



# City of Killeen

## Agenda City Council

---

Tuesday, January 12, 2016

5:00 PM

Killeen City Hall  
City Council Chambers  
101 North College Street  
Killeen, Texas 76541

---

### Call to Order and Roll Call

___ Scott Cospers, Mayor	___ Jim Kilpatrick
___ Jose Segarra	___ Brockley Moore
___ Elizabeth Blackstone	___ Jonathan Okray
___ Shirley Fleming	___ Juan Rivera

### Invocation

### Pledge of Allegiance

### Approval of Agenda

### Minutes

[MN-16-001](#) Consider Minutes of Regular City Council Meeting of December 15, 2015.  
*Attachments:* [Minutes](#)

### Resolutions

[RS-16-001](#) Consider a memorandum/resolution updating authorized representatives for TexPool.  
*Attachments:* [Council Memorandum](#)

[RS-16-002](#) Consider a memorandum/resolution to allow purchase orders to specific vendors to exceed the \$50,000.00 threshold in FY 16 for Fleet Services.  
*Attachments:* [Council Memorandum](#)

[RS-16-003](#) Consider a memorandum/resolution authorizing the submittal of an Assistance to Firefighters Grant application for the Killeen Fire Department.  
*Attachments:* [Council Memorandum](#)

[RS-16-004](#) Consider a memorandum/resolution for the purchase of six (6) heavy trucks for the Solid Waste Division.

**Attachments:** [Council Memorandum](#)  
[Front Loader Quotes](#)  
[Roll-Off Quotes](#)  
[Side Loader Quotes](#)  
[Rear Loader Quote](#)  
[Grapple Quote](#)

## Ordinances

[OR-15-023](#) Consider an ordinance amending Chapter 31 of the Code of Ordinances to align allowable land uses and supplemental standards within the City of Killeen's Zoning Ordinance.

**Attachments:** [Council Memorandum](#)  
[Minutes of Planning and Zoning Meeting](#)  
[Ordinance](#)

[OR-16-001](#) Consider an ordinance to amend the number of authorized civil service positions for the Killeen Fire Department.

**Attachments:** [Council Memorandum](#)  
[Ordinance](#)

[OR-16-002](#) Consider an ordinance ordering the May 2016 General Election for the Mayor and three Council Members-at-Large.

**Attachments:** [Council Memorandum](#)  
[Ordinance](#)

## Public Hearings

[PH-15-060](#) HOLD a public hearing and consider an ordinance by Abdul Khan (Case #Z15-29) to rezone Lot 1, Block 1, Wassay Addition, from "CD" (Cemetery District) with a Conditional Use Permit (CUP) to "CD" (Cemetery District) with a Conditional Use Permit (CUP) for a retail store. The property is locally known as 10752 S. Fort Hood Street, Killeen, Texas. (Requires a 3/4 majority vote for approval.)

**Attachments:** [Council Memorandum](#)  
[Attachment to Council Memorandum](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Location map](#)  
[Buffer map](#)  
[Responses](#)  
[Considerations](#)

[PH-16-001](#) HOLD a public hearing and consider an ordinance amending the FY 2016 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing General Fund revenues by \$894,529 and various General Fund operating expenditure accounts by \$894,529.

**Attachments:** [Council Memorandum](#)

[Ordinance](#)

[Amendment Package](#)

[PH-16-002](#) HOLD a public hearing and consider an ordinance requested by Killeen Engineering & Surveying, Ltd. on behalf of RSBP Developers (Case #Z15-33) to rezone Lots 1-2, Blocks 10 through 13 Bunny Trail Estates, Phase One and Lots 3-19, Block 10 and Lots 3-34, Blocks 11 through 13, Bunny Trail Estates, Phase Two, from "R-1" (Single-family Residential District) to "R-1" (Single-family Residential District) with a Planned Unit Development (PUD) overlay. The properties are bounded by Great Divide Road on the east and Newcastle Drive on the west, Killeen, Texas.

**Attachments:** [Council Memorandum](#)

[Attachment to Council Memorandum](#)

[Ordinance](#)

[Minutes](#)

[Application](#)

[Location Map](#)

[Buffer Map](#)

[Considerations](#)

[PUD Exhibit](#)

[PH-16-003](#) HOLD a public hearing and consider an ordinance requested by Vincent Gerard & Associates Inc. on behalf of DCM&M Automotive Group, L.P. (Case #Z15-34) to rezone a .0574 acre (50 x 50 foot) area out of Lot 1, Block 1 Malibu Tower Addition, from "M-1" (Manufacturing District) to "M-1" (Manufacturing District) with a Conditional Use Permit (CUP) for a 85' tall monopole communication structure. The property is located south of Bacon Ranch Road west of E. Stan Schlueter Loop (FM 3470) and is locally known as 3800 Bacon Ranch Road in Killeen, Texas. (Requires a 3/4 majority vote for approval.)

**Attachments:** [Council Memorandum](#)  
[Attachment to Council Memorandum](#)  
[Ordinance](#)  
[Minutes](#)  
[Application](#)  
[Location Map](#)  
[Buffer Map](#)  
[Considerations](#)  
[CUP Exhibit](#)  
[Response](#)

[PH-16-004](#) HOLD a public hearing and consider an ordinance requested by Killeen Independent School District (KISD) (Case #Z15-35) to rezone approximately 31.234 acres, being part of the Eugene Lasere Survey, Abstract No. 527, from "A" (Agricultural District) to "R-1" (Single-Family Residential District) to allow for a public middle school. The property is located along the east right-of-way of Bunny Trail, approximately 2,960 feet south of W. Stan Schlueter Loop (FM 3470), Killeen, Texas.

**Attachments:** [Council Memorandum](#)  
[Attachment to Council Memorandum](#)  
[Ordinance](#)  
[Minutes](#)  
[Application](#)  
[Location Map](#)  
[Buffer Map](#)  
[Considerations](#)  
[Opposition](#)

## Adjournment

*I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on January 8, 2016.*

---

*Dianna Barker, City Secretary*

*The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting. This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is*

*one that the Open Meetings Act allows to be discussed in a closed session.*

*This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.*

## **Notice of Meetings**

*The Mayor and/or City Council have been invited to attend and/or participate in the following meetings/conferences/events. Although a quorum of the members of the City Council may or may not be available to attend this meeting, this notice is being posted to meet the requirements of the Texas Open Meetings Act and subsequent opinions of the Texas Attorney General's Office.*

- Martin L. King Program, January 13, 2016, 9:30 a.m., Lions Club Park Senior Center*
- Martin L. King Program, January 15, 2016, 10:00 a.m., Bob Gilmore Senior Center*
- Martin L. King Day March and Program, January 18, 2016, 9:00 a.m., Downtown Killeen/Greater Peace Baptist Church*
- City of Killeen Service Awards, January 22, 2016, 2:00 p.m., Killeen Civic and Conference Center*
- Black History Month Reception, February 5, 2016, 5:30 p.m., Greater Peace Baptist Church*
- NAACP Freedom Fund Banquet, March 12, 2016, 7:00 p.m., Killeen Civic and Conference Center*

**Dedicated Service -- Every Day, for Everyone!**



# City of Killeen

## Legislation Details

---

**File #:** MN-16-001    **Version:** 1    **Name:** Minutes of Regular City Council Meeting of December 15, 2015  
**Type:** Minutes    **Status:** Minutes  
**File created:** 12/17/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** Consider Minutes of Regular City Council Meeting of December 15, 2015.  
**Sponsors:** City Secretary  
**Indexes:**  
**Code sections:**  
**Attachments:** [Minutes](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

**City of Killeen**  
Regular City Council Meeting  
Killeen City Hall  
December 15, 2015 at 5:00 p.m.

Presiding: Mayor Scott Cospers

Attending: Mayor Pro-Tem Jose Segarra, Council members, Jim Kilpatrick, Shirley Fleming, Brockley Moore, Jonathan Okray, Juan Rivera and Elizabeth Blackstone

Also attending were City Manager Glenn Morrison, City Attorney Kathryn Davis, Dianne Morrow (for City Secretary, Dianna Barker), and Sergeant-at-Arms Dearing.

Doctor Campbell gave the invocation, and Mayor Cospers led everyone in the pledge of Allegiance.

**Approval of Agenda**

*Motion was made by Mayor Pro-Tem Segarra to approve the agenda as written. Motion seconded by Councilmember Fleming. The motion carried unanimously.*

**Presentations**

**PR-15-004** Presentation - Employee United Way Check  
Hilary Shine presented a check to the Killeen United Way representatives for \$180,312, a total derived from pledges and donations from City of Killeen employees and above what was donated last year.

