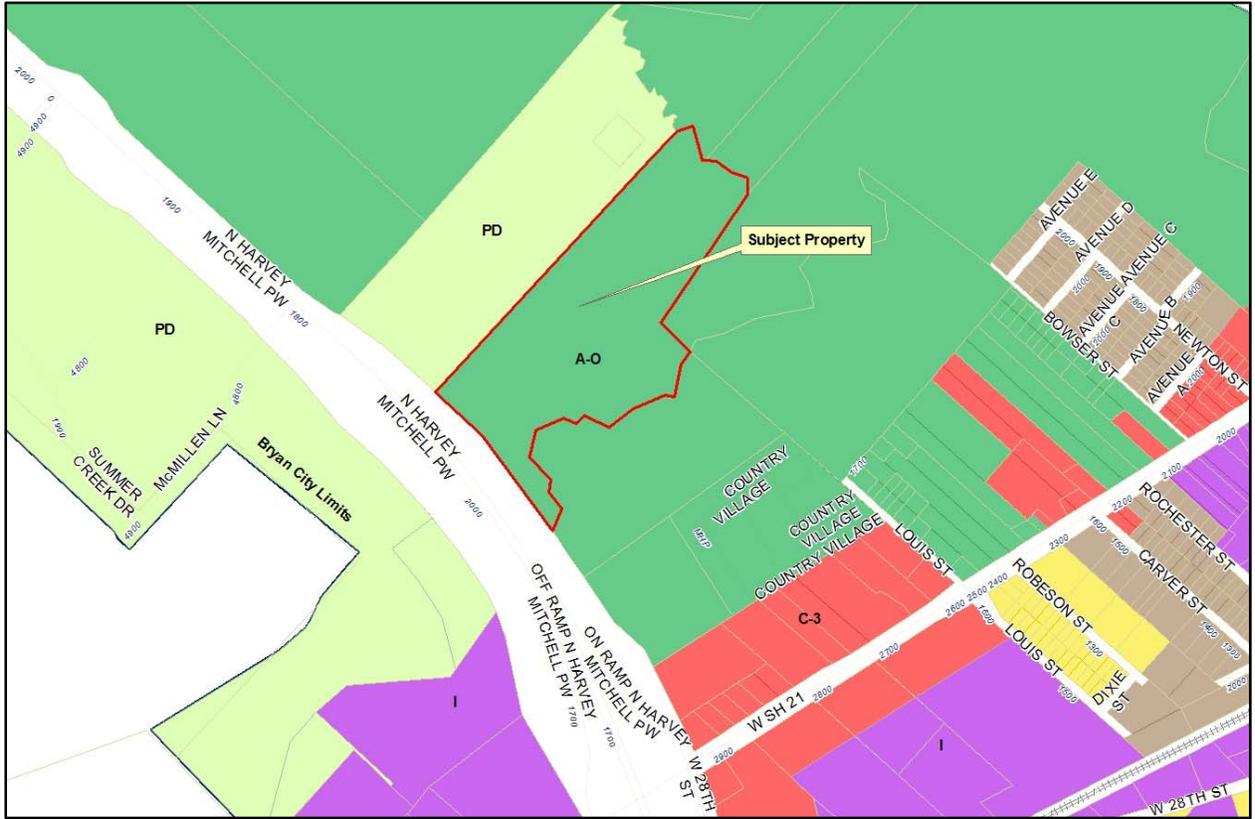


LOCATION MAPS:



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, BY A NEW DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT – INDUSTRIAL DISTRICT (PD-I), SUBJECT TO DEVELOPMENT REQUIREMENTS SPECIFIED HEREIN, ON 34.03 ACRES OF LAND OUT OF STEPHEN F. AUSTIN LEAGUE NO. 9, ADJOINING THE EAST SIDE OF NORTH HARVEY MITCHELL PARKWAY (FM 2818), APPROXIMATELY 1,500 FEET TO 2,500 FEET NORTH FROM ITS INTERSECTION WITH 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 are made by adopting ordinances amending Chapter 130 for each particular permanent zoning change; and

