

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: August 6, 2013		DATE SUBMITTED: July 16, 2013	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Matthew Hilgemeier	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input 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, to change the zoning classification from Agricultural - Open District (A-O) to Commercial District (C-3) on 2.495 acres of land currently addressed as 6223 East State Highway 21, being a portion of Lot 3 in Block 2 of East Brazos Industrial Park Subdivision – Phase 1 and adjoining the northwest side of East State Highway 21, approximately 475 feet to 830 feet north from its intersection with Crosswind Drive in Bryan, Brazos County, Texas.			
SUMMARY STATEMENT: The subject property is 2.495 acres in size and located approximately 475 feet north of the intersection of East State Highway 21 and Crosswind Drive across from Coulter Airfield. The property was annexed into the City of Bryan in 1999. Upon annexation, the property, which at that time was occupied as an oil and gas field equipment yard, was zoned Agricultural – Open (A-O) District and the land use became a legally nonconforming use. The oil and gas field equipment use was discontinued for more than 12 months several years later, which means that it could no longer be used for oil and gas field services under the property’s A-O zoning, which does not allow oil and gas field service uses.			
<p>The property owner has recently been approached by several parties interested in using the property for heavy commercial purposes. The applicant, Mr. W.L. McCurdy, is requesting to change the zoning on the subject property to C-3 (Commercial) District, which, if approved, would provide opportunities for development of this property with heavy retail and commercial uses of a service nature, including wholesale trade, retail sales, warehousing development, repair and service establishments, as well as heavy and bulk equipment supply dealers.</p> <p>The A-O zoning classification is intended to provide opportunities for development of low density, detached single-family residences on lots of at least one acre in a suburban or rural setting. This zoning classification is also intended to serve as a holding zone for vacant land areas annexed to the City as well as to protect areas that may be unsuitable for development and to preserve natural open space. It is the function as a holding zone designation that has resulted in the current A-O classification of the subject property.</p>			
STAFF ANALYSIS AND RECOMMENDATION: 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 and would fit within the adopted goals and land use policies set out in the Comprehensive Plan. Staff believes that commercial development opportunities at this location will be compatible with nearby commercial and industrial uses in the vicinity. Therefore, staff recommends approval of this request to change the zoning classification from Agricultural - Open District (A-O) to Commercial District (C-3).			
During its meeting on July 18, 2013, the Planning and Zoning Commission unanimously recommended approving this rezoning request.			

OPTIONS (In Suggested Order of Staff Preference):

1. approve the zone change as recommended by the Planning and Zoning Commission; or
2. deny the requested zone change.

ATTACHMENTS:

1. location map;
2. draft ordinance with exhibits;
3. excerpt from July 18, 2013 Planning and Zoning Commission meeting minutes; and
4. staff report to the Planning & Zoning Commission with attachments

