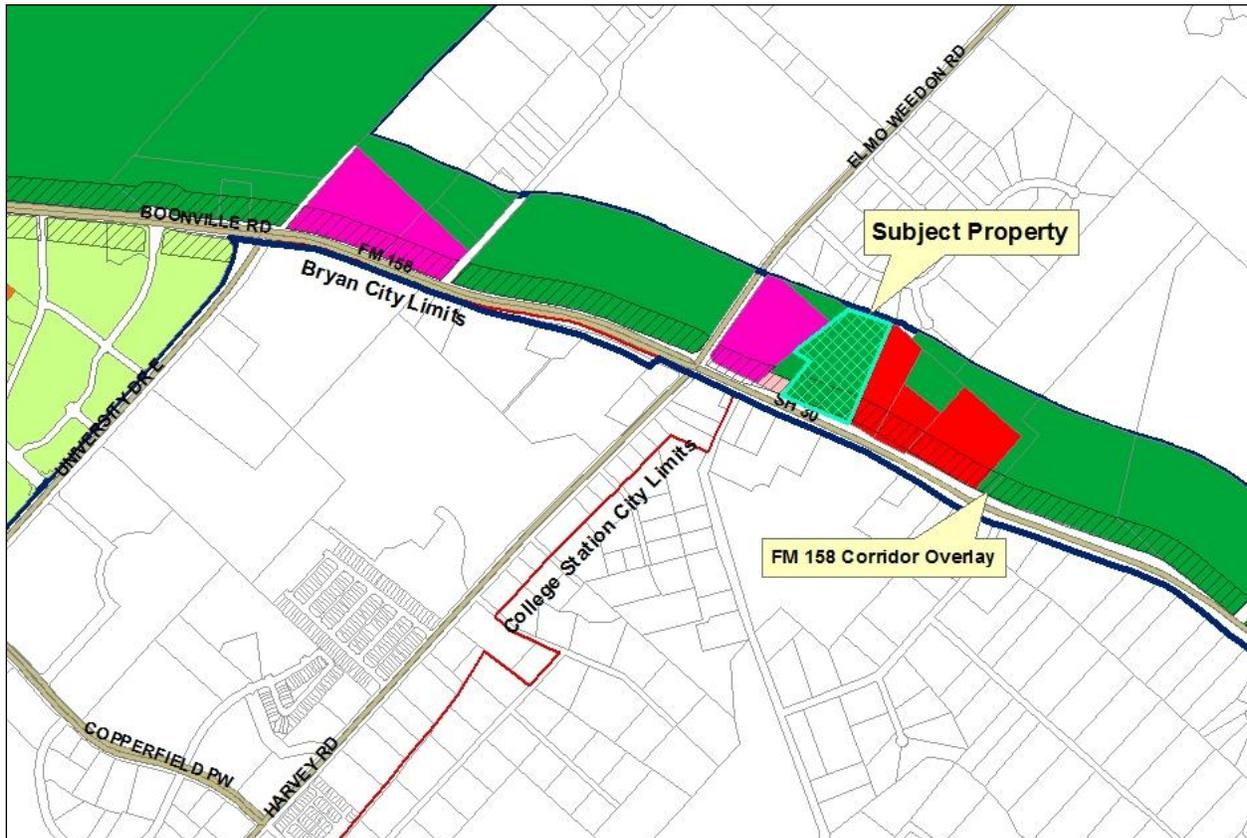
Commissioners discussed their pleasure in seeing growth in the area of the subject property.

The motion passed unanimously.

July 16, 2015

Rezoning case no. RZ 15-13: Dennis Thane

- CASE DESCRIPTION:** a request to change the zoning classification from Agricultural - Open District (A-O) to Retail District (C-2)
- LOCATION:** 10.58 acres of vacant land out of the Marie Kegan Survey, A-28, currently addressed as 10099 State Highway 30 and adjoining the northeast side of State Highway 30, approximately two-tenths of a mile southeast from its intersection with Elmo Weedon Road
- LEGAL DESCRIPTION:** A002801, Maria Kegan (ICL), Tract 11, 10.58 Acres
- EXISTING LAND USE:** rural residential
- APPLICANT(S):** Mr. Cody Hall
- STAFF CONTACT:** Randy Haynes, Senior Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** this rezoning request.



AERIAL PHOTOGRAPH (2013):



BACKGROUND:

The subject property is 10.58 acres in size and is currently addressed as 10099 State Highway 30. The tract is located on the north side of State Highway 30, approximately two-tenths of a mile southeast from its intersection with Elmo Weedon Road. There exists two residential structures on the subject property which is zoned Agricultural-Open District (A-O). The adjacent property located directly east of the subject tract is zoned Retail District (C-2) and is undeveloped. The adjacent property directly to the west is zoned Commercial District (C-3) and is in use as a golf driving range. The land to the north is outside of Bryan's city limits and therefore not regulated by zoning, and is developed with single-family homes on 1+ acre lots in the Hunter's Creek Subdivision. 700 feet to the west, across Elmo Weedon Road, lies the 112-acre campus of the Central Baptist Church.

The subject property has been zoned A-O District since its annexation to the City of Bryan on July 27, 1999. The applicant, Mr. Cody Hall, proposes the change to retail zoning to accommodate development of new businesses at this highly visible location along a major entrance corridor into the City of Bryan. In 2014 the Planning and Zoning Commission recommended approval of a similar request on the 13-acre tract immediately west of the subject property (RZ14-11).

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 several 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 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.

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 thoroughfares which serve as major entrances to the community.

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 use 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 along a super arterial roadway, State Highway 30. Allowing 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 proposed C-2 zoning on these 10.58 acres is appropriate in this particular location and will offer the exposure which most retail trade requires.

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 on Bryan's Thoroughfare Plan as a super arterial roadway. This road 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 subject property lies within College Station's sanitary sewer CCN (Certificate of Convenience and Necessity) area, and will be provided with sewer services by the City of College Station under both the CCN and an inter-local 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. Several vacant parcels are also 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.