**Minutes**

*Motion was made by Councilmember Kilpatrick to approve the minutes of the December 8<sup>th</sup> Regular City Council Meeting. Motion was seconded by Councilmember Blackstone. Motion carried unanimously.*

**Resolutions**

**RS-15-098** Consider a memorandum/resolution authorizing the City Manager to execute an Advance Funding Agreement with the Texas Department of Transportation (TxDOT) to construct Segment 4 of the Heritage Oaks Hike and Bike Trail.

**Staff Comments:** Scott Osburn

Mr. Osburn gave an overview of the proposed Heritage Oaks Hike and Bike Trail, Segment 4, project and explained that by entering into an Advance Funding Agreement (AFA) with TxDOT, the City agrees to commit to the project's design, development, implementation, construction, maintenance, management and funding. Staff recommends that the City Council authorize the City Manager to enter into an Advance Funding Agreement with the Texas Department of Transportation for the Transportation Alternatives Program and issue an initial payment in the amount of \$13,242 and subsequent payment in the amount of \$35,202 prior to bid advertising to the Texas Department of Transportation to accept the grant funds and move forward with the project.

*Motion was made by Councilmember Moore to approve RS-15-098. Motion was seconded by Councilmember Rivera. Motion carried 6 to 1 with Councilmember Okray in opposition.*

**RS-15-099** Consider a memorandum/resolution approving a retail concession lease agreement with Bynemns Ltd at the Killeen Fort Hood Regional Airport.

**Staff Comments:** Matthew Van Valkenburgh

Staff has negotiated a concession lease agreement with Bynemns Ltd., d/b/a Bynemns Independent Solutions, for the operation of a retail discount membership business at the Killeen-Fort Hood Regional Airport with a term of January 1, 2016 through September 30, 2016. Staff recommends City Council approve the attached concession lease agreement with Bynemns Ltd. to be effective January 1, 2016 and to authorize the City Manager to execute same.

*Motion was made by Councilmember Rivera to approve RS-15-099. Motion was seconded by Councilmember Fleming. Motion carried unanimously.*

**RS-15-100** Consider a memorandum/resolution for JC Communications to install fiber in select city locations utilizing the current Bell County IT interlocal agreement.

**Staff Comments:** Tom Moore

Staff is seeking approval to utilize the contract with JC Communications to install fiber at selected buildings in the city (Phases 3-5). Staff recommends that the City Council authorize the City Manager to use the JC Communications contract through the Bell County IT interlocal agreement for the completion of Phases 3, 4 and 5 of the City of Killeen fiber project in an amount not to exceed \$184,859.

*Motion was made by Councilmember Fleming to approve RS-15-100. Motion was seconded by Mayor Pro-Tem Segarra. Motion carried unanimously.*

**RS-15-101** Consider a memorandum/resolution awarding Bid No. 16-07 for Onion Road Waterline Improvements Project to Nelson Lewis, Inc.

**Staff Comments:** Steve Kana

Staff reviewed each of the eight bids for conformance with the contract documents and for bid balance. Based upon this evaluation and past work experience, City staff and KPA (Kasberg, Patrick & Assoc.) recommend the award of bid contract to Nelson Lewis, Inc. Staff recommends that the City Council authorize the City Manager to enter into a contract with Nelson Lewis, Inc., in the amount of \$544,250.50 to construct the Onion Road Waterline Improvements Project. City staff also recommends that the City Manager be expressly authorized to execute any and all change orders within the amounts set by state and local law.

*Motion was made by Councilmember Kilpatrick to approve RS-15-101. Motion was seconded by Councilmember Blackstone. Motion carried unanimously.*

**RS-15-102** Consider a memorandum/resolution authorizing the award of a professional services agreement with Pipeline Analysis, LLC, for the Phase 4 Sewer Line Sanitary Sewer Evaluation Survey.

**Staff Comments:** Steve Kana

The TCEQ SSO Initiative Action Plan requires the implementation of Sewer Line SSES Phase 4 in the fourth quarter of 2015. Due to the many benefits gained from the sewer line evaluations in Phases 1-3 of Pipeline Analysis's SSES work, staff recommends that the City Council authorize the City Manager to enter into an agreement with Pipeline

Analysis, LLC., for a professional services agreement to complete Phase 4 of the Sewer Line SSES in the amount of \$369,389.30, and that the City Manager be expressly authorized to execute any and all change orders within the amounts set by state and local law.

*Motion was made by Councilmember Blackstone to approve RS-15-102. Motion was seconded by Councilmember Rivera. Motion carried unanimously.*

**RS-15-103** Consider a memorandum/resolution authorizing a revised contract for the Surface Water Quality Assessment Clean Water Act §319(h) Grant Project.

**Staff Comments:** Scott Osburn

In order to successfully complete the project grant, an agreement was reached between city staff and TIAER (Texas Institute for Applied Environmental Research) to create a new contract to replace the expired contract rather than submit a contract amendment. The proposed contract extends the end-date of the original contract from August 31, 2015, to December 31, 2015, and reduces the work for tasks associated with the City's in-kind services. Staff recommends that the City Council authorize the City Manager to enter into an agreement with TIAER for completion of the Clean Water Act Section 319(h) Grant Project, and that the City Manager is expressly authorized to execute any and all change orders within the amounts set by federal, state and local law.

*Motion made by Councilmember Blackstone to approve RS-15-103. Motion was seconded by Councilmember Kilpatrick. Motion carried unanimously.*

**RS-15-104** Consider a memorandum/resolution authorizing the Killeen Civic and Conference Center to purchase and have installed audio/visual equipment with Onsite AV Service Partners, Inc.

**Staff Comments:** Leslie Hinkle

Staff has identified the need to have the audio/visual equipment replaced as soon as possible at the Killeen Civic and Conference Center due to the age of the equipment and replacement parts are no longer made or available for repairs. Staff has identified Onsite AV Service Partners through the interlocal purchasing system, TIPS/TAPS, to purchase and have installed new equipment in the amount of \$87,475.37. Also, associated with the purchase is a new service agreement that will apply to the new equipment in the amount of \$7,814.37. Staff recommends that City Council authorize the purchase (and installation) of audio/visual equipment along with a service agreement covering the new equipment with Onsite AV Service Partners in the total amount of \$95,289.74 and that the City Manager is expressly authorized to execute any and all change orders within the amounts set by state and local law.

*Motion made by Councilmember Rivera to approve RS-15-104. Motion was seconded by Councilmember Moore. Motion carried unanimously.*

### **Public Hearings**

**PH-15-059** HOLD a public hearing and consider an ordinance requested by LIBSQ II, L.P. (Case #Z15-28) to rezone Lot 10, Block 1, Bellaire Addition Section I, from "R-1" (Single-Family Residential District) to "B-3" (Local Business District). The property is locally known as 908 Jasper Drive, Killeen, Texas.

The substitute City Secretary read the caption of the ordinance.

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO B-3 (LOCAL BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

Staff notified sixteen (16) surrounding property owners within the 200' notification area with only one property owner expressing his concerns. The Planning and Zoning Commission recommends approval of "B-2" (Local Retail District) instead of "B-3" (Local Business District) zoning for this site as the property is located at the corner of a busy signalized intersection and is an appropriate site for low-scale general office and local retail use.

Mayor Cospo opened the public hearing. With no one appearing the public hearing was closed.

*Motion was made by Mayor Pro-Tem Segarra to approve PH-15-059 from R-1 to B2. Motion was seconded by Councilmember Kilpatrick. Motion carried unanimously.*

**PH-15-060** HOLD a public hearing and consider an ordinance by Abdul Khan (Case #Z15-29) to rezone Lot 1, Block 1, Wassay Addition, from "CD" (Cemetery District) with a Conditional Use Permit (CUP) to "CD" (Cemetery District) with a Conditional Use Permit (CUP) for a retail store. The property is locally known as 10752 S. Fort Hood Street, Killeen, Texas.

The substitute City Secretary read the caption of the ordinance.

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM CD (CEMETERY DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP) TO CD (CEMETERY DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

Staff notified three (3) surrounding property owners within a 200' notification boundary and received no protests. The Planning and Zoning Commission recommends CD with a Conditional Use Permit (CUP) with the following conditions: 100% limestone façade on the north side of the building with 80% masonry requirement on the remaining three sides, with no metal siding to be visible. A three foot (3') vegetative hedge is to be installed on the north side and west side and other landscaping requirements as required by the Cemetery District.

Mayor Cospo opened the public hearing.

Josh Welch, 3000 Illinois Av (Suite 100) from W&B Development represents a land owner with land around the zoning application area and spoke in favor of the proposed use but spoke against the zoning request due to lack of controls and restrictions on the property. Mr. Welch provided City Council with a handout of suggested architectural/facade designs to help make an attractive looking area. With no one else appearing the public hearing was closed.

Councilmember Kilpatrick stated that it is extremely important we have the architectural rendering and design to see that the sanctity and dignity of the Texas Veteran's Cemetery must be maintained noting that it is a primary entry into our city.

