

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**ZONING CASE #Z15-23 "B-5" BUSINESS DISTRICT WITH SPECIAL USE PERMIT (SUP) to "B-5" BUSINESS DISTRICT WITH CONDITIONAL USE PERMIT (CUP).**

### ORIGINATING DEPARTMENT

**PLANNING & DEVELOPMENT SERVICES**

### Nature of the Request

Stanley Secrest has submitted this request to rezone 12610 State Highway 195, from "B-5" (Business District) with a Special Use Permit (SUP) to "B-5" (Business District) with a Conditional Use Permit (CUP) to allow for continued use as Killeen Towing and Recovery.

### District Descriptions:

**A building or premises in the "B-5" Business District shall be used only for the following purposes:**

- (1) Any use permitted in the "B-4" district.
- (2) Building material and lumber sales (outside storage permitted).
- (3) Storage warehouse. Less than one hundred thousand (100,000) square feet.
- (4) Newspaper or job printing.
- (5) Railroad or bus passenger terminal.
- (6) Tire recapping or retreading.
- (7) Trailer rental or sales.
- (8) Wholesale house.
- (9) Auto parts sales, used. No outside storage, display or dismantling.
- (10) A customarily incidental use.
- (11) Any commercial use not included in any other district, provided such use is not noxious or offensive because of odors, dust, noise, fumes or vibrations.
- (12) Mobile home sales.
- (13) Sale of beer and/or wine for off-premises consumption only.
- (14) Tattooing (as licensed per Texas Health and Safety Code, chapter 146, as amended).

### Conditional Use Permit

**Purpose.** The purpose of the Conditional Use Permit process is to identify those land uses that may be appropriate within a zoning district but, due to their location, function or operation, could have a harmful impact on adjacent properties or the surrounding area, and to provide a procedure whereby such uses may be permitted by further restricting or conditioning the same so as to mitigate or eliminate such potential adverse impacts. The Conditional Use Permit runs with the land, regardless of ownership, until termination of the permit.

### **Criteria for approval.**

(1) The City Council shall consider the application at the next available meeting scheduled after it has received the final report and recommendation of the Planning and Zoning Commission and a corrected site plan, if applicable. The City Council may approve the application with or without conditions, deny the application, postpone the matter for future consideration, or refer the application back to the Planning and Zoning Commission for further study and recommendation.

(2) Protests shall be received and processed in accordance with Section 31-39(d) of the Killeen Code of Ordinances.

(3) Regardless of whether such conditions have been recommended by the Planning and Zoning Commission, the City Council may establish such conditions of approval as are reasonably necessary to insure compatibility with surrounding uses and to preserve the public health, safety and welfare. Such conditions may include, without limitation, a limited term or duration of the permit; requirements for special yards, lot sizes, open spaces, buffers, fences, walls or screening; requirements for the installation and maintenance of landscaping or erosion control measures; requirements for street improvements, regulation of vehicular ingress or egress and traffic circulation, regulation of signs; regulation of hours or other characteristics of operation; establishment of development schedules for performance or completion; and such other reasonable conditions as the City Council may deem necessary to preserve the health, safety, and welfare of the applicant and the public.

(4) If the application is approved by the City Council, an ordinance authorizing its issuance and setting forth the conditions of approval shall be executed by the Mayor.

(5) No application for a Conditional Use Permit which has failed to be approved by the City Council shall be again considered either by the City Council or the Planning and Zoning Commission before the expiration of one (1) year from the date of the original rejection. City Council's failure to approve an application shall be considered the same as disapproval for purposes of this paragraph.

### **Property Specifics**

**Applicant/Property Owner:** Stanley Secrest

**Property Location:** The property is located along the east right-of-way of State Highway 195 and is addressed as 12610 State Highway 195, Killeen, Texas.

**Legal Description:** Lot 1, Block 1, Centex Scrap and Metal Addition, Killeen, Texas.

### **Zoning/ Plat Case History:**

- This property was last zoned to allow a Special Use Permit (SUP) for an impound yard on September 28, 2010, per Ordinance No. 10-35, for a period of five (5) years.
- The property is platted as Lot 1, Block 1, Centex Scrap and Metal Addition, Phase Two, which was filed for record on October 27, 2010 in Cabinet D, Slide 306A, Plat Records of Bell County, Texas.

