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## Staff Report to the Town of Pendleton Planning Commission Rezoning Request for TMS# 040-13-04-006

- Date of Report:** December 7, 2010
- Report By:** Kristopher Kurjiaka, Town Planner
- Applicant/Owner:** W. Richard McClellion
- Request:** **Rezoning** of .55 acres of property located on Pioneer Road and Hwy 76 that backs up to Laurel Drive (TMS# 040-13-04-006) **from R-1 (Low Density Residential) to AB (Areawide Business).**
- Property Location:** Off of Highway 76 and Pioneer Road behind the abandoned gas station formerly named "El Cheapo"
- Existing Zoning:** R-1 (Low-Density Residential)
- Requested Zoning:** AB (Areawide Business)
- Future Land Use Map:** Low-Density Residential
- Surrounding Zoning & Land Use:**
- Northeast:** Zone: R-1 (Low-Density Residential)  
Land Use: Town of Pendleton Sewage Pump Station
- Northwest:** Zone: R-1 (Low-Density Residential)  
Land Use: Single-Family Detached Residence
- West:** Zone: AB (Areawide Business)  
Land Use: Vacant Commercial Property, Old Palmetto Bank Building
- South:** Zone: R-1 (Low-Density Residential)  
Land Use: Old El Cheapo Gas Station
- East:** Zone: AB (Areawide Business)  
Land Use: Auto Repair Garage and Single Family Detached Residence
- Existing Conditions:** The .55 acre site for which a rezoning is being requested is currently vacant. The property has frontage on Highway 76, Pioneer Road, and Laurel Drive. The southern half of the property is at grade with Pioneer Road, about 10 feet below grade at Hwy 76, and approximately 10-15 above grade at Laurel Drive while the northern half slopes down to the same grade as Laurel Drive. The majority of the property is on the same grade as the El Cheapo vacant gas station.



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## Zoning Considerations:

### SECTION 1207 – AB, AREAWIDE BUSINESS DISTRICT

- 1207.1 Purpose of District: The purpose of this district is to provide for retail and service uses along major streets and highways to serve both the traveling public and local residents.
- 1207.2 Permitted Uses: Within the AB District, a building or premise may be used for the following purposes:
- 1207.2.1 Any use permitted in a NC District.
  - 1207.2.2 Funeral Homes.
  - 1207.2.3 Banks.
  - 1207.2.4 Hotels and motels only where frontage for such uses is on a major thoroughfare of marginal access street.
  - 1207.2.5 Business and professional offices (including doctors).
  - 1207.2.6 Automobile, truck and trailer sales and service and rentals not including automobile salvage or junk yards only where frontage for such is on a state highway.
  - 1207.2.7 Restaurants and other eating establishments, including drive-in and drive through establishments.
  - 1207.2.8 Car wash.
  - 1207.2.9 Boat sales and service.
  - 1207.2.10 Commercial entertainment.
  - 1207.2.11 Building supply sales.
  - 1207.2.12 Bus stations.
  - 1207.2.13 Animal hospital.
  - 1207.2.14 Furniture stores.
  - 1207.2.15 Taxi stands.
  - 1207.2.16 Machinery and implement sales and service.
  - 1207.2.17 Farm and garden supplies.
  - 1207.2.18 Gasoline service stations excluding storage or sale of vehicles, provided:
    - (a) such station shall be so arranged as to require all servicing on the premises and outside the public right-of-way and no gasoline pump or air outlet shall be placed closer than twenty (20) feet to any property line; and
    - (b) activities such as car washing, waxing and polishing, and greasing shall be conducted within thirty (30) feet of building.



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- 1207.2.19 Accessory uses and buildings customarily incidental to any of the above uses.
- 1207.2.20 Signs in accordance with the provisions of Article IX.

1207.3 Yard and Height Requirements:

1207.3.1 Yard Requirements:

1207.3.1.1 Minimum depth of front yards: The minimum depth of front yards shall be thirty-five (35) feet on all major streets and shall be thirty (30) feet on all other streets. Parking areas and service areas may be placed in the required front setbacks, but not closer than six (6) feet from the front property line. When parking or service areas are opposite to a residential district on a street sixty (60) feet wide or less, a planting strip of shrubbery shall be provided in front of the parking or service areas.

1207.3.1.2 Minimum depth of side yards: No side yard setbacks shall be required for buildings used for commercial purposes except when such uses abut residential districts. Required side yards abutting residential districts may be used for parking and service drives up to a required fifteen (15) foot buffer strip. If, however, such commercial use does not abut a residential use and the commercial building is not built on the property line, at least three (3) feet of side yard is required.