*Motion was made by Councilmember Blackstone to postpone PH-15-060 to the regular City Council meeting on January 12, 2016. Motion was seconded by Councilmember Kilpatrick. Motion carried unanimously.*

**PH-15-061** HOLD a public hearing and consider an ordinance requested by Steven Swartz and Gerald Nunn (Case #Z15-30) to rezone Lot 1, Block 2, Esposito Addition West from "B-2" (Local Business District) to "R-2" (Two-Family Residential District). The property is locally known as 100 Kings Court, Killeen, Texas.

The substitute City Secretary read the caption of the ordinance.

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-2 (LOCAL RETAIL DISTRICT) TO R-2 (TWO-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FO THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

Staff notified fifteen (15) surrounding property owners within the 200' notification area and received no protests. The Planning and Zoning Commission recommended approval of "R-2" (Two-Family Residential District) zoning for this site.

Mayor Cosper opened the public hearing. With no one appearing the public hearing was closed.

*Motion was made by Mayor Pro-Tem Segarra to approve PH-15-061. Motion was seconded by Councilmember Fleming. Motion carried unanimously.*

**PH-15-062** HOLD a public hearing and consider an ordinance requested by Steven Swartz and Gerald Nunn (Case #Z15-31) to rezone Lot 1, Block 1, Esposito Addition West from "B-2" (Local Retail District) to "R-2" (Two-Family Residential District). The property is locally known as 101 Kings Court, Killeen, Texas.

The substitute City Secretary read the caption of the ordinance.

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-2 (LOCAL RETAIL DISTRICT) TO R-2 (TWO-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

Staff notified thirteen (13) surrounding property owners within the 200' notification area and received no protests. The Planning and Zoning Commission recommended approval of "R-2" (Two-Family Residential District) zoning for this site.

Mayor Cosper opened the public hearing. With no one appearing the public hearing was closed.

*Motion was made by Councilmember Okray to approve PH-15-062. Motion was seconded by Councilmember Fleming. Motion carried unanimously.*

### **Adjournment**

With no further business, upon motion being made by Mayor Pro-Tem Segarra, seconded by Councilmember Okray, and unanimously approved, the meeting was adjourned at 5:50 p.m.



# City of Killeen

## Legislation Details

---

**File #:** RS-16-001    **Version:** 1    **Name:** Update TexPool Account Representatives  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 12/1/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** Consider a memorandum/resolution updating authorized representatives for TexPool.  
**Sponsors:** Finance Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		





# City of Killeen

## Legislation Details

---

**File #:** RS-16-002    **Version:** 1    **Name:** Fleet Services FY 2016 Parts and Services Vendors Exceeding 50K  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 12/3/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** Consider a memorandum/resolution to allow purchase orders to specific vendors to exceed the \$50,000.00 threshold in FY 16 for Fleet Services.  
**Sponsors:** Support Services Department, Fleet Services  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

Fleet Services purchasing limits

### ORIGINATING DEPARTMENT

Support Services

### BACKGROUND INFORMATION

Unless specifically exempted under Texas Local Government Code 252.022, staff is required to comply with competitive procurement processes for expenditures over \$50,000. The exemptions, however, facilitate Fleet Services maintenance operations by including single-source providers, captive replacement parts or components for equipment, and purchases due to unforeseen damage to public machinery, equipment, or other property.

Fleet Services leverages the City of Killeen procurement card program (P-cards) to purchase parts and supplies and facilitate timely equipment maintenance and repairs. Since 2013, some suppliers have incrementally approached the \$50,000 threshold and maintenance operations were then disrupted until city council approval was secured to exceed the threshold. Negative impacts included outsourcing of maintenance support to other organizations in Central Texas, disruption of city department operations, increased non-mission capable times for mission critical city vehicles, and extended travel times for Fleet Services staff.

Fleet Services also leverages the P-card program to reduce administrative costs for small purchases by eliminating the need for multiple requisitions and purchase orders. Expenditures however can exceed the projected amount per vendor based on required services and repairs during each fiscal year.

### DISCUSSION/CONCLUSION

Staff requests approval, in advance, to exceed the \$50,000 threshold with the following vendors in FY16. As granted by council in FY15, prior approval aligns with LGC provisions and facilitates timely and resource-efficient equipment maintenance and the uninterrupted support of local vendors. FY14 and FY15 vendor totals are included below.

C & C Collision Center, Waco. Body work and repairs to emergency vehicles; one of the few shops in Central Texas certified to do so. Provides heavy structural and/or truck alignments since Fleet Services does not have that capability. Two other local companies provide back-up support: Kyrish and Mid-Tex Frame & Axle/Truck & Trailer.

- FY14 - \$59,393
- FY15 - \$65,890

Calabama, Killeen. Hydraulic repairs/rebuilds, diagnosis and parts as they are the most qualified shop in this area. Backup support is provided by Quality Hydraulics in Gatesville and Texas Hydraulics in Round Rock.

- FY14 - \$59,320
- FY15 - \$75,172

D & D Paint and Body, Killeen. Paint and body repairs on light duty vehicles. Demonstrates excellent quality and quick turn-around and consistently performs at the lowest cost.

- FY14 - \$49,618
- FY15 - \$59,591

Danny's Transmission, Killeen. Transmission repairs to light and medium duty vehicles. Provides excellent service and quick turn-around times.

- FY14 - \$45,679
- FY15 - \$48,439

Stepp Equipment, Garland. After-market parts supplier of heavy duty truck parts for manufacturers such as Heil, McNeilis, and Tymco. Historically provides "one-stop shopping" and many times at half the cost of the original equipment manufacturer (OEM).

- FY15 - \$86,302

Heil of Texas, Irving. OEM parts for the majority of our Solid Waste fleet as there are very few after-market suppliers for their type of equipment.

- FY14 - \$46,096
- FY15 - \$23,253

Longhorn International, Temple. Major repairs to International vehicles when Fleet Services does not have the equipment or personnel to do so. They are the closest certified International truck repair facility.

- FY14 - \$49,901
- FY 15 - \$85,963

O'Reilly Auto Parts, Killeen. General auto parts purchases and quarterly technician training. They are one of several general auto parts stores in the Killeen area and are the closest to Fleet Services. Consistently provides exceptional service on a wide variety of parts and tools.

- FY14 - \$54,526
- FY15 - \$83,270

The Parts Depot, Temple. OEM parts such as Motorcraft (Ford) and AC Delco (Chevy) when required. Historically less expensive than purchasing directly from the dealer.

- FY14 - \$46,871
- FY15 - \$39,654

Rush Truck Center, Waco. OEM parts and service, it is the nearest certified Peterbilt repair facility. Due to proprietary diagnostic software, occasionally our heavy trucks have to be taken to the dealer to diagnose specific trouble codes. There are also many parts that are not supplied by after-market vendors and therefore have to be purchased directly from the Peterbilt dealer.

- FY14 - \$67,673
- FY15 - \$75,622

Leif Johnson Ford, Austin. OEM Ford parts. LJF appears to be the main parts hub for this region as they most always have the needed part in stock when the local vendors do not. They also deliver twice per day to the Killeen area. Used when local vendors are unable to supply the required item.

- FY14 - \$40,211
- FY15 - \$53,897

Industrial Transmission, Waco. Heavy truck transmission repair; it is the nearest certified Allison Transmission repair facility. Performs major repairs to vehicles when Fleet Services does not have the equipment or personnel to do so.

- FY15 - \$54,480

### **FISCAL IMPACT**

Funding is available within the FY2016 budget, and there is no projected budget increase.

### **RECOMMENDATION**

Recommend the City Council authorize staff to exceed the \$50,000 threshold in FY2016 with the stated vendors as required.



# City of Killeen

## Legislation Details

---

**File #:** RS-16-003    **Version:** 1    **Name:** Assistance to Firefighters Grant  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 12/18/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** Consider a memorandum/resolution authorizing the submittal of an Assistance to Firefighters Grant application for the Killeen Fire Department.  
**Sponsors:** Fire Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Assistance to Firefighters Grant Application for Killeen Fire Department operations and safety equipment**

### ORIGINATING DEPARTMENT

**Fire**

### BACKGROUND INFORMATION

The Assistance to Firefighting Grant (AFG) program administered by the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA)/Grant Programs Directorate (GPD), is a competitive grant program that was created to provide funding directly to fire departments for critically needed resources to equip and train emergency personnel to recognized standards, enhance operational efficiencies, foster interoperability, and support community resilience. Eligible applicants for AFG include Fire Departments, Nonaffiliated EMS organizations, and State Fire Training Academies operating in any of the 50 states and territories. A total of \$306.0 million has been appropriated for the 2015 AFG program with a projected number of awards to be 2,500.