FUNDING SOURCE: N/A

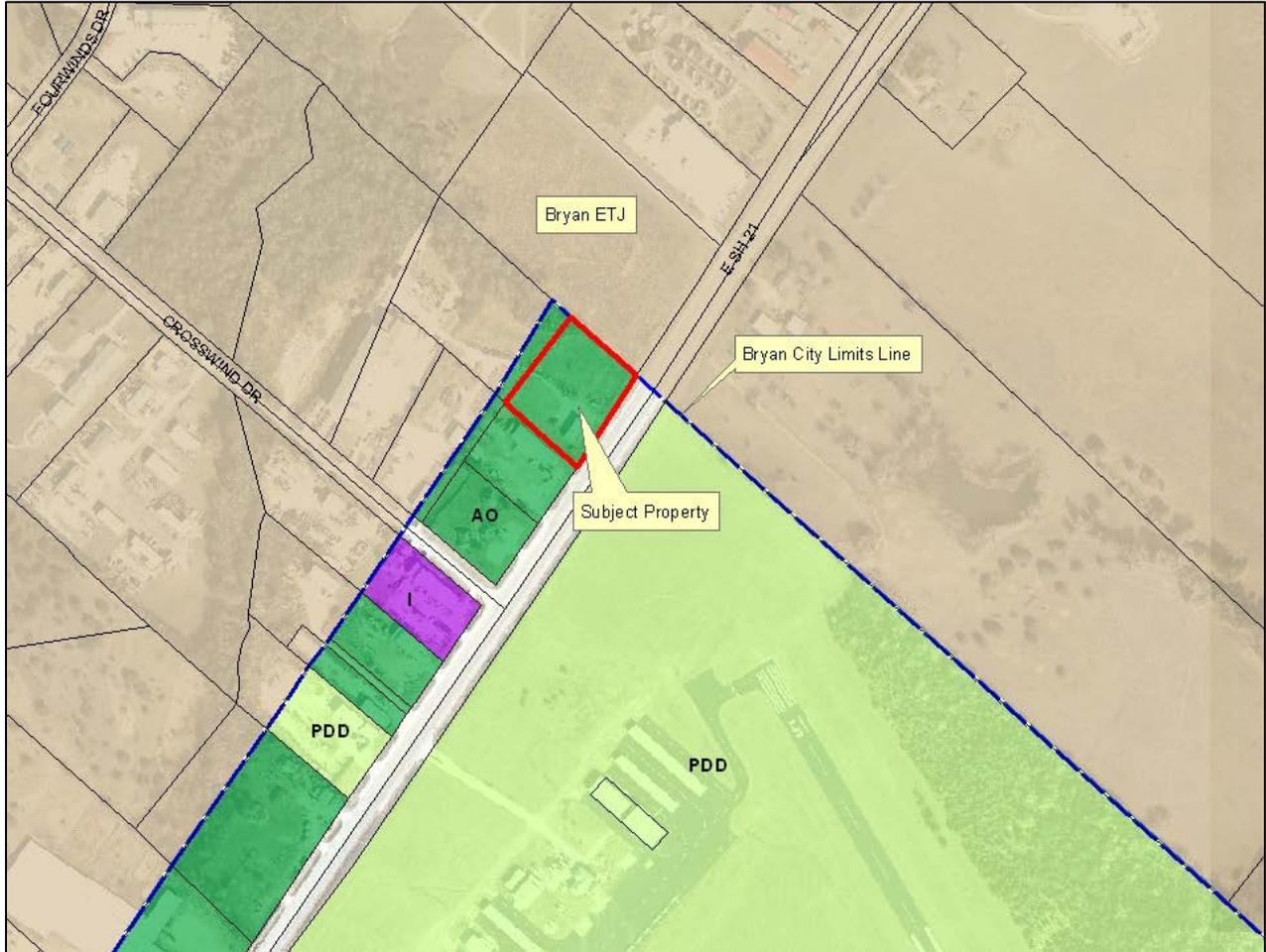
APPROVALS: Kevin Russell 7/19/13; Joey Dunn 7-23-13; Hugh R. Walker, 07/24/2013

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 07/25/2013

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 07-28-2013

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 2.495 ACRES OF LAND CURRENTLY ADDRESSED AS 6223 EAST STATE HIGHWAY 21, BEING A PORTION OF LOT 3 IN BLOCK 2 OF EAST BRAZOS INDUSTRIAL PARK SUBDIVISION 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 2.495 acres of land currently addressed as 6223 East State Highway 21, being a portion of Lot 3 in Block 2 of East Brazos Industrial Park Subdivision in Bryan, Brazos County, Texas, was recommended for approval by the Bryan Planning and Zoning Commission during its regular meeting on July 18, 2013;

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 2.495 acres of land currently addressed as 6223 East State Highway 21, being a portion of Lot 3 in Block 2 of East Brazos Industrial Park Subdivision in Bryan, Brazos County, Texas, said 2.495 acres of land being described more particularly 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 6th day of August, 2013 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 August, 2013 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**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE STEPHEN F. AUSTIN SURVEY, NO. 10, ABSTRACT NO. 63, BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF LOT 3, BLOCK 2, EAST BRAZOS INDUSTRIAL PARK, PHASE ONE, ACCORDING TO THE PLAT RECORDED IN VOLUME 464, PAGE 703 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, AND BEING THE SAME TRACT OF LAND CALLED 2.495 ACRES AS DESCRIBED BY A DEED TO McCURDY SERVICES, INC. RECORDED IN VOLUME 10421, PAGE 219 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

BEGINNING AT A 5/8 INCH IRON ROD FOUND ON THE NORTHWEST LINE OF STATE HIGHWAY NO. 21 (VARIABLE WIDTH R.O.W.) MARKING THE SOUTH CORNER OF SAID REMAINDER OF LOT 3 AND THE EAST CORNER OF THE REMAINDER OF LOT 2, BLOCK 2, EAST BRAZOS INDUSTRIAL PARK, PHASE ONE;