WHEREAS, this requested change to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances, by amending the development plan of a Planned Development – Industrial District (PD-I) on 34.03 acres of land out of Stephen F. Austin League No. 9, adjoining the east side of N. Harvey Mitchell Parkway (FM 2818), approximately 1,500 feet to 2,500 feet north from its intersection with 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 July 7, 2016 (case no. RZ16-10);

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 adopting a new development plan for a Planned Development – Industrial District (PD-I) subject to development requirements described on attached Exhibit “A” which are herein fully incorporated by reference for all purposes as if set forth in the text of the ordinance, on 34.03 acres of land out of Stephen F. Austin League No. 9, adjoining the east side of N. Harvey Mitchell Parkway (FM 2818), approximately 1,500 feet to 2,500 feet north from its intersection with West State Highway 21 in Bryan, Brazos County, Texas, said 34.03 acres being described more particularly by metes-and-bounds on attached Exhibit “B” and depicted on attached Exhibit “C.”

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 16th day of August, 2016 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 23rd day of August, 2016 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”:
Development Requirements for Planned Development – Industrial District (PD-I)
on 34.03 acres of land out of Stephen F. Austin League No. 9, adjoining the east side of N. Harvey
Mitchell Parkway (FM 2818) in Bryan, Brazos County, Texas

SECTION 1: Definitions

In this specific context, the term “permitted” shall mean all uses permitted by right within the zoning classification specified, as well as other uses defined and described in the Zoning Ordinance of the City of Bryan as being permitted with approval of a Conditional Use Permit. Said uses permitted with approval of a Conditional Use Permit shall be subject to development review procedures of the City of Bryan Zoning Ordinance described for Conditional Use Permits.

SECTION 2: Land Use

The continued use of land and buildings permitted in this Planned Development – Industrial District (PD-I) shall be limited to the uses permitted in the Industrial District (I) with the exception of adult entertainment/sexually-oriented businesses which shall not be permitted.

SECTION 3: Physical Development

Physical development within this PD-I District shall comply with development standards and limitations of the City of Bryan Code of Ordinances that generally apply to properties in Industrial District (I).

SECTION 4: Subdivision of Land

The subdivision of land in this PD-I District shall be allowed in accordance with Chapter 110, Subdivisions, of the City of Bryan Code of Ordinances.

**EXHIBIT "B":
METES AND BOUNDS DESCRIPTION
OF A 34.03 ACRE TRACT
BRYAN, BRAZOS COUNTY, TEXAS**

SFA #9, Block 34, Lot 1, (TR 208), Acres 34.03

Being all that certain tract or parcel of land, lying and being situated in the S. F. Austin No. 9 League, N-62, in Brazos County, Texas, and being a part of that 162.719 acre tract of land conveyed to Cardiology Associates, P. A. Pension Plan by C. E. Ball Properties, Inc. by deed recorded in Volume 337, page 9 of the Deed Records of Brazos County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING: at an iron rod set in the northeast right-of-way line of Farm Road 2818, from whence the most northwesterly corner of the said 162.719 acre tract bears N 43° 26' 21" W 380.33 feet and N 49° 40' 03" W - 312.33 feet;

THENCE: N 46° 55' 31" E - 2017.03 feet through the interior of the said 162.719 acre tract to an iron rod set for corner, said iron rod also being the centerline of a small creek;

THENCE: N 81° 44' 05" E - 84.67 feet,
S 10° 40' 29" E - 199.25 feet,
S 81° 35' 23" E - 80.46 feet and
S 40° 24' 29" E - 254.61 feet along said creek centerline to an iron set for corner in the upper southeast line of the said 162.719 acre tract;

THENCE: S 39° 05' 39" W - 603.01 feet and
S 35° 45' 46" W - 306.04 feet to an iron rod found at a fence corner, said iron rod also being at the interior ell corner of the said 162.719 acre tract;

