

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 COMMERCIAL DISTRICT (C-3), ON 1.989 ACRES OF LAND ADJOINING THE SOUTH SIDE OF EAST STATE HIGHWAY 21, SOUTHWEST FROM ITS INTERSECTION WITH WALLIS ROAD, CURRENTLY ADDRESSED AS 6086 EAST 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 Chapter 130 for 1.989 acres of land out of the Stephen F Austin League No. 10, adjoining the south side of East State Highway 21, southwest from its intersection with Wallis Road, currently addressed as 6086 East State Highway 21 in Bryan, Brazos County, Texas (case no. RZ16-12), was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on August 4, 2016;

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 (A-O) to Commercial District (C-3) on 1.989 acres of land out of the Stephen F Austin League No. 10, adjoining the south side of East State Highway 21, southwest from its intersection with Wallis Road, currently addressed as 6086 East State Highway 21 in Bryan, Brazos County, Texas, said 1.989 acres being described more particularly by metes-and-bounds on attached Exhibit “A” and depicted on attached Exhibit “B.”

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That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.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 13th day of September, 2016 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 27th day of September, 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":

**METES AND BOUNDS DESCRIPTION
OF A 1.989 ACRES TRACT
S.F AUSTIN LEAGUE #10, A-63
BRAZOS COUNTY, TEXAS**

Being a tract of land containing 1.989 acres, out of the S.F. Austin League, A-63, also being the same called 2 acre tract owned by John L. Scott, D.V.M. as recorded in Volume 2195, Page 22 of the Brazos County Official Records (B.C.O.R.), the 1.989 acre tract being more particularly described as follows:

BEGINNING at a 1/2" iron rod found for the north corner of this tract, also being a point along the southeast right-of-way line of State Highway 21, a variable width right-of-way, also being a west corner of the called 47.471 acre tract owned by W.A. Bilsing II, as recorded in Volume 572, Page 288 of the Brazos County Deed Records (B.C.D.R.);

THENCE along the common line between this tract and the said called 47.47 acre Bilsing tract the following calls and distances;

South 55°16'29" East, a distance of 417.33 feet to a 1/2" iron rod found for the east corner of this tract;

South 27°14'11" West, a distance of 209.25 feet to a 1/2" iron rod found for the south corner of this tract, also being a west corner of the said called 47.47 acre Bilsing tract, also being a point along the northeast boundary line of the called 1.94 acre tract owned by Wallace and Debbie Richards as recorded in Volume 5971, Page 35 of the B.C.O.R.;

THENCE along the common line between this tract and the said called 1.94 acre Richards tract, North 55°16'32" West, a distance of 417.67 feet to a 1/2" iron rod found for the west corner of this tract, also being the north corner of the said called 1.94 acre Richards tract, also being a point along the said southeast right-of-way of State Highway 21;