THENCE: N 48° 36' 54" W ALONG THE COMMON LINE OF SAID REMAINDER OF LOT 3 AND REMAINDER OF LOT 2 FOR A DISTANCE OF 318.41 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE COMMON CORNER OF SAID LOT 2 AND LOT 4, BLOCK 2, AND THE WEST CORNER OF SAID 2.495 ACRE TRACT;

THENCE: N 37° 36' 26" E THROUGH SAID REMAINDER OF LOT 3 AND ALONG THE NORTHWEST LINE OF SAID 2.495 ACRE TRACT FOR A DISTANCE OF 358.16 FEET TO A 5/8 INCH IRON ROD FOUND ON THE SOUTHWEST LINE OF A CALLED 9.9966 ACRE TRACT AS DESCRIBED BY A DEED TO GARRETT ENTERPRISES RECORDED IN VOLUME 5101, PAGE 173 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, MARKING THE NORTH CORNER OF SAID 2.495 ACRE TRACT;

THENCE: S 48° 36' 25" E ALONG THE COMMON LINE OF SAID REMAINDER OF LOT 3 AND SAID 9.9966 ACRE TRACT FOR A DISTANCE OF 289.87 FEET TO A TXDOT RIGHT-OF-WAY MARKER FOUND ON THE NORTHWEST LINE OF STATE HIGHWAY NO. 21 MARKING THE EAST CORNER OF SAID 2.495 ACRE TRACT;

THENCE: S 33° 05' 03" W ALONG THE NORTHWEST LINE OF STATE HIGHWAY NO. 21 FOR A DISTANCE OF 361.12 FEET TO THE **POINT OF BEGINNING** CONTAINING 2.495 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND. BEARING SYSTEM SHOWN HEREIN IS BASED ON THE BEARING SYSTEM REFLECTED ON THE R.O.W. PLANS FOR STATE HIGHWAY NO. 21 AS MONUMENTED ON THE GROUND FROM RIGHT-OF-WAY MARKERS FOUND ON THE SOUTHEAST LINE OF STATE HIGHWAY NO. 21.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF JULY 18, 2013:**

6. 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 RZ13-09: W.L. McCurdy

A request to change the zoning classification from Agricultural - Open District (A-O) to Commercial District (C-3) on 2.495 acres of land currently addressed as 6223 East State Highway 21, being a portion of Lot 3 in Block 2 of East Brazos Industrial Park Subdivision – Phase 1 and adjoining the northwest side of East State Highway 21, approximately 475 feet to 830 feet north from its intersection with Crosswind Drive in Bryan, Brazos County, Texas. (M. Hilgemeier)

Mr. Hilgemeier presented the staff report (on file in the Development Services Department). Staff recommends approving the request.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Hickle moved to recommend approval of Rezoning RZ13-09 to the Bryan City Council, and to adopt the written staff report and analysis, as the report, findings and evaluation of the Commission. Commissioner Jones seconded the motion. The motion passed unanimously.

**PLANNING AND ZONING COMMISSION
STAFF REPORT**



July 18, 2013

Rezoning case no. RZ 13-09: McCurdy Service, Inc.

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

LOCATION: 2.49 acres of land currently addressed as 6223 East State Highway 21 and adjoining the northwest side of East State Highway 21, approximately 475 feet to 830 feet north from its intersection with Crosswind Drive, across from Coulter Airfield