THENCE: S 46° 25' 19" E - 216.97 feet along the lower northeast line of said 162.719 acre tract to an iron rod set in the centerline of Still Creek;

THENCE: along the centerline of Still Creek for the following calls:

S 32° 02' 44" W - 87.56 feet,
S 16° 24' 22" W - 181.57 feet,
N 74° 11' 11" W - 53.99 feet,
S 70° 45' 56" W - 196.54 feet,
S 57° 14' 38" W - 174.64 feet,
N 52° 42' 30" W - 159.13 feet,
S 46° 11' 34" W - 60.77 feet,
N 61° 12' 19" W - 76.22 feet,
S 70° 42' 24" W - 173.94 feet,
S 18° 30' 38" W - 153.44 feet,
S 36° 46' 43" E - 176.07 feet,
S 05° 36' 14" W - 67.05 feet,
S 31° 52' 21" E - 117.30 feet and
S 26° 52' 48" W - 135.61 feet to an iron rod set in the aforesaid northeast line of Farm Road 2818;

THENCE: N 31° 25' 16" W - 397.60 feet,
N 54° 57' 18" W - 266.42 feet,
N 40° 36' 33" W - 318.67 feet and
N 43° 26' 21" W - 33.31 feet along said northeast line to the PLACE OF BEGINNING and containing 34.031 acres of land, more or less.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF JULY 7, 2016:**

7. REQUESTS FOR APPROVAL OF ZONING CHANGES – A PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission makes recommendation; City Council has final approval).

b. Rezoning RZ16-10: Ray Shanaa

A request to change the zoning classification from Agricultural – Open District (A-O) to Industrial District (I) on 34.031 acres of land out of Stephen F. Austin League No. 9, adjoining the east side of N. Harvey Mitchell Parkway (FM 2818), approximately 1,500 feet to 2,500 feet north from its intersection with West State Highway 21 in Bryan, Brazos County, Texas. (S. Doland)

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

In response to questions from the Commission, Ms. Doland stated that if this property is zoned Industrial District (I), all types of uses would be allowed including sexually-oriented businesses.

In response to questions from the Commission, Mr. Zimmermann explained that a recommendation to Planned Development – Industrial District (PD-I) zoning would exclude sexually-oriented businesses, while all other development standards that apply to properties zoned Industrial District could still apply. He added that such a recommendation would not delay the applicants zoning approval timeline.

The public hearing was opened.

Mr. Fred Paine, 2101 South Texas Ave., Bryan, Texas, applicant’s representative, came forward to make himself available for questions.

Mr. Jerry Shulman, 6102 Pinto Run, College Station, Texas, applicant, came forward to speak in favor of request.

The public hearing was closed.

Commissioner Bush moved to recommend Planned Development – Industrial (PD-I) for any use permitted in the Industrial (I) zoning district, excluding adult entertainment, to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Gutierrez seconded the motion.

Commissioners commented:

- the development is a great idea for the City and for the family that started it
- anything the City can do to facilitate workforce creation is good

The motion passed unanimously.

**PLANNING AND ZONING COMMISSION
STAFF REPORT**



July 7, 2016

Rezoning Case no. RZ16-10: Ray Shanaa

CASE DESCRIPTION: a request to change the zoning classification from Agricultural – Open District (A-O) to Industrial District (I)

LOCATION: 34.031 acres of land out of Stephen F. Austin League No. 9, adjoining the east side of N. Harvey Mitchell Parkway (FM 2818), approximately 1,500 feet to 2,500 feet north from its intersection with West State Highway 21