The City of Killeen Fire Department is eligible to apply for the AFG funding under the following three areas of activities: Operations and Safety, Vehicle Acquisition and Regional Projects. The Killeen Fire Department will apply for two (2) AeroClave Decontamination Systems, replacement radios with accessories, a MagneGrip Exhaust Removal System and replacement SCBA (Self Contained Breathing Apparatus) equipment, all of which falls under the Operations and Safety section. The primary goal of the AFG is to meet the firefighting and emergency response needs of fire departments and nonaffiliated emergency medical service organizations. The maximum award for the 2015 AFG is no more than \$2 million based on the population of the jurisdiction served by the recipient.

Grantees are required to have non-federal funds available in an amount equal to and not less than 10 percent of the grant awarded. The total cost of all equipment to be applied for on the AFG application is \$1,936,168. If selected for the AFG award, grantees will be required to adhere to all terms and conditions of the award.

The deadline for the receipt of the AFG applications is 5:00 p.m. eastern daylight time on January 15, 2016. The department of Homeland Security will begin award announcements in March 2016.

### DISCUSSION/CONCLUSION

The City of Killeen and Fire Department are in a rapid growth pattern, both in population and geographic area served. Along with this growth are National Fire Protection Standards (NFPA), National Radio Communication Standards (P-25), and Emergency Medical Standards that require upgraded equipment to be safe and compliant. By applying for replacement and new equipment, the Killeen Fire Department would meet any necessary regulated standards and stay up with technology to improve the effectiveness and efficiency of service to the citizens of

Killeen while fulfilling the City's 2030 vision plan. All four types of equipment mentioned in the background section to be applied for are categorized as high priority according to the AFG's guidelines. The Assistance to Firefighting Grant (AFG) program requires cost share of non-federal funds in an amount equal to and not less than 10 percent of the grant awarded when serving a jurisdiction of more than 20,000 residents, but not more than 1,000,000.

## **FISCAL IMPACT**

The total cost of all equipment to be submitted on the 2015 AFG applications is \$1,936,168. Based on this total, the cost share of non-federal funds in an amount equal to and not less than 10 percent would be \$193,617.

Based on the above information, the following chart shows the cost breakdown for each area of activity to be applied for on the 2015 AFG and the 10 percent cost share the City would be responsible for.

Item	Federal Share	Local Share	Total Cost
AeroClave Decontamination Systems	\$29,187	\$3,243	\$32,430
Replacement Radios with Accessories	\$897,021	\$99,669	\$996,690
MagneGrip Exhaust Removal System	\$61,200	\$6,800	\$68,000
Replacement Self Contained Breathing Apparatus Equipment	\$755,143	\$83,905	\$839,048
<b>TOTAL:</b>	<b>\$1,742,551</b>	<b>\$193,617</b>	<b>\$1,936,168</b>

## **RECOMMENDATION**

Staff recommends that the City Council approve this resolution displaying its support for an Assistance to Firefighters Grant application, acknowledges its commitment under the grant agreements, and that appropriate financial support will be secured for the Killeen Fire Department's cost-sharing obligations over the grant performance period.



# City of Killeen

## Legislation Details

---

**File #:** RS-16-004    **Version:** 1    **Name:** Procurement of Solid Waste Heavy Trucks for FY16  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 12/21/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** Consider a memorandum/resolution for the purchase of six (6) heavy trucks for the Solid Waste Division.  
**Sponsors:** Solid Waste, Fleet Services  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Front Loader Quotes](#)  
[Roll-Off Quotes](#)  
[Side Loader Quotes](#)  
[Rear Loader Quote](#)  
[Grapple Quote](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

**AGENDA ITEM**

**Purchase of Six (6) Solid Waste Vehicles**

**ORIGINATING DEPARTMENT**

**Public Works - Solid Waste / Fleet Services**

**BACKGROUND INFORMATION**

Funding for the acquisition of new vehicles for the Solid Waste fleet was approved as part of the City's FY2016 budget process. The Solid Waste Division will utilize these vehicles in support of transfer station and commercial and residential operations to replace existing vehicles that have exceeded their useful life. Of the six (6) vehicles requested, one (1) will be a commercial front-loader, one (1) will be a transfer station roll-off, two (2) will be residential side-loaders, one (1) will be a residential rear-loader, and one (1) will be a residential grapple truck.

**DISCUSSION/CONCLUSION**

The 2014 Solid Waste Master Plan and Rate Study conducted by SCS Engineers recommended a fleet replacement program (FRP) that would sustain the Solid Waste fleet while reducing maintenance and acquisition costs. This logic was also supported by Utilimarc, the outside firm assisting with the City's FRP, where their data recommended investing \$1.4 million per year in the Solid Waste fleet to achieve the highest overall equipment value.

To begin the program, ten (10) heavy trucks were purchased in FY2015. To continue the program and maximize the City's investment by operating at the least cost of ownership, six (6) heavy trucks are required in FY2016. The purchase of these vehicles will be accomplished through HGAC and BuyBoard-authorized co-op vendors per Texas Local Government Code, Section 271.102, which satisfies competitive bid requirements.

The following vehicles are requested and needed at this time:

**One (1) Front Loader Truck**

<b>Vendor</b>	<b>Make/Model</b>	<b>Co-op</b>	<b>Cost Ea.</b>	<b>Total</b>
Chastang	2016 AutoCar ACX64 with	HGAC	\$160,493	\$160,493
Heil	28 Yd Dura Pack Body	BuyBoard	\$112,356	\$112,356
			<b>TOTAL</b>	<b>\$272,849</b>

**One (1) Roll-Off Truck**

<b>Vendor</b>	<b>Make/Model</b>	<b>Co-op</b>	<b>Cost Ea.</b>	<b>Total</b>
Chastang	2016 AutoCar ACX64 with	HGAC	\$160,409	\$160,409
Heil	24' Kwik Lift Body	BuyBoard	\$54,640	\$ 54,640
			<b>TOTAL</b>	<b>\$215,049</b>

**Two (2) Side-Loader Trucks**

Vendor	Make/Model	Co-op	Cost Ea.	Total
Chastang	2016 AutoCar ACX64 with	HGAC	\$160,207	\$320,414
Heil	28 Yd Dura Pack Python Body	BuyBoard	\$127,739	\$255,478
			<b>TOTAL</b>	<b>\$575,892</b>

**One (1) Rear-Loader Truck**

Vendor	Make/Model	Co-op	Cost Ea.	Total
Freightliner	2016 Freightliner M2106 with	BuyBoard	\$88,516	\$ 88,516
Heil	25 Yd High-Compaction Body	BuyBoard	\$85,955	\$ 85,955
			<b>TOTAL</b>	<b>\$174,471</b>

**One (1) Grapple Truck**

Vendor	Make/Model	Co-op	Cost Ea.	Total
Freightliner	2017 Freightliner M2106 with	BuyBoard	\$74,306	\$74,306
Heil	30 Yd Lightning Loader Body	BuyBoard	\$67,532	\$67,532
			<b>TOTAL</b>	<b>\$141,838</b>

		<b>GRAND TOTAL</b>	<b>\$1,380,099</b>
--	--	--------------------	--------------------

**FISCAL IMPACT**

FY2016 funds were budgeted to initiate these purchases in three Solid Waste accounts: \$272,849.00 from the SW Commercial account #540-3465-439.61-10; \$215,049.00 from the SW Transfer Station account #540-3475-439.61-10 and \$ 892,201.00 from the SW Residential account #540-3460-439.61-10.

**RECOMMENDATION**

Staff recommends purchase of the six (6) trucks utilizing the HGAC and BuyBoard Purchasing Cooperatives and that the City Manager be expressly authorized to execute any and all change orders within the amounts set by state and local law.