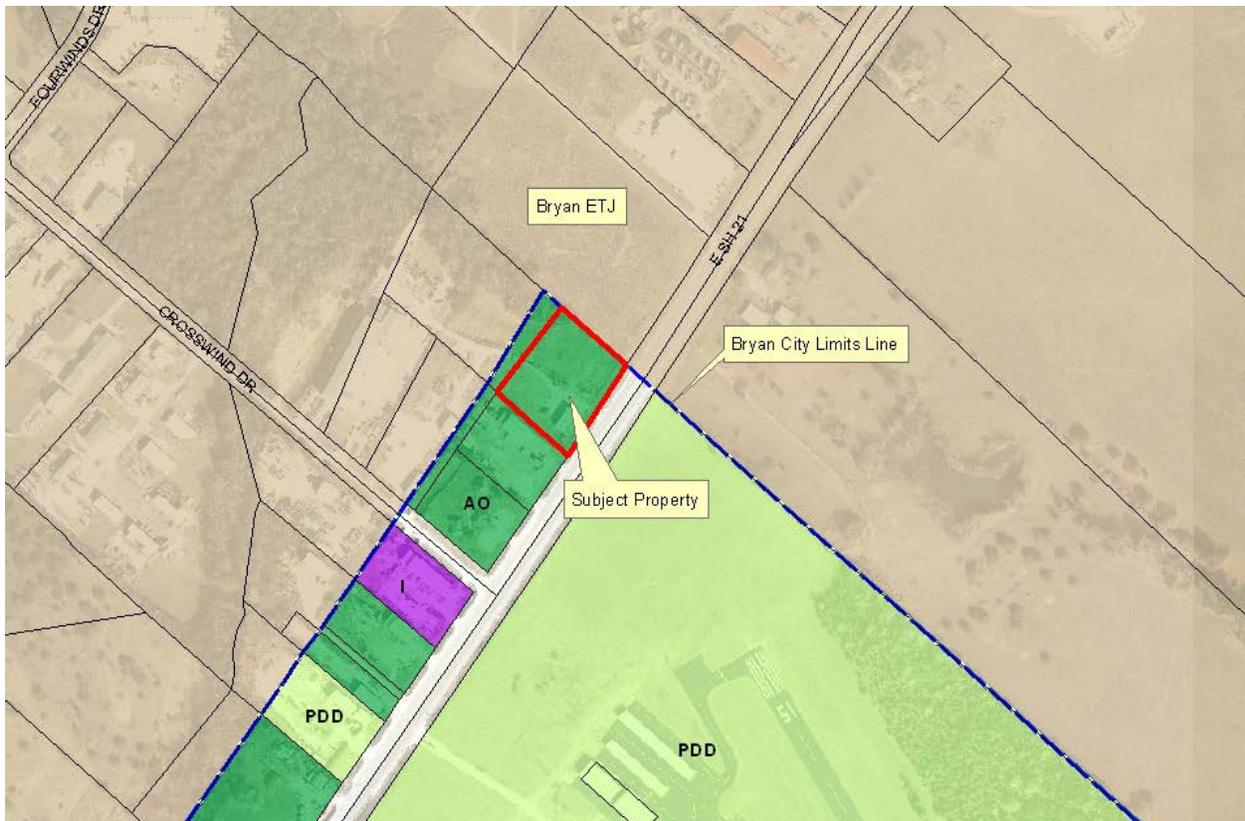
LEGAL DESCRIPTION: portion of Lot 3 on Block 2 of the East Brazos Industrial Park Subdivision - Phase 1