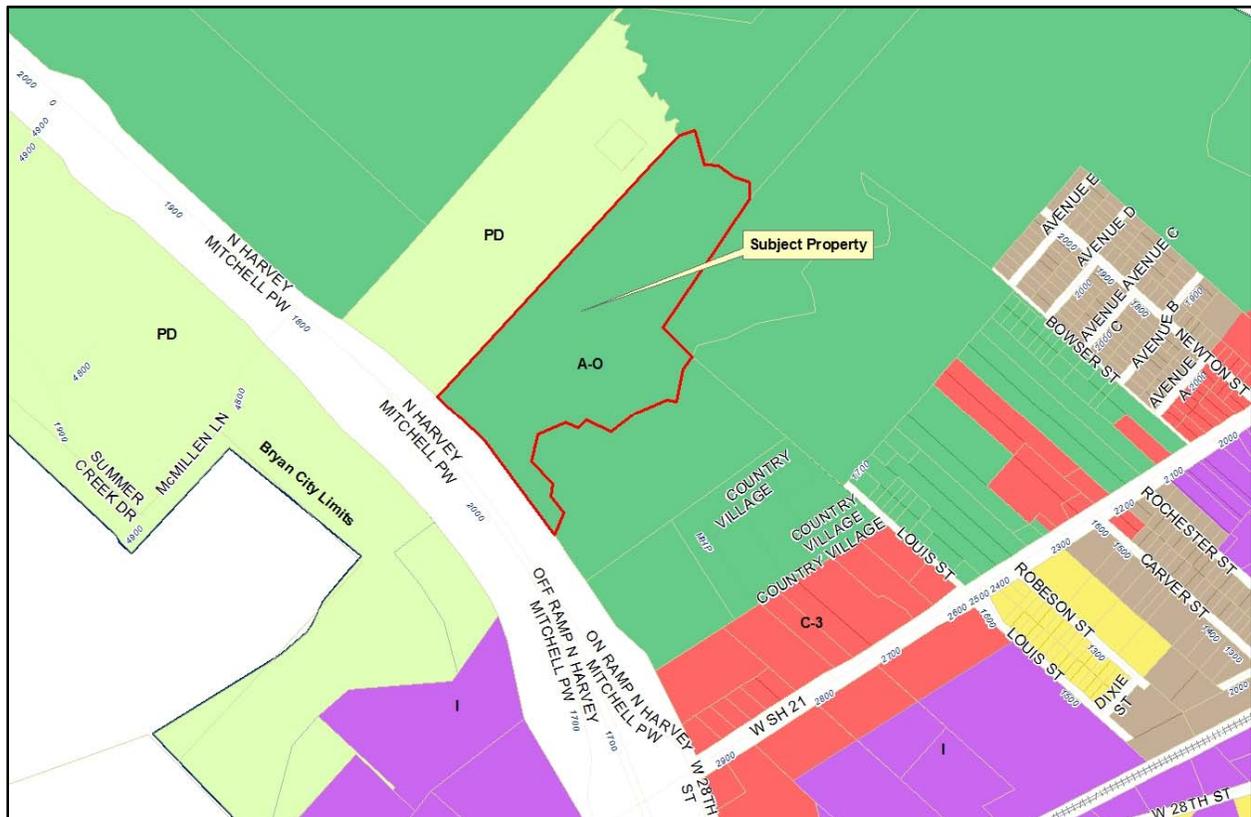
EXISTING LAND USE: vacant acreage

APPLICANT: Jerry Schulman

PROPERTY OWNER: Ray Shanaa

STAFF CONTACT: Stephanie Doland, Staff Planner

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



AERIAL PHOTOGRAPH, 2015:



VIEW FROM FM 2818:



EXCERPT FROM 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:

We want to build warehouse/distribution center.

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

FM 2818 N. of Villa Maria is predominantly industrial.

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:

In accordance with land use plan

List any other reasons to support this zone change:

Bring needed business to this part of Bryan

BACKGROUND:

The applicant, Jerry Schulman, is requesting to change the zoning classification on this 34.031 acre tract of unsubdivided land adjoining the east side of N. Harvey Mitchell Parkway (FM 2818), approximately 1,500 feet to 2,500 feet north from its intersection with West State Highway 21 from Agricultural Open District (A-O) to Industrial District (I).

The subject property is currently undeveloped land that lies adjacent to one of the major corridors leading into the City of Bryan, North Harvey Mitchell Parkway (FM 2818). This area of the North Harvey Mitchell corridor has been developing with a mix of commercial (ex. convenience stores, glass fabricators) and industrial uses (trash collection companies, wrecking yard).