**CONTRACT PRICING WORKSHEET**  
For MOTOR VEHICLES Only

Contract No.: HT06-14

Date Prepared: 12/22/2015

**This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.**

Buying Agency:	City of Killeen	Contractor:	Chastang Enterprises dba Chastang Ford / Autocar
Contact Person:	Frank Tydlacka	Prepared By:	John Chastang
Phone:	254-501-7789	Phone:	713-678-5042
Fax:		Fax:	713-678-5001
Email:	fydlacka@killeentexas.gov	Email:	jchastang@chastangford.com
Product Code:	A3	Description:	2016 Autocar ACX64 suitable for a front loader refuse body

**A. Product Item Base Unit Price Per Contractor's H-GAC Contract:** 102486

**B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.**  
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
180 amp alternator 10019	366	Integral air conditioning 10101	725
Aux front load cushions 10037	446	5 Year Cummins engine warranty 10121	2850
Fuel water seperator 10011	287	Refuse vocational frame prep 10077	1438
2-spd engine fan 10013	475	5 Year transmission warranty 10118	1250
Donaldson air intake pre-cleaner 10015	378	Front pto adapter 10039	1188
5 Year exhaust aftertreatment warranty 10119	2850	Dual power windows 10087	866
ISX 350Hp diesel engine 10007	12206	44,000 # Rear axle 10052	1440
Synthetic rear axle lube 10045	424	Body integration control panel 10105	874
Frame overhang over 56" 10062	550	90 Days floorplan 10099	4140
Non default wheelbase 10073	1748	Allison 4500 5-spd transmission 10026	8950
.25" Frame reinforcement 10074	1688	<b>Subtotal From Additional Sheet(s):</b>	0
46,000 # Rear suspension 10057	4330	<b>Subtotal B:</b>	49469

**C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.**  
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
6-spd transmission in lieu of 5 spd	6238	Front cab guard	1275
2 Spare tires & wheels (1 front & 1 rear) & eng filters	2600	<b>Subtotal From Additional Sheet(s):</b>	0
Trans pto clearance option in lieu of FEPTO adapter	-175	<b>Subtotal C:</b>	9938

**Check:** Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 7%

**D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)**

Quantity Ordered:	1	X Subtotal of A + B + C:	161893	=	Subtotal D:	161893
-------------------	---	--------------------------	--------	---	-------------	--------

**E. H-GAC Order Processing Charge (Amount Per Current Policy)** Subtotal E: 600

**F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges**

Description	Cost	Description	Cost
		Discount for customer to pay for chassis when shipped to body company (\$2000. each)	-2000
		<b>Subtotal F:</b>	-2000

**Delivery Date:** 90-120 days to body co. **G. Total Purchase Price (D+E+F):** 160493

# TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE

## BUYBOARD

### PRODUCT PRICING BASED ON CONTRACT

Date 11-4-15

Customer: CITY OF KILLEEN, TX.  
 Product Description: REFUSE HEIL 23YD DURA PACK HALF PACK

A: Base Price in Bid/Proposal Number #425-13 Series \_\_\_\_\_ => #24 \$ 107,344.00

#### B: Published Options [Itemize each item below]

STREETWISE HYDRAULICS	INC	HOPPER FLOOR LINER 3/16 AR400	\$ 1,727.00
JOYSTICK CONTROLS W/ARMREST	INC	SEVERE DUTY WEAR BAR KIT	INC
CORTEX CONTROLLER W InSight	INC	3" SUMP DRAIN STREET & CURB SIDE	INC
HOT SHIFT PTO SINGLE VANE PEUM	\$ 3,588.00	HOPPER FLOOD LIGHT	INC
SMART LIGHT PKG. W LED STROBES	\$ 485.00	20IB FIRE EXTINGUISHER W BRACKET	INC
3RD EYE DUBLE 2 CAMERA SYSTEM	\$ -	SHOVEL KIT ON BACK OF PACKER	INC
W/SD RECORDING COLOR MONITOF	\$ 3,767.00	BODY UNDERCOATING	INC
THROTTLE LIMIT KIT	\$ 405.00	1 YEAR WARRANTY	INC
STROBE LIGHT ON TAILGATE	INC	FRONT AND REAR MUD GAURDS	INC
REAR CAUTION DECAL	\$ 265.00	4 ARM SHAFT BEARING SUPPORTS	INC

Subtotal Column 1: \$8,510.00 Subtotal Column 2: \$ 1,727.00

Published Options added to Base Price (Subtotal of "Col 1" + "Col 2") \$ 10,237.00

C: Subtotal of A + B => \$ 117,581.00

#### D: published Options (Itemize each item below, Not published = \_\_\_\_\_)

DESTINATION CHG.	\$ 2,000.00	UPGRADE TO 28 YD. BODY	\$ 595.00
		ROOF ACCESS LADDER	\$ 1,295.00
BODY SIDE LED BACKING ASSIST	\$ -		
LIGHT PACKAGE	\$ 485.00		
REAR CAMERA BRACKET W/FLOODS	INC		

Subtotal Column 1: \$ 2,485.00 Subtotal Column 2: \$1,890.00

Unpublished Options added to Base Price (Subtotal of "Col 1" + "Col 2") \$ 4,375.00

E: Contract Pride Adjustment {If any, explain here} \$ - \$ (10,000.00)

F: Total of C + D + E \$ 111,956.00

G: Quantity Ordered {Units x F} => # of Units 1 \$ 111,956.00

H: BUYBOARD Fee {From Fee Schedules, Table: \_\_\_\_\_} \$ 400.00

#### I: Non-Equipment Charges & Credits (ie: Ext. Warranty, Trade-In, Cost of Factory trips, etc.)

	\$ -
	\$ -

Subtotal of Non-Equipment Charges

J: TOTAL PURCHASE PRICE INCLUDING {G + H + I} => \$ 112,356.00

PRICING GOOD THROUGH 1-29-16

1440 S. Loop 12  
 Irving, TX 75060  
 www.heiloftexas.com

Trey Stamps  
 Heil of Texas  
 972-438-6488  
 please fax PO to 800 211 5454

12/23/2015



**CONTRACT PRICING WORKSHEET**  
For MOTOR VEHICLES Only

Contract No.: HT06-14

Date Prepared: 12/22/2015

**This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.**

Buying Agency:	City of Killeen	Contractor:	Chastang Enterprises dba Chastang Ford / Autocar
Contact Person:	Frank Tydlacka	Prepared By:	John Chastang
Phone:	254-501-7789	Phone:	713-678-5042
Fax:		Fax:	713-678-5001
Email:	<a href="mailto:ftydlacka@killeentexas.gov">ftydlacka@killeentexas.gov</a>	Email:	<a href="mailto:jchastang@chastangford.com">jchastang@chastangford.com</a>

Product Code:	A3	Description:	2016 Autocar ACX64 suitable for a roll-off hoist body
---------------	----	--------------	---

**A. Product Item Base Unit Price Per Contractor's H-GAC Contract:** 102486

**B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.**  
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
180 amp alternator 10019	366	Integral air conditioning 10101	725
Aux front load cushions 10037	446	5 Year Cummins engine warranty 10121	2850
Exterior sunvisor 10088	1154	Refuse vocational frame prep 10077	1438
2-spd engine fan 10013	475	5 Year transmission warranty 10118	1250
Donaldson air intake pre-cleaner 10015	378	22,000 # Front suspension 10036	687
5 Year exhaust aftertreatment warranty 10119	2850	Dual power windows 10087	866
ISX 350Hp diesel engine 10007	12206	44,000 # Rear axle 10052	1440
Synthetic rear axle lube 10045	424	Body integration control panel 10105	874
Frame overhang over 56" 10062	550	90 Days floorplan 10099	4140
Non default wheelbase 10073	1748	Allison 4500 5-spd transmission 10026	8950
.25" Frame reinforcement 10074	1688	<b>Subtotal From Additional Sheet(s):</b>	0
46,000 # Rear suspension 10057	4330	<b>Subtotal B:</b>	49835

**C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.**  
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
6-spd transmission in lieu of 5 spd	6238	Transmission mounted pro clearance prep (incl. dash switch)	550
2 Spare tires & wheels (1 front & 1 rear)	2250	<b>Subtotal From Additional Sheet(s):</b>	0
Spare engine filters & secondary transportation	1050	<b>Subtotal C:</b>	10088

**Check:** Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 7%

**D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C):**

Quantity Ordered:	1	X Subtotal of A + B + C:	162409	=	Subtotal D:	162409
-------------------	---	--------------------------	--------	---	-------------	--------

**E. H-GAC Order Processing Charge (Amount Per Current Policy) Customer to issue 1 PO. Fee on front loader** Subtotal E: 0

**F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges**

Description	Cost	Description	Cost
		Discount for customer to pay for chassis when shipped to body company (\$2,000. each)	-2000
		<b>Subtotal F:</b>	-2000

**Delivery Date:** 120 days to body co. **G. Total Purchase Price (D+E+F):** 160409

# TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE

## BUYBOARD

### PRODUCT PRICING BASED ON CONTRACT

Date 10-30-15

Customer: CITY OF KILLEEN  
 Product Description: REFUSE HEIL 24' KWIK LIFT CABLE HOIST ROLL OFF HOIST  
 A: Base Price in Bid/Proposal Number # 425-13 Series 24 => \$ 31,680.00

B: Published Options [Itemize each item below]

Item	Change	Item	Change
1 YEAR COMPLETE WARRANTY	INC	60,000# CAPACITY	INC
HOT SHIFT PTO FOR AUTOMATIC TRANSMISSION. PUMP INCLUDED	\$ 3,980.00	DESTINATION CHARGE	\$ 2,500.00
POLY TOOL BOX	\$ 615.00	2 WORK LIGHTS ON REAR FENDERS	\$ 355.00
20 LB. FIRE EXTINGUISHER WITH BRACKET AND COVER	\$ 465.00	STEEL DIAMOND PLATE FENDERS	\$ 1,500.00
EXTRA SET OF RATCHET STRAPS IN CAB LEVER CONTROL	\$ 265.00	O'BRIAN DIABLO AUTO TARPER	\$13,280.00
LED LIGHT PKG.	INC	7/8" CABLE 28' LONG ONLY!	\$ -
7 MICRON FULL FLOW FILTER	INC	ONE TELESCOPIC CYLINDER	
		10" OF CABLE BEYOND REAR HOIST	
		PREMIUM HOIST FRAME BOLTED TO CHASSIS FRAME, NOT WELDED	\$ -
			INC
Subtotal Column 1:	\$ 5,325.00	Subtotal Column 2:	\$17,635.00