1207.3.2 Height Requirements:

Maximum height of all buildings and structures	40 feet, not to exceed three (3) stories
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1207.4 Accessory Buildings: See R-1, Low-Density Residential District for accessory building regulations on properties with residential as the primary use.

**Proposed SECTION 1207 – AB, AREAWIDE BUSINESS DISTRICT**

1207.3 Purpose of District: The purpose of this district is to provide for retail and service uses along major streets and highways to serve both the traveling public and local residents.

1207.4 Permitted Uses: The following uses shall be permitted in any AB District:

- 1207.2.1 Funeral Homes.
- 1207.2.2 Banks and other similar financial institutions.
- 1207.2.3 Hotels and motels.
- 1207.2.4 Business, professional, and medical offices.
- 1207.2.5 Automobile, truck, trailer, and recreational vehicle sales, rentals, and service, excluding salvage or junk.



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- 1207.2.6 Restaurants and other eating establishments, including drive-thru and drive-in establishments and bars.
  - 1207.2.7 Car washes and laundromats.
  - 1207.2.8 Commercial entertainment.
  - 12.7.2.9 Light public transportation stations.
  - 1207.2.10 Veterinarian services and Animal hospitals.
  - 1207.2.11 Convenience stores and vehicle fueling stations excluding storage or sale of vehicles, provided such station shall be so arranged as to require all servicing on the premises and outside the public right-of-way and no gasoline pump or air outlet shall be placed closer than twenty (20) feet to any property line.
  - 1207.2.12 Dry cleaning and laundry establishments.
  - 1207.2.13 Personal service establishments such as salons, barber shops, secretarial services, and interior decorating and similar kinds of activities.
  - 1207.2.14 Retail or wholesale shops and stores.
  - 1207.2.15 Libraries.
  - 1207.2.16 Day nursery facilities, as defined by this Ordinance; provided such uses are licensed by the State.
  - 1207.2.17 Dance schools and fitness centers.
  - 1207.2.18 Accessory uses and buildings customarily incidental to any of the above uses. Accessory uses may include residential if the residential uses are located on or above the second story. The footprint of the space for residential use shall not be greater than that of the primary use(s) for that property.
  - 1207.2.19 Signs in accordance with the provisions of Article IX.
- 1207.3 Yard and Height Requirements:
- 1207.3.2 Yard Requirements:
    - 1207.3.2.1 Minimum depth of front yards: The minimum depth of front yards shall be thirty-five (35) feet on all major streets and shall be thirty (30) feet on all other streets. Parking areas may be placed in the required front setbacks, but not closer than six (6) feet from the front property line. When parking areas are opposite to a residential district on a street right-of-way sixty (60) feet wide or less, a planting strip of shrubbery shall be provided in front of the parking or service areas.
    - 1207.3.2.2 Minimum depth of side yards: No side yard setbacks shall be required for buildings used for commercial purposes except when such uses abut residential districts. Required side yards abutting residential districts may be used for parking and service drives up to a required fifteen (15) foot buffer strip. If,



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however, such commercial use does not abut a residential use and the commercial building is not built on the property line, at least five (5) feet of side yard is required.

- 1207.3.3      Height Requirements:
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| Maximum height of all buildings and structures | 40 feet, not to exceed three (3) stories |
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## SECTION 904 – BUFFER SCREENS

Along certain lot lines within any district, along the boundary lines separating districts, along the Town Limit boundaries of a zoning district, or in conjunction with any potentially-conflicting adjacent land uses, a buffer screen may be required by this Ordinance or by the Zoning Administrator. The purpose of a screen will be to remove or substantially reduce any noise, glares, visual nuisances and/or undesirable effects which a use on a lot might have on an adjacent lot or use.

- 904.1      Buffers Required: Where the rear or side lot line of a lot zoned and used for commercial, industrial, or multi-family purposes abuts the rear or side lot line of a lot zoned for single family residential purposes, the commercial, industrial, or multi-family development shall provide a buffer screen which meets the following requirements:
- 904.2      Type of Screen: A buffer screen may be of three basic types, as listed below, and must be constructed of durable material and designed so as to obscure the contents of the adjacent yard and otherwise reduce or eliminate the undesirable effects of the adjacent use. The screen may either be totally or substantially solid, and shall be constructed of stone, wood, brick, or similar durable material. A dense vegetative buffering may be substituted for all or a portion of such fence or wall, provided that such buffering shall not be unsightly at any season, nor create a fire hazard at any season, and that in all seasons it shall be equivalent in its screening effects to a fence a wall. In all instances, attention shall be given to the provision of screening as an integral part of the entire development and its environs (see Section 808.1.4). Plastic sheeting and panels or corrugated sheet metal shall not be utilized as screening.
- 904.2.1      Visual Screen: To be constructed of suitable material mentioned above, intended to enhance privacy and the aesthetic quality of the living environment.
- 904.2.2      Visual and Acoustic Screen: To be constructed of suitable material mentioned above. Although vegetative buffering is frequently preferred, it shall be approved only if it is a dense-growing evergreen, capable of effecting appropriate noise reduction. The intent of this type screen is to enhance both the visual and acoustic aesthetic qualities of the adjacent site environment.