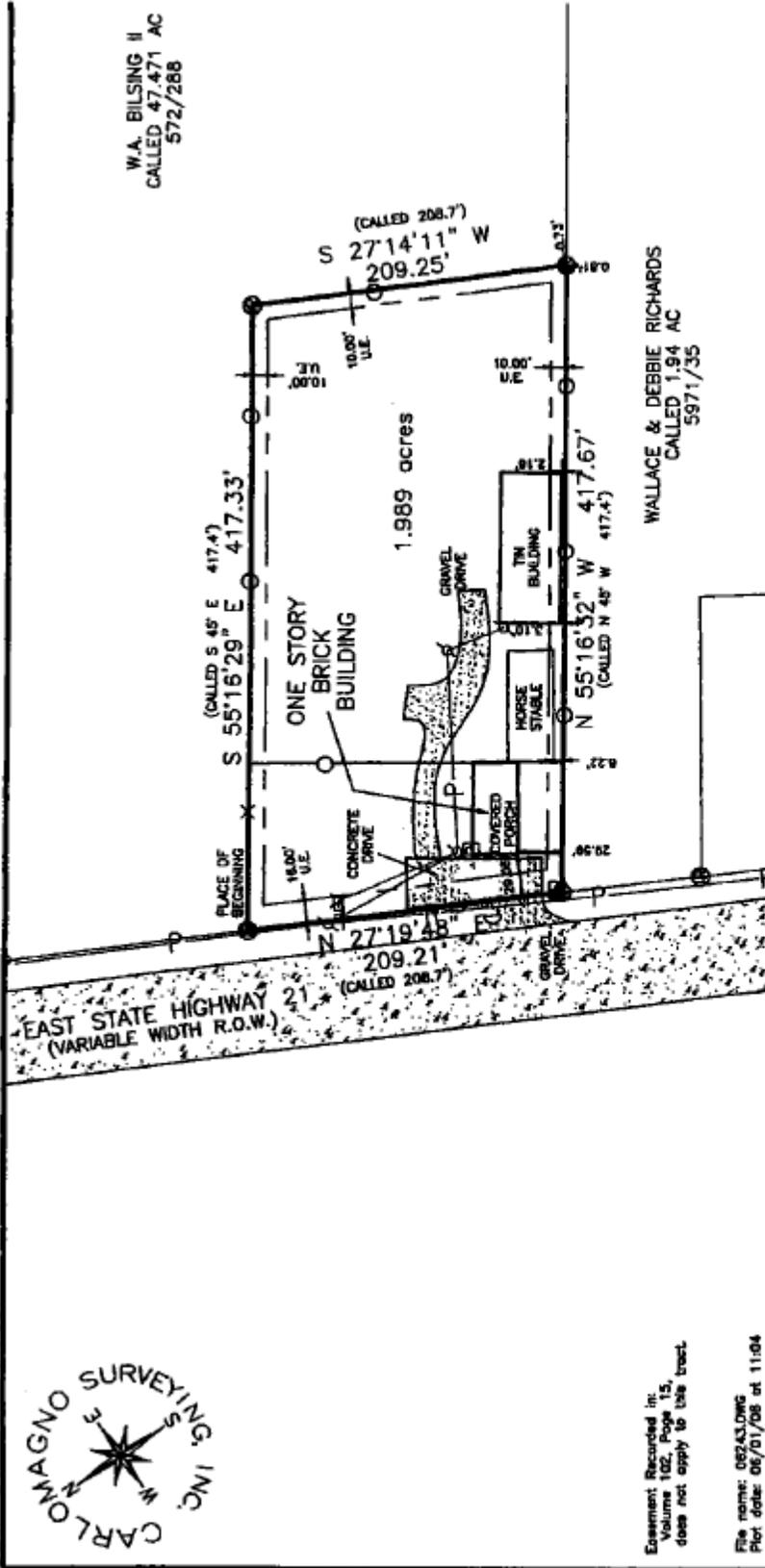
THENCE along the said southeast right-of-way of State Highway 21, North 27°19'48" East, a distance of 209.21 feet to the **PLACE OF BEGINNING** containing 1.989 acres.

The basis of this survey is iron rods found for subject and adjoining property corners, as noted in a previous survey as recorded in Volume 2195, Page 22 of the Brazos County Official Records.


Dante Carlomagno
Texas Registered Professional
Land Surveyor No. 1562
06243.doc
06-01-2006



EXHIBIT "B":



Easement Recorded in:
Volume 102, Page 15,
does not apply to this tract.

File name: 06243.DWG
Plot date: 06/01/08 at 11:04

SURVEY LEGEND

- SUBJECT PROPERTY LINE
- ORIGINAL PROPERTY LINE
- ELECTRICAL LINE
- GAS LINE
- CHAINLINK FENCE
- WOOD FENCE
- BARBWARE FENCE
- ACCESS EASEMENT
- DRAINAGE EASEMENT
- ELECTRICAL EASEMENT
- IMPRESS/EGRESS EASEMENT
- RIGHT-OF-WAY EASEMENT
- SANITARY/STORM EASEMENT
- UTILITY EASEMENT
- ORDNANCE BUILDING LINE
- PLATED BUILDING LINE
- RESTRICTION BUILDING LINE
- IRON ROD FOUND
- ⊕ IRON PIPE FOUND