Published Options added to Base Price (Subtotal of "Col 1" + "Col 2") \$ 22,960.00

C: Subtotal of A + B => \$ 54,640.00

D: Unpublished Options {Itemize each item below, Not to exceed ± 25% of Unpublished = %}

Item	Change	Item	Change
	\$ -		\$ -
			\$ -
			\$ -
	\$ -		\$ -
	\$ -		\$ -
Subtotal Column 1:		Subtotal Column 2:	\$ -

Unpublished Options added to Base Price (Subtotal of "Col 1" + "Col 2")

E: Contract Pride Adjustment {If any, explain here} \$ -

F: Total of C + D + E {Not including Fee} => \$ 54,640.00

G: Quantity Ordered {Units x F} => # of Units 1 \$ 54,640.00

H: BUYBOARD Fee {From Fee Schedules, Table: \_\_\_\_\_ => @ \_\_\_\_\_ %}

I: Non-Equipment Charges & Credits {ie: Ext. Warranty, Trade-In, Cost of Factory trips, etc.}

	\$ -
	\$ -
<b>Subtotal of Non-Equipment Charges</b>	<b>\$ -</b>

J: TOTAL PURCHASE PRICE INCLUDING {G + H + I} => \$ 54,640.00

PRICING GOOD THROUGH 1-29-16

300 S. Loop 12  
 Irving, TX 75060  
 www.heiloftexas.com

Trey Stamps  
 Heil of Texas  
 972-438-6488  
 please fax PO to 800 211 5454

12/23/2015



**CONTRACT PRICING WORKSHEET**  
For MOTOR VEHICLES Only

Contract No.: HT06-14

Date Prepared: 12/22/2015

**This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.**

Buying Agency:	City of Killeen	Contractor:	Chastang Enterprises dba Chastang Ford / Autocar
Contact Person:	Frank Tydlacka	Prepared By:	John Chastang
Phone:	254-501-7789	Phone:	713-678-5042
Fax:		Fax:	713-678-5001
Email:	<a href="mailto:ftydlacka@killeentexas.gov">ftydlacka@killeentexas.gov</a>	Email:	<a href="mailto:jinchastang@chastangford.com">jinchastang@chastangford.com</a>

Product Code:	A3	Description:	2016 Autocar ACX64 suitable for an automated side loader
---------------	----	--------------	--

**A. Product Item Base Unit Price Per Contractor's H-GAC Contract:** 102486

**B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.**  
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
180 amp alternator 10019	366	Integral air conditioning 10101	725
L.H. vertical exhaust 10017	749	5 Year Cummins engine warranty 10121	2850
Fuel water seperator 10011	287	Refuse vocational frame prep 10077	1438
2-spd engine fan 10013	475	AM/FM CD stereo 10108	239
Right hand drive cab 10102	4987	Front pto adapter 10039	1188
5 Year exhaust aftertreatment warranty 10119	2850	Exterior sunvisor 10088	1154
ISX 350Hp diesel engine 10007	12206	44,000 # Rear axle 10052	1440
Synthetic rear axle lube 10045	424	Body integration control panel 10105	874
Frame overhang over 56" 10062	550	90 Days floorplan 10099	4140
Non default wheelbase 10073	1748	Allison 4500 5-spd transmission 10026	8950
25" Frame reinforcement 10074	1688	<b>Subtotal From Additional Sheet(s):</b>	0
46,000 # Rear suspension 10057	4330	<b>Subtotal B:</b>	53658

**C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.**  
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
6-spd transmission in lieu of 5 spd	6238		
Trans pto clearance option in lieu of FEPTO adapter	-175	<b>Subtotal From Additional Sheet(s):</b>	0
		<b>Subtotal C:</b>	6063

**Check:** Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 4%

**D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)**

Quantity Ordered:	2	X Subtotal of A + B + C:	162207	=	Subtotal D:	324414
-------------------	---	--------------------------	--------	---	-------------	--------

**E. H-GAC Order Processing Charge (Amount Per Current Policy). Customer to issue 1 PO. Fee on front loader** Subtotal E: 0

**F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges**

Description	Cost	Description	Cost
		Discount for customer to pay for chassis when shipped to body company (\$2,000. each)	-4000
		<b>Subtotal F:</b>	-4000

**Delivery Date:** 120 days to body co. **G. Total Purchase Price (D+E+F):** 320414

# TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE

## BUYBOARD

### PRODUCT PRICING BASED ON CONTRACT

Date 11-4-15

Customer: CITY OF KILLEEN TX.  
 Product Description: REFUSE HEIL 28 YD. DURA PACK PYTHON  
 AUTOMATED SIDE LOADER  
 A: Base Price in Bid/Proposal Number #425-13 Series # 23 => \$ 118,850.00

B: Published Options [Itemize each item below]

JOTSICK CONTROLS	INC	890 Hot shift pto w/ tandem vane pump	\$ 4,615.00
60-90 GRABBERS	\$ 1,265.00	HOPPER HOOD	\$ 1,900.00
REMOTE LIFT CONTROLS	\$ 1,184.00	SEVERE DUTY WEAR BAR KIT	\$ 820.00
FRONT HOPPER AND LIFT LIGHTS	\$ 695.00	STROBE LIGHT TGATE MOUNTED	\$ 645.00
PETERSEN MULTI-FUNCTION STROB	\$ 585.00	MUD FLAPS AHEAD OF REAR TIRES	\$ 215.00
REMOTE PACKER LUBE KIT	INC	3" HOPPER DRAIN VALVE	\$ 330.00
LIFT CYCLE COUNTER	\$ 620.00	3RD EYE AWTI 4 CAMERA SYSTEM	\$ 5,030.00
DESTINATION CHG.	\$ 2,000.00	DUMP BODY	\$ 385.00
ONE YEAR WARRANTY	INC	REAR CAMERA BRKT W/ FLOODS	INC
BODY UNDERCOATING	INC		
Subtotal Column 1:	\$ 6,349.00	Subtotal Column 2:	\$13,940.00

Published Options added to Base Price (Subtotal of "Col 1" + "Col 2") \$20,289.00

C: Subtotal of A + B => \$ 139,139.00

D: published Options [Itemize each item below, Not published = \_\_\_\_\_ %]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Subtotal Column 1:	_____	Subtotal Column 2:	_____
Published Options added to Base Price (Subtotal of "Col 1" + "Col 2")		_____	

E: Contract Pride Adjustment {If any, explain here} GOOD CUSTOMER DISCOUNT \$ - \$ (11,400.00)

F: Total of C + D ± E \$ 127,739.00

G: Quantity Ordered {Units x F} => # of Units 2 \$ 255,478.00

H: BUYBOARD Fee {From Fee Schedules, Table: \_\_\_\_\_} = \_\_\_\_\_

I: Non-Equipment Charges & Credits {ie: Ext. Warranty, Trade-In, Cost of Factory trips, etc.}

_____	_____	
_____	_____	
Subtotal of Non-Equipment Charges		_____

J: TOTAL PURCHASE PRICE INCLUDING {G + H + I} => \$ 255,478.00

PRICING GOOD UNTIL 1-29-16

1440 S. Loop 12  
 Irving, TX 75060  
 www.heiloftexas.com

Trey Stamps  
 Heil of Texas  
 972-438-6488  
 please fax PO to 800 211 5454

12/23/2015



# FREIGHTLINER OF AUSTIN

1701 Smith Rd. (Hwy. 183 So.)  
Austin, Texas 78721

Bus: 512-389-0000  
FAX: 512-389-2663  
Wats: 1-800-395-2005

INV. \_\_\_\_\_

PURCHASING NAME <b>CITY OF KILEEN</b>		TELEPHONE <b>254-501-7789</b>	
ADDRESS <b>101 N. COLLEGE ST.</b>		CITY <b>KILEEN</b>	STATE <b>TX</b>
		ZIP CODE <b>76541</b>	

I/We Hereby Purchase from You, Under the Terms and Conditions Specified, the Following:

YEAR	MAKE	MODEL/BODY	VIN	LICENSE PLATE
2016	FREIGHTLINER	M2106	ORDER	
A documentary fee is not an official fee, a documentary fee is not required by law but may be charged to buyers for handling documents and performing services relating to the closing of a sale. Buyers may avoid payment of the fee to the seller by handling the documents and performing the services relating to the closing of the sale. A documentary fee may not exceed \$50.00. This notice is required by law.				
MILEAGE:				
<b>BUY BOARD CONTRACT #430-13</b>				
CHASSIS SELLING PRICE				88,516.00
HEIL DPF 5000 25 YD. REAR LOADER PER ATTACHED SPEC				85,555.00
BUY BOARD FEE				\$400.00
<p><i>El cobro documental no es un cobro oficial. El cobro documental no es un requisito bajo la ley, pero se le puede cobrar. Al comprador por el rendimiento de los servicios relacionados con la completacion de la venta y por completar los documentos. El comprador puede evitar el pago al vendedor de este costo si el comprador mismo se encarga de manejar los documentos y de los servicios necesarios para la completacion de la venta. El cobro documental no puede sobrepasar los \$50.00 (U.S.) Este aviso es requerido bajo la ley.</i></p> <p><b>Disclaimer of Warranties</b></p> <p>Any warranties on the products sold hereby are those made by the factory. The Seller, Freightliner of Austin, hereby expressly disclaims all warranties, either expressed or implied including any implied warranty of merchantability or fitness for a particular purpose, and Freightliner of Austin, neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this vehicle.</p>				
CUSTOMER SIGNATURE				
SALESMAN SIGNATURE <b>KEVIN KRIEG</b>				

CONTRACTUAL DISCLOSURE STATEMENT FOR USED VEHICLE ONLY. "The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale."

MILEAGE:				TRADE-IN	LICENSE PLATE
YEAR	MAKE	MODEL/BODY	VIN		
MILEAGE:				TRADE-IN	LICENSE PLATE
YEAR	MAKE	MODEL/BODY	VIN		

		<b>TOTAL</b>	<b>174,471.00</b>
PAYOFF TO:		Trade Allowance	N/A
ADDRESS:		Trading Difference	N/A
TELEPHONE: / FAX:		Sales Tax	N/A
GOOD UNTIL:		Vehicle Inventory Tax	N/A
QUOTED BY:		License Fee	N/A
SHOW LIEN TO:		Documentary Fee	N/A
ADDRESS:		Federal Excise Tax	N/A
		<b>TOTAL SALE PRICE</b>	<b>174,471.00</b>
DATED: LIEN AMOUNT \$		Payoff on Trade	
DRAFT FOR \$		Ext. Service Agreement	
DRAFT THRU:		Less Deposit	
ADDRESS:		<b>Total Balance Due</b>	<b>174,471.00</b>

Full disclosure required by federal regulation "Z", The Consumer Protection Act and The Texas Consumer Credit Code, will be made prior to consummation of a credit sale. This written order comprises the entire agreement pertaining to this purchase and no other agreement of any kind, verbal understanding or promise whatsoever, will be recognized. It is expressly agreed that the purchaser acquires no right, title or interest in or to the property which he agrees to purchase hereunder until such property is delivered to him/her and either the full price is paid in cash or satisfactory deferred payment agreement is executed by the parties hereto, the terms of which shall thereafter be controlling, and a clear title is furnished to dealer for the used cars or trucks involved, if any. THIS IS NOT A CONDITIONAL SALES CONTRACT, BUT IS A BUYER'S ORDER. All new vehicles carry the standard factory warranty. It is understood there is no guarantee on the above described new or used vehicle other than appears on this Buyer's Order. Mileage, if used vehicle model is not guaranteed and a verbal agreement by the Salesman will not be considered binding on the Seller. It is agreed that neither Freightliner of Austin nor the manufacturer will be liable for failure to effect delivery. This order is not binding on the dealer until approved by an officer of Freightliner of Austin at its office in Austin, Texas





# City of Killeen

## Legislation Details

---

**File #:** OR-15-023    **Version:** 1    **Name:** Amending Chapter31, Article I, Article IV, Article V  
**Type:** Ordinance    **Status:** Ordinances  
**File created:** 10/20/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** Consider an ordinance amending Chapter 31 of the Code of Ordinances to align allowable land uses and supplemental standards within the City of Killeen's Zoning Ordinance.  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Minutes of Planning and Zoning Meeting Ordinance](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		
11/3/2015	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING CHAPTER 31, ARTICLE I, IN GENERAL, ARTICLE IV, DISTRICT REGULATIONS AND ARTICLE V, SUPPLEMENTAL REGULATIONS**

### ORIGINATING DEPARTMENT

**Planning and Development Services**

### BACKGROUND INFORMATION

The Planning and Zoning Commission conducted two workshops in September and a public hearing on the evening of October 5<sup>th</sup> regarding proposed changes to multiple sections of Chapter 31, Zoning, of the Killeen Code of Ordinances. Staff has worked with the Planning and Zoning Commission to create a draft ordinance that provides two new definitions, revises the setback requirements for private garages within the Single-Family Residential District (R-1), updates and reclassifies various allowable uses within the City's commercial and manufacturing zoning districts, reduces the 1,000 feet notification requirement for the General Business and Alcohol Sales District (B-C-1) to 200 feet, as well as revising rear yard setback requirements for accessory structures and pools. These proposed changes are meant to better serve the business community by realigning allowable uses and provides clarifying language regarding the placement of accessory structures for home and business owners.

### DISCUSSION/CONCLUSION

This ordinance updates and more efficiently aligns allowable land uses and supplemental standards within Chapter 31, Zoning, of the Killeen Code of Ordinances.

### FISCAL IMPACT

There is no fiscal impact associated with this action.

### RECOMMENDATION

The Planning and Zoning Commission recommends that the City Council approve the proposed amendments to Chapter 31, Zoning, of the Killeen Code of Ordinances.

**PLANNING AND ZONING COMMISSION MEETING  
SEPTEMBER 21, 2015**

**CHAPTER 31 AMENDMENTS**

**HOLD a public hearing and consider changes to Killeen Code of Ordinances, Chapter 31, Article 1, Section 31-6, *Compliance with the regulations*, Article IV, Divisions 4 through 20, *Use Regulations* and Article 5, Division 2, *Rear Yards*.**

Chairman Frederick requested staff comments

City Planner, Tony McIlwain, stated that this is the result of the last meeting with the changes that the commissioners requested. Staff recommended approval of the changes to the ordinance.

Chairman Frederick opened the public hearing. With no one requesting to speak the public hearing was closed.

Commissioner Alvarez motioned to forward the amendment to Chapter 31 to City Council as discussed. Vice Chair Dorroh seconded the motion. The motion passed unanimously.

Chairman Frederick stated that the amendment to Chapter 31 will be forwarded to City Council with a recommendation to approve.

**AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING ARTICLE I IN GENERAL, ARTICLE IV DISTRICT REGULATIONS, AND ARTICLE V SUPPLEMENTAL REGULATIONS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, the City of Killeen has declared the application and enforcement of the City's zoning regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

**WHEREAS**, the City Council desires to create land use regulations that will help ensure that future development is mutually compatible with surrounding areas and the community as a whole; and,

**WHEREAS**, the City Council desires to amend district regulations to preserve and enhance surrounding property values, prevent the overcrowding of land and undue concentration of population, to prevent undue overloading of municipal infrastructure, and to promote land use consistent with neighboring properties; and,

**WHEREAS**, the City Council finds that such amendments are necessary and will provide consistent and even application of zoning regulations to all applicants;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That Chapter 31 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

## **Sec. 31-2. - Definitions.**

For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure;" the word "shall" is mandatory and not directive; the word "lot" includes the word "plot;" the term "used for" includes the meanings "designed for" or "intended for." Such words and terms are as follows:

*Accessory use or building* shall mean a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

*All weather surface on privately owned property* shall consist of Portland cement concrete or an impervious bituminous surface over a compacted base or other surface approved by the building official. The parking surface must be capable of retaining paint or striping material.

*Alley* shall mean a public way which affords only a secondary means of access to property abutting thereon.

*Animal production* shall mean the raising and sales of animals or production of animal products produced on site, to include eggs or dairy products, on an agricultural or commercial basis. Typical uses include, but are not limited to, grazing, ranching, dairy farming and poultry farming, and do not include operating feed lots.

*Apartment complex:* means five or more dwelling units on one lot.

*Apartment hotel* shall mean an apartment house which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

*Automotive Parts Store* shall mean an establishment engaged in the retail sales of a variety of parts for vehicles of any kind.

*Board* shall mean the board of adjustment.

*Boardinghouse or lodginghouse* shall mean a building other than a hotel where sleeping rooms are rented to four (4) or more adults for compensation, pursuant to previous arrangements for definite periods of time, but not to the public or transients.

*Building* shall mean any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind.

*Building, height of,* shall mean the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

*Building line* shall mean a line parallel or approximately parallel to the street line and beyond which buildings may not be erected.

*Cemetery* shall mean a burial place for deceased humans.