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- 904.2.3 Visual, Acoustic, and Separation Buffer: To be constructed of suitable material mentioned above as an integral part of a “greenbelt” or other dedicated “barrier zone” of such width and overall design as to provide greater screening than otherwise possible. The intent of this buffer is to provide the maximum in separation from potentially obnoxious land uses, by increasing sound attenuation and visual disturbance more than would be provided by screens alone.
- 904.3 Height of Screen: Unless otherwise approved by the Zoning Administrator (as in the case of screening as part of a Planned Unit Development) all buffer screens must be at least six (6) feet high above the finished grade, or if composed of planted materials, the screen (tight evergreen hedge) must be capable of growing to a height of six (6) feet within a period of two (2) years. Screens constructed of other than planted materials shall not exceed eight (8) feet in height. This requirement notwithstanding, appropriate setback or other modification of screens shall insure that the requirements of Section 901.3 of this Ordinance are upheld.
- 904.4 Maintenance of Screen: The maintenance and repair of a buffer screen is the responsibility of the owner of the property on which it is placed. It must, at all times, be maintained in good condition and be routinely painted, trimmed, and repaired by the owner of the property of his designee. The area surrounding the screen and the lot line should be landscaped and must be kept clear of trash and debris.
- 904.5 Front Yard Requirements: Screens constructed of other than planted materials shall comply with any front yard requirements established for the district in which it is located.

## **Comprehensive Plan Considerations:**

The parcel of land for which the applicant is requesting a rezoning is classified in the Future Land Use Map as “Low Density Residential”.

Goals of the Land Use Section in the Comprehensive Plan are as follows:

1. The Town of Pendleton will guide land use patterns to promote and enhance the village scale and historical character of the community.
2. The Town of Pendleton will establish and implement effective and equitable land use planning tools and criteria to promote an orderly and compatible distribution of land uses.



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## Staff Recommendation:

Staff recommends **APPROVAL** of the rezoning request from R-1 Low Density Residential to AB – Areawide Business District for the following reasons:

1. The property is situated much more similarly to the surrounding commercial properties than the residential properties. The majority of the property is at grade with the former El Cheapo gas station and Pioneer Road and is slightly below grade from Highway 76. Only a very small portion of property is at or near grade with Laurel Drive and the residential portion surrounding it. The greater similarities to the commercial properties than residential properties make the property more fitting as a commercial property. Further, the positioning of the old gas station and sewer pump station make it very unlikely that the property will ever be developed as a residential property.
2. Recent discussions regarding permitted land uses in the Areawide Business District included talk not just about specific land uses to be allowed, but about the very limited amount of viable commercial property that is available in Town. The limited amount of viable commercial property in Town has a direct correlation to the amount of tax revenue that the Town brings in each year. The strained budget in Pendleton and the need for more viable commercial properties make this property an appropriate fit for Areawide Business District designation.
3. A letter that was enclosed with the Planning Commission meeting materials states that the covenants and restrictions have expired for the subdivision that this property had originally been part of. Regardless of their expiration, the covenants and restrictions clearly stated that this lot could be used for “non-residential” purposes, showing that in the initial planning of the subdivision that there were considerations to the property’s possible commercial use.
4. The Future Land Use Map designates the future land use of the property to be “Low Density Residential”. Although rezoning of property is typically only allowed to the designated land use, a rezoning request may also be granted if there were circumstances that had changed since the map was created or if there were circumstances that were not fully considered for a property upon creation of the map. As stated, due to the position of the old gas station and sewer pump station, and also with the grade of the majority of the property being level with the surrounding commercial, this property is unlikely to be developed as residential and is not well suited to be developed in that manner. As stated in the Comprehensive Plan, the Town wants to promote compatible distributions of land uses. Approval of this property for commercial use would promote compatible land uses so far as allowing commercial uses next to established commercial uses. The standards in the Zoning Ordinance for screening, the different grade/elevation levels, and the sewer pump station as a buffer will help to minimize the impacts of the commercial land use adjacent to the existing low density residential neighborhood. Further, the Towns requirements for lighting will help to ensure that lighting of future commercial uses on the property will be contained result in minimal impact to surrounding residences.