Northeast and Northwest along FM 2818, are large undeveloped tracts of land that are zoned Agricultural-Open District (A-O). Immediately northeast of the subject property is the location of Texas Commercial Waste, a waste collection company that provides roll-off containers, commercial collection, residential collection and portable toilets. Adjacent property to the south and to the east are zoned Agricultural Open District (A-O) and are large undeveloped tracts of land. Property located farther southeast of the subject property is zoned Commercial District (C-3) and developed with Doggett Heavy Machinery Service. Property located across North Harvey Mitchell Parkway, southwest of the subject property is property zoned Industrial District (I) and developed with Coufal-Prater Equipment Sales.

The subject property has been zoned Agricultural Open District (A-O) since 1989 when the City of Bryan adopted zoning regulations. The A-O zoning district is intended to provide a location for 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 Industrial District is intended primarily for the conduct of heavy manufacturing, assembling and fabrication, and for large scale warehousing, wholesaling and service operations. The applicants are requesting the change in zoning classification to allow for the proposed development of the property into warehousing for camping equipment, tactical gear and emergency preparedness equipment.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan's Comprehensive Plan includes policy recommendations related to the various physical development aspects. Among the Plan's 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:

5.5 Land Use Policies / Use-Specific Land Use Policies:

Industrial land provides locations for manufacturing activities where impacts to less intense uses can be substantially buffered. These uses should be located in areas that are along arterial thoroughfares, in proximity to freeways, rail lines and/or areas with access to airports or other transportation outlets.

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 and their relationship to general area and the City as a whole.

Staff believes that the proposed zoning change to Industrial District on these 34.031 acres is appropriate in this particular case and conforms to the land use recommendations of the Comprehensive Plan. The Comprehensive Plan suggests that industrial land uses should be used for manufacturing purposes in areas where impacts to less intense uses can be buffered, and where the use is located in close proximity to freeways. Staff believes that, in this particular environment, rezoning to the Industrial zoning district is appropriate, as the property is adjacent to existing Industrial uses, located along super arterial Harvey Mitchell Parkway, and in close proximity to the freeway, State Highway 21.

The Industrial zoning classification is primarily intended for manufacturing, assembling and fabrication, warehousing, wholesaling and service operations which may depend upon frequent customer or client visits. While the industrial use is primarily intended for heavy equipment, manufacturing and warehousing, another use allowed by right in this zoning district that could be less desirable is the use of adult entertainment or a sexually oriented business. While the applicant does not have plans to develop the property with a sexual oriented business, staff feels that the use allowed by right is a concern.

Standards of the Zoning Ordinance regulating sexually-oriented businesses stipulate that any such business may not locate any closer than 1,000 feet from a public school, public hospital, church, or residential district. If approved, the closest residential zoning district would be located more than 2,000 feet southeast of the property along the south side of W. State Highway 21 (Louis Street/Robeson Street area). There are no public schools or hospitals located within 1,000 feet of the subject property and there appear to be no churches within the same radius. So if Industrial zoning for the property were approved, a sexually-oriented business appears to be able to locate on the 34+ acre property under current regulations.

The nearest residential use is the Country Village Mobile Home Community located only 525+ feet (as the crow flies) or 0.7 miles by vehicle from the subject property. Staff contends that a sexually oriented business in such close proximity to a residential use and along one of the main thoroughfares in Bryan would be a negative impact to this corridor and the general vicinity. Although the applicant has no plans for such a business, staff is concerned that when the zoning is changed to Industrial District, this use will be allowed by right the City would not have the ability to regulate undesirable use in the case of a subsequent owner or tenant.

The proposed change will allow the applicant to develop the subject property with warehousing and manufacturing in a manner that is appropriate with the general vicinity and compatible with other uses located on adjacent properties. Staff finds however that a less intense zoning classification, Commercial District (C-3) would also allow by right, and with Conditional Use Permit approval, the same uses for which the applicant currently has plans.