- ⊙ 5/8" IRON ROD SET
- ⊕ MONUMENT
- ⊕ WATER VALVE
- ⊕ FIRE HYDRANT
- ⊕ ELECTRIC METER
- ⊕ POWER POLE
- ⊕ LIGHT POLE
- ⊕ SIGN POST
- ⊕ PIPELINE MARKER
- ⊕ GAS METER
- ⊕ PROPAANE TANK
- ⊕ SANITARY MANHOLE
- ⊕ STORM MANHOLE
- ⊕ CLEANOUT
- ⊕ SEPTIC TANK
- ⊕ TELEPHONE PEDESTAL
- ⊕ CABLE BOX
- ⊕ AIR CONDITIONER

Sold lot is not under the 100 year flood plain, as identified by the Federal Emergency Management Agency on Community Panel No. 480090 0001 A, dated June 15, 1988 and Community Panel No. 48041C-0132 C, Dated July 2, 1992

I, Dante Carlomagno, Registered Professional Land Surveyor No. 1562, do hereby certify that the above survey is a true and accurate representation of an actual on the ground survey made under my supervision and that there are no encroachments or overlaps unless otherwise shown.



Survey Basis:
Iron rod found for subject and adjoining property corners as recorded in Volume 2195, Page 22 B.C.O.R.

Drawing Scale
1"=100'

Dante Carlomagno
Registered Professional
Land Surveyor, Number 1562
Technician: Jason Bailey
Field Crew: R. Rivera

PLAT

ACREAGE: 1.989
OUT OF: CALLED 2 AC, 2
LOCATED IN: S.F. AUSTIN
STREET ADDRESS: 6086 EAS
COUNTY: BRAZOS
SURVEYED FOR: COLE DOOS
TITLE CO: UNIVERSITY TITLE

Carlomagno
2714 FinTex
PHONE: (979)7
www.c

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES
OF AUGUST 4, 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).

a. Rezoning RZ16-12: Brutus Enterprises, LLC

a request to change the zoning classification from Agricultural – Open District (A-O) to Commercial District (C-3) on 1.989 acres of land out of the Stephen F Austin League No. 10, adjoining the south side of East State Highway 21, southwest from its intersection with Wallis Road and currently addressed as 6086 East State Highway 21 in Bryan, Brazos County, Texas. (S. Doland)

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

In response to questions from the Commission, Ms. Doland stated that:

- No calls have come in regarding favor or opposition of requested rezone.
- Landscape has not been a part of any discussion.

The public hearing was opened.

Ms. Tammy D’Addario, 6086 East HWY 21, property owner, came forward to answer any questions regarding this rezoning request:

- Purchased the property to run business.
- Needs a lot of TLC, including the parking lot and siding for better curb appeal.

Mr. Ray Fryar, 6091 East HWY 21, property owner near site, came forward to speak in favor of this rezoning request:

- Across the street from this location.
- Growth is good for this area.

Commissioner Madison moved to recommend approval of Rezoning RZ16-12 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Marin seconded the motion.

Commissioners expressed excitement to see development in this part of town.

The motion passed unanimously.

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

August 4, 2016



Rezoning case no. RZ16-12: Brutus Enterprises, LLC

CASE DESCRIPTION: a request to change the zoning classification from Agricultural – Open District (A-O) to Commercial District (C-3)

LOCATION: 1.989 acres of land out of the Stephen F Austin League No. 10, adjoining the south side of East State Highway 21, southwest from its intersection with Wallis Road, currently addressed as 6086 East State Highway 21