## **Character of the Area**

**Existing Land Use(s) on the Property:** The property contains an office building, accessory buildings and enclosed (fenced) parking area on an improved parking surface.

## **Figure 1. Zoning Map**

See Attachment

**Historic Properties:** None

## **Infrastructure and Community Facilities**

### **Water, Sewer and Drainage Services:**

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: The tract lies outside of the City of Killeen's Certificate of Convenience and Necessity (CCN) for public water utility service. Any existing public potable water main that would serve the property is an asset owned by West Bell County Water Supply Corporation (WBCWSC), the current authorized retail water purveyor for this area of Bell County. The exact size and location of the main serving the property is unknown. It is possible that the property owner would be required to either bore below SH-195 to access a transmission main, or to extend a new main along SH-195 to satisfy capacity needs. If the property is required to be platted for the purpose of a development permit, the developer would be required to develop a plan of service to provide adequate domestic and fire flows in accordance with the City of Killeen Code of Ordinances and other applicable development criteria. A permit applicant is solely responsible for, and shall perform and submit the results of all required testing of the public water mains to confirm adequate flow and pressure exists to support any Code-mandated fire protection measures. The City does not have immediate plans to acquire any portion of the WBCWSC CCN that encompasses the property to be re-zoned. The City of Killeen's 2012 Water and Wastewater Master Plan identifies water utility capital improvements along S.H. 195 (south of Chaparral Road) in the 2025-2027 bond project cycle.

Currently, public sanitary sewer utility service is not available to property. The City of Killeen's 2012 Water and Wastewater Master Plan identifies sanitary sewer utility capital improvements along S.H. 195 (south of Chaparral Road) in the 2025-2032 planning horizon. Unless public sanitary sewer utility service is immediately available to the property, any development would be required to be served by an onsite sanitary sewer facility (OSSF) that is designed and constructed in accordance with the state's OSSF regulations, as implemented under the authority of the Bell County Public Health District (BCPHD). Any existing OSSF within the boundary of the property that would serve new development would be required to be re-certified for use by the BCPHD.

### **Transportation:**

Existing conditions: The property abuts State Highway 195, which is classified as a 110' principal arterial on the City's adopted Thoroughfare Plan. The applicant is advised that ingress/egress for S.H. 195 is controlled by the state and will be disciplined by TxDOT's Access Management Policies.

Proposed Improvements: None

Projected Traffic Generation: There will be no increase in traffic as a result of this consideration.

### **Environmental Assessment**

**Regulated Floodplain/Floodway/Creek:** This property is located in a Zone X Special Flood Hazard Area. The soils for the site are classified as follows: The soils for the site are classified as follows: approximately 1.2 acres are Lewisville silty clay with 1 to 3 percent slopes (LeB), and approximately 0.1 acres are Brackett Association with 8 to 12 percent slopes (BRE). LeB is considered prime farmland. However, this parcel is currently commercially developed. There are no known wetlands on this parcel. Unless re-plated the 1993 Drainage Design Criteria requirements will apply to any new development on these parcels.

Currently runoff on this development flows out of the City Limits onto property under the same ownership. The runoff then flows directly into a tributary of Rock Creek before flowing onto City property. The runoff then flows southeast into Rock Creek before entering the Lampasas River. This section of the Lampasas River is not currently listed on the TCEQ's 2012 303(d) water quality list for known impairments. Compliance with the applicable portions of the TPDES Multi-Sector Industrial General Permit regulating storm water discharge from this type of business shall be maintained during the term of the CUP.

### **Land Use Analysis**

**Land Use Plan:** This area is designated as 'Rural' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

**Plan Recommendation:** The 'Rural' character encourages wide open landscapes, with minimal sense of enclosure and views to the horizon unbroken by buildings in most places. retail and service uses, at varying scales and intensities depending on the site.

**Consistency:** The zoning request is consistent with the FLUM of the Comprehensive Plan.

### **Public Notification**

The staff notified three (3) surrounding property owners within a 200' notification boundary regarding this request. Staff has received no protests.

### **Recommendation**

The Planning and Zoning Commission unanimously recommended approval of the requested Conditional Use Permit with the following conditions for the area specifically designated as the impound yard holding pen centered along the eastern lot line within the city limits 145 feet by 65 feet in depth:

1. That the CUP for the impound yard is valid for a period of five (5) years;
2. No salvaging or dismantling is allowed on the premises as part of the CUP; and
3. All existing screening shall remain in place.