2. Whether there is availability of water, wastewater, storm water, and transportation facilities generally suitable and adequate for the proposed use.

The subject property has direct access to public water and sewer service via a 12-inch water line and a 12-inch sewer line located along North Harvey Mitchell Parkway. Additionally, the proposed warehousing use will be connected to North Harvey Mitchell Parkway and State Highway 21 which are designed to accommodate high traffic volumes and provides connectivity throughout Brazos County. Any further issues regarding capacity and utility extensions will be addressed at the time of development.

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.

There currently is a considerable amount of vacant land of a similar size classified for specifically industrial use within the vicinity of the subject property. Staff could not identify and special circumstances which make other such vacant land undevelopable under the current industrial or agricultural zoning classifications.

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 the rate at which land is being developed in the vicinity of the subject property has been moderate. The Bryan Business Park, promoted by the Bryan Business Council is located between 2 to 4 miles northeast of the subject property. The Bryan Business Park was established in 1985 and the park now consists of 400 acres of land. With the help of the Bryan Business Council, businesses like Coca-Cola, Sanderson Farms and Southwest banking Co. are located in the Business Park and are helping to promote further growth and development on vacant property adjacent to North Harvey Mitchell Parkway and in the general vicinity of the subject property.

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.

As stated above, the areas in the immediate vicinity of the subject property are a mix of property zoned Commercial District, Industrial District, and Agricultural Open District. Approving the requested change in zoning classification on the subject property would allow the property to be developed for warehousing and other industrial uses. This requested change in zoning classification should not have an effect on the development potential of other properties designated for similar development in the area.

6. Any other factors which will substantially affect the health, safety, morals, or general welfare.

It can be expected that the proposed rezoning request and subsequent development of the tract into a warehouse and other industrial uses will increase traffic taking access to North Harvey Mitchell Parkway. Staff believes that the super arterial, Harvey Mitchell Parkway, and the freeway, State Highway 21 are not only capable of handling the increased traffic but will provide the benefit of connectivity to the greater community and county.

Staff is concerned with the allowed use of an adult entertainment or sexually oriented business at this location. If the applicants request were approved as requested, then a business such as an adult arcade, adult bookstore, adult cabaret, adult escort agency, and etcetera would be

allowed by right at this location. When development occurred on the adjacent property to the north, a planned development ordinance was employed to allow industrial uses, eliminate buffer requirements between commercial and industrial uses, and also to eliminate the possibility of sexually oriented businesses on the property. Similarly the planned development zoning ordinances regulating the Bryan Business Park and the Brazos County Industrial Park eliminates the potential for a sexually oriented business to locate on those properties.

To eliminate the possibility of a sexually oriented business on the subject property the applicant has two options. Rezone the property to Planned Development and eliminate the allowed use of a sexually oriented business, or rezone the property to Commercial District (C-3). The use of warehousing is allowed by right in the C-3 zoning district; but the use of manufacturing in C-3 would require prior approval of a conditional use permit by the Planning and Zoning Commission.

Other than those already stated, staff is unable to discern other factors resulting from this requested zoning change that will affect health, safety, morals or general welfare.

RECOMMENDATION:

Despite the concerns stated above regarding sexually-oriented businesses, staff still believes that the property is generally suitable for industrial use and recommends **approving** this request to change the zoning classification on these 34.031 acres to Industrial District (I).

If the Planning and Zoning Commission is inclined to recommend denial of industrial zoning, staff would like to offer the following alternatives for consideration in this particular case:

1. the Commission may recommend that the property instead be rezoned to Commercial District (C-3), a zoning classification that generally allows less intense land uses, but would still allow, or potentially allow the land uses proposed by current applicant; or
2. the Commission may deny the request and recommend to the applicant to apply for a rezoning to a Planned Development – Industrial District (PD-I), which would allow for the customization of allowed land uses at this location; this would, however, require a new application and consideration at the next available Planning and Zoning Commission meeting.