EXISTING LAND USE: Previously a Veterinary Clinic

PROPERTY OWNER(S): Brutus Enterprises, LLC

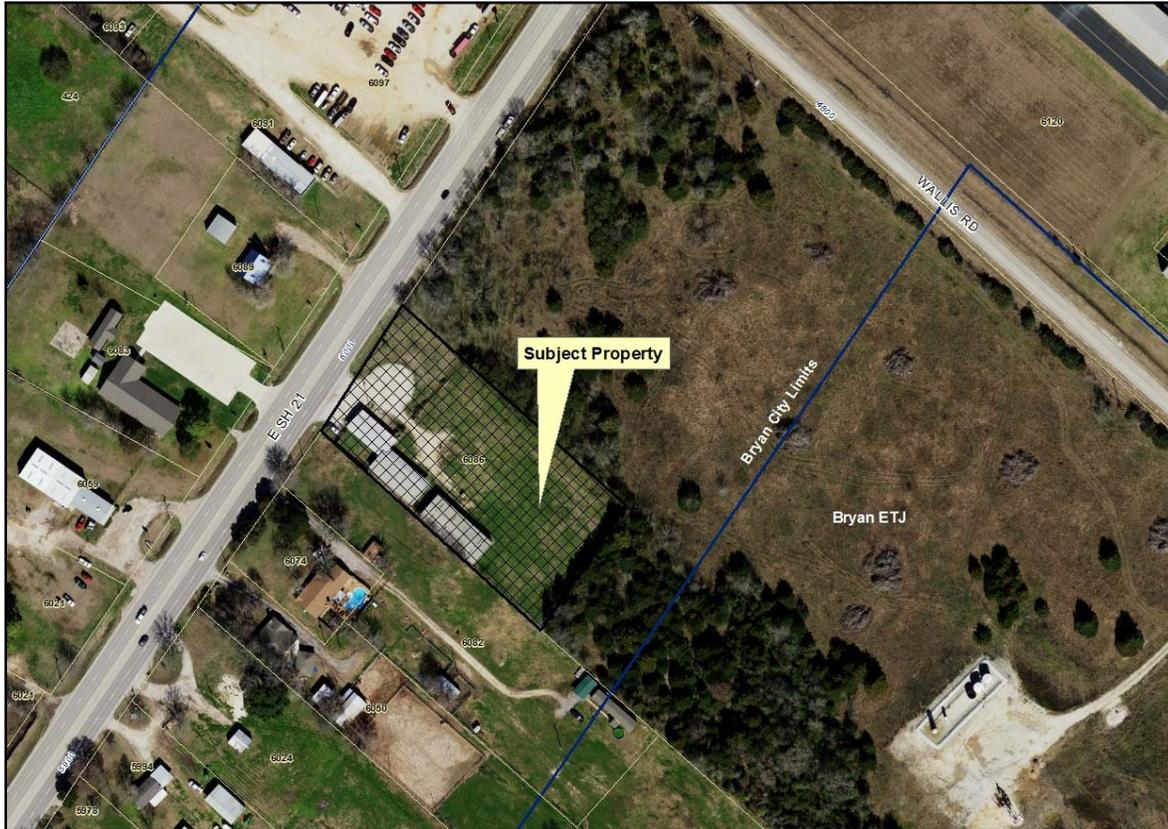
APPLICANT(S): Casiano Electric, LLC

STAFF CONTACT: Stephanie Doland, Staff Planner

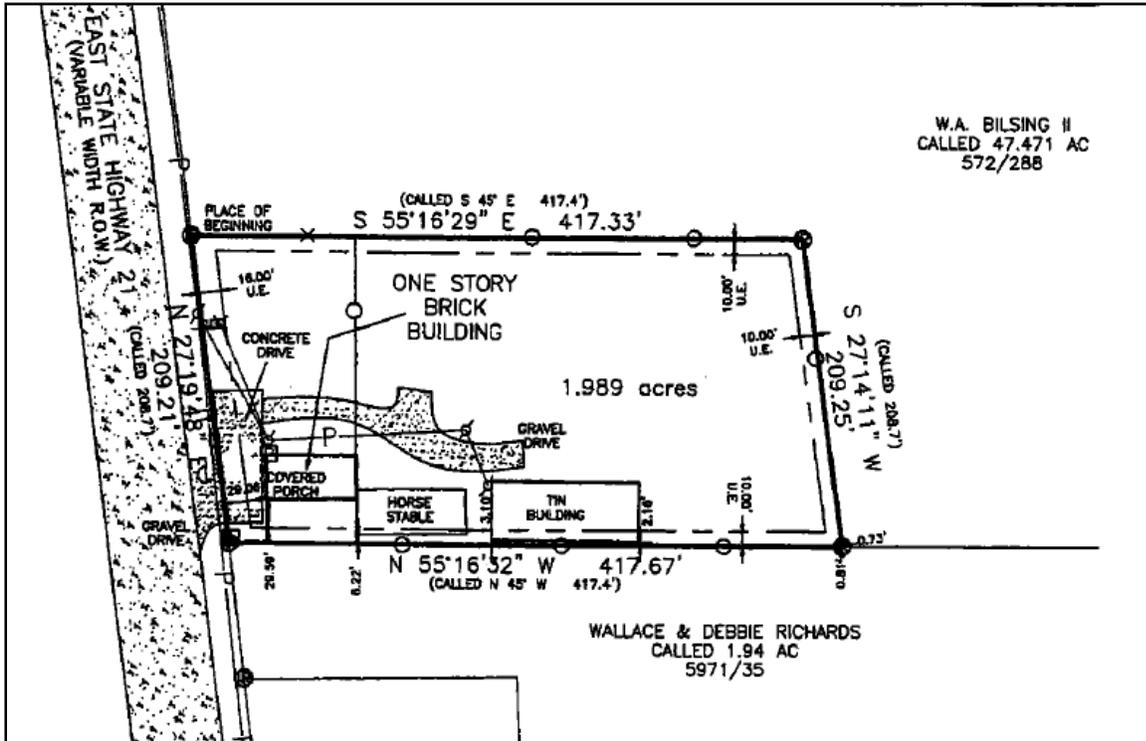
SUMMARY RECOMMENDATION: Staff recommends **approving** this rezoning request.



AERIAL VIEW (2015)



PROPERTY SURVEY:



VIEW FROM SH-21 LOOKING SOUTH:



BACKGROUND:

The applicant, Tammy D'Addario of Casiano Electric, LLC, is requesting to change the zoning classification on these 1.9 acres of land from Agricultural – Open District (A-O) to Commercial District (C-3). The subject property was annexed into the City of Bryan on July 1999 and at that time was zoned A-O District. The subject property is currently developed with approximately 2,000-square foot office building, a 3,000-square foot horse stable, and a 3,800-square foot tin building.

The adjacent property located to the northeast is zoned A-O District and is currently vacant. The adjacent property to the south is also zoned A-O District and is developed with a single-family residence. The property located across State Highway 21, is zoned Commercial District (C-3) and is currently developed with a HVAC business. The request was made to accommodate the recent sale of the veterinary clinic into an electrical contracting business.

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 developing and redeveloping with a mix of residential and commercial 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 21 which are occupied by commercial uses.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan Comprehensive 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, State Highway 21. The area along the State Highway 21 corridor west of Coulter Airfield has been developing and redeveloping with commercial uses in recent years. The

property immediately adjacent to the subject property is zoned A-O, with the property to the north and east is currently vacant land. The property to the south is also zoned A-O and is developed with a single-family home. Property located across SH-21 is zoned a mixture of A-O and C-3 and is developed with a HVAC business, a real estate office, and an insulation business.

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. An existing cluster of C-3 zoning already exists at the intersection of State Highway 21 and Mario Road, southwest of the subject property.

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.

Staff contends that adjacent Highway 21 is capable of accommodating traffic loads typically associated with commercial development. The subject property has adequate access to water facilities through the Wickson Creek Special Utility District and access to city sewer service. 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, industrial, and residentially developed and zoned properties here. 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 along State Highway 21 and offer more commercial development opportunities along this gateway corridor into the City. C-3 zoning may be appropriate on properties adjoining both sides of State Highway 21 in this vicinity.

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 1.98 acres of land.