EXISTING LAND USE: vacant commercial building

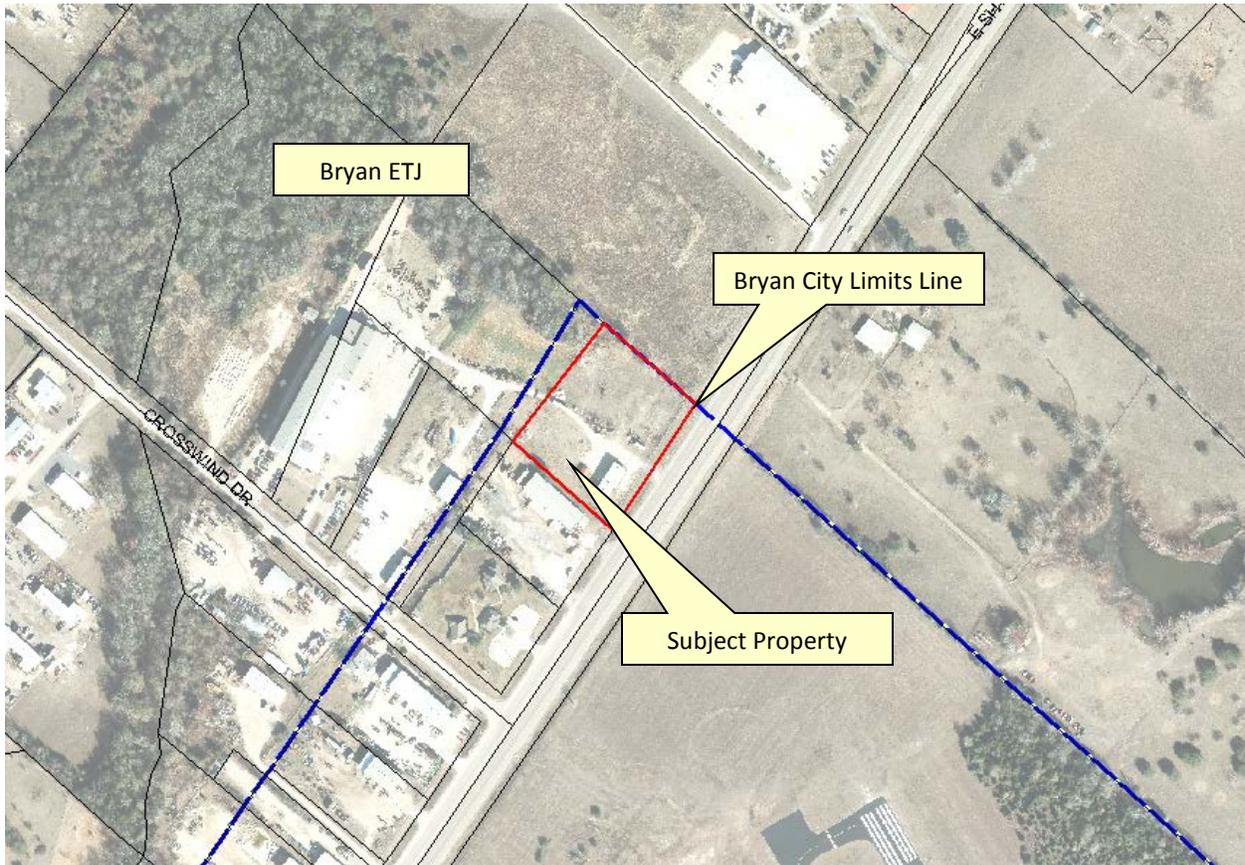
APPLICANT(S): W.L. McCurdy

STAFF CONTACT: Matthew Hilgemeier, Staff Planner

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



AERIAL PHOTOGRAPH (2011):



BACKGROUND:

The subject property is 2.49 acres in size and located approximately 475 feet north of the intersection of East State Highway 21 and Crosswind Drive across from Coulter Airfield. The property was annexed to the City of Bryan in 1999. Upon annexation, the property, which at that time was occupied as an oil and gas field equipment yard, was zoned Agricultural – Open (A-O) District and the land use became a legally nonconforming use. The oil and gas field equipment use was discontinued for more than 12 months several years later, which means that it could no longer be used for oil and gas field services under the property's A-O zoning, which does not allow oil and gas field service uses.

The property owner has recently been approached by several parties interested in using the property for heavy commercial purposes. The applicant, Mr. McCurdy, is requesting to change the zoning on the subject property to C-3 (Commercial) District, which, if approved, would provide opportunities for development of this property with heavy retail and commercial uses of a service nature, including wholesale trade, retail sales, warehousing development, repair and service establishments, as well as heavy and bulk equipment supply dealers.

The A-O zoning classification is intended to provide opportunities for development of low density, detached single-family residences on lots of at least one acre in a suburban or rural setting. This zoning classification is also intended to serve as a holding zone for vacant land areas annexed to the City as well as to protect areas that may be unsuitable for development and to preserve natural open space. It is the function as a holding zone designation that has resulted in the current A-O classification of the subject property.

The area along the State Highway 21 corridor east of North Earl Rudder Freeway has been slowly developing and redeveloping with commercial uses in recent years. A major factor limiting development and redevelopment here has been the unavailability of water supply that provides adequate flow for fire protection and sewer services to the area. Generally these infrastructure extensions are made by private developers and then dedicated to the City for public use. However, to date no private project has been of such a scale as to make these extensions financially feasible. Currently the City of Bryan is funding a capital improvement project for the extension of municipal sanitary sewer lines into the area. Wickson Creek Special Utility District is the water supplier in this area and also provides water service to the subject property.

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.

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.

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. Staff believes that commercial development opportunities at this location will be compatible with nearby commercial and industrial uses in the vicinity.

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.

Highway 21 is capable of accommodating traffic loads typically associated with commercial development. Future growth in this area will require additional public infrastructure in order for orderly development to occur. Staff finds that the proposed change will have no immediate impact on infrastructure needs in the area. A municipal capital improvement project that will provide sanitary sewer in the area is in the planning stages.

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 or 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.

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.

Due to the infrastructure situation, similar development in the area would be unlikely in the short term. Staff contends that a review of existing zoning and the adoption of a corridor plan to guide development when adequate infrastructure is in place would be advisable. Staff contends that areas designated for similar development would not be affected if the proposed zoning amendment is approved.

6. Any other factors affecting health, safety, morals, or general welfare.

Staff is unable to identify additional factors other than those mentioned above that might affect health, safety, morals, or general welfare if this rezoning were approved.

RECOMMENDATION:

Based on all these considerations, staff recommends **approving** the requested zone change to C-3 District on the subject property.