*Child care facility* shall mean a facility that furnishes care, training, education, custody, supervision and guidance of a child or group of children, who are not related by blood, marriage or adoption to the owner or operator of the facility, for all or part of a twenty-four-hour day.

*Clinic* shall mean an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians practicing medicine together.

*Club* shall mean a building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

*Commercial communication tower* shall mean a tower built and designed for commercial communication usage including, but not limited to, radio, television and microwave towers.

*Crop production* shall mean the raising, harvesting and sales of tree crops, row crops or field crops on an agricultural or commercial basis, produced on site, including, but not limited to, packing and processing.

*Day care center* shall mean a child care facility that provides care for more than twelve (12) children under fourteen (14) years of age or less than twenty-four (24) hours a day. It does not include a group day care home or drop-in care center.

*Drop-in care center* shall mean a child care facility that provides care for children under fourteen (14) years of age for part of the day. It does not provide regular care for the same child. It does not include a group day care home or day care center.

*Dwelling* shall mean any building or portion thereof which is designated for or used for residential purposes.

*Dwelling, multifamily*, shall mean a building designed for or occupied exclusively by three (3) or more families.

*Dwelling, single-family*, shall mean a building designed for or occupied exclusively by one (1) family. Where a single family dwelling unit is rented, all adult residents must jointly occupy the entire premises, under a single written lease, for a period of at least thirty (30) consecutive days.

*Dwelling, two-family*, shall mean a building designed for or occupied exclusively by two (2) families.

*Family* shall mean any number of individuals living together as a single housekeeping unit, in which not more than three (3) adults are unrelated by blood, marriage, adoption, or guardianship and occupying a dwelling unit.

*Frontage, block*, shall mean all the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating), measured along the line of the street, or if the street

is dead-ended, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.

*Hotel* shall mean a building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public and transients in contradistinction to a boardinghouse, a lodginghouse, or an apartment.

*Housekeeping unit* shall mean a group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities, responsibilities and expenses.

*Loading space* shall mean a space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks, and having a minimum dimension of twelve (12) by thirty-five (35) feet and a vertical clearance of at least fourteen (14) feet.

*Lot* shall mean a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place.

*Lot, depth of,* shall mean the mean horizontal distance between the front and rear lot lines.

*Manufactured housing* shall mean a residential housing unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards (see 24 CFR 3280 for legal definition) and Manufactured Housing Standards Act, section 5521f V.A.T.S.

*Motor court* or *motel* shall mean a building or group of buildings used for the temporary residence of motorists or travelers.

*Nonconforming use, building or yard* shall mean a use, building or yard, existing legally at the time of passage of the ordinance from which this chapter is derived, which does not, by reason of design or use, conform with the regulations of the district in which it is situated.

*Outside Storage and Display* shall mean a primary land use providing for the incidental outdoor storage or display of commodities, materials, goods, equipment, vehicles, or merchandise in its normal day-to-day business activities. This definition excludes new and used sale or lease of automobiles, motorcycles recreational vehicles, boats, or watercrafts. This definition does not include temporary outside merchandise display, such as a sidewalk sale.

*Parking space, off-street,* shall mean an area of not less than one hundred eighty (180) square feet (measuring approximately nine (9) feet by twenty (20) feet) not on a public street or alley, surfaced with an all-weather surface, enclosed or unenclosed. A public street shall not be classified as off-street parking in computing the parking requirements for any use, nor shall

head-in parking adjacent to a public street and dependent upon such street for maneuvering space.

*Place* shall mean an open, unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.

*Planning commission* shall mean the planning and zoning commission of the city.

*Private school* shall mean a private school, including a parochial school, that offers a course of instruction for students in one or more grades from kindergarten through grade 12, and has more than one hundred (100) students enrolled and attending courses at a single location.

*Sale* shall mean sales at both wholesale and retail unless specifically stated otherwise.

*Servants' quarters* shall mean an accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

*Story* shall mean that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

*Story, half*, shall mean a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story, except that any partial story used for residence purposes, other than by a family occupying the floor immediately below it, shall be deemed a full story.

*Street* shall mean a public or private thoroughfare which affords the principal means of access to abutting property.

*Street line* shall mean a dividing line between a lot, tract or parcel of land and a contiguous street.

*Structural alterations* shall mean any change in the supporting members of a structure, such as bearing walls, columns, beams or girders.

*Structure* shall mean anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including but not limited to, buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences or boundary or retaining walls.

*Support housing* shall mean the occupancy of any living accommodation, in accordance with the Standard Building Code, by agricultural employees and their families, without regard to duration, which occurs exclusively in association with the performance of agricultural labor. Living accommodations shall not mean any temporary structure except as provided for in section 31-456(9). Support housing may occur on any of the owner's properties on which the employee works.

*Tourist home* shall mean a building other than a hotel where lodging is provided and offered to the public for compensation for not more than twenty (20) individuals and open to transient guests.

*Trailer camp* or *park* shall mean an area designed, arranged or used for the parking or storing of one (1) or more auto trailers which are occupied or intended for occupancy as temporary living quarters by individuals or families.

*Transient* shall mean a person who occupies a dwelling unit or sleeping unit for less than thirty (30) consecutive days

*Yard* shall mean an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

*Yard, front,* shall mean a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

*Yard, rear,* shall mean a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yard shall be in the rear of the front yard.

*Yard, side,* shall mean a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.

\*\*\*\*\*

**Sec. 31-6. – Compliance with the regulations.**

Except as hereinafter specifically provided:

- (1) No land shall be used except for a purpose permitted in the district in which it is located.
- (2) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located.

- (3) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which such building is located.
- (4) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which such building is located.
- (5) No building shall be erected, or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of the district in which such building is located.
- (6) The minimum yards, parking spaces, and open spaces, including lot area per family, required by this chapter for each and every building existing at the time of passage of the ordinance from which this chapter is derived or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building.
- (7) Residential structures located in districts AR-1, R-1, R-1A, RT-1, R-2 and R-3 shall not be structurally enlarged unless the exterior building façade materials are consistent with the existing façade materials of the existing structure.
- (8) ~~(7)~~ Every single-family residential or duplex residential building hereafter erected or structurally altered shall be located on a lot and there shall not be more than one (1) main building on one (1) lot. Multifamily (R-3, R-3F, or R-3A) structures hereafter erected or structurally altered shall be required to comply with all appropriate setback, rear yard, side yard, and parking requirements but shall not be limited to the one (1) main building per lot requirement. All commercial or industrial structures hereinafter erected or structurally altered shall be required to comply with all appropriate setback, rear yard, side yard, and parking requirements but shall not be limited by a main building per lot requirement.
- (9) ~~(8)~~ No requirement of this chapter shall be construed so as to prohibit the reclassification of a lot to a less restrictive zoning district where a lot of record platted prior to the effective date of the ordinance from which this chapter is derived does not conform to any or all of the minimum lot size requirements of area, width or depth of the less restrictive zoning district; provided that the minimum yard requirement of the less restrictive zoning district and the required parking for the intended use shall be met.

\*\*\*\*\*

**Sec. 31-186. - Use regulations.**

A building or premise in a district "R-1" single-family residential district shall be used only for the following purposes:

- (1) One-family dwellings.
- (2) Churches or other places of worship.
- (3) Colleges, universities or other institutions of higher learning.
- (4) Country clubs or golf courses, but not including miniature golf courses, driving ranges or similar forms of commercial amusement.
- (5) Farms, nurseries or truck gardens, limited to the proportion and cultivation of plants, provided no retail or wholesale business is conducted on the premises, and provided further that no poultry or livestock other than normal household pets shall be housed within one hundred (100) feet of any property line.
- (6) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
- (7) Public buildings, including libraries, museums, police and fire stations.
- (8) Real estate sales offices during the development of residential subdivisions but not to exceed two (2) years. Display residential houses with sales offices, provided that if such display houses are not moved within a period of one (1) year, specific permission must be obtained from the city council for such display houses to remain on their locations.
- (9) Schools, public elementary or high.
- (10) Schools, private with curriculum equivalent to that of a public elementary or high school.
- (11) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
- (12) Water supply reservoirs, pumping plants and towers.
- (13) Accessory buildings and uses, incident to the uses in this section and located on the same lot therewith, not involving the conduct of a retail building.
  - a. A sign or outside advertising display (as defined by subsection 2301.1 of the Killeen building code) shall not be allowed as an accessory use, except that:
    1. A bulletin board sign, limited to the provisions of section 31-504(1) may be allowed as an accessory use to churches, places of worship, libraries, museums and public buildings.
    2. Any unilluminated signs allowed in section 31-503 may be allowed as an accessory use to any primary use authorized by this chapter.
    3. A point-of-sale sign, limited to the provisions of section 31-503(2), may be allowed as an accessory use to those primary uses authorized by subsection (8), provided that such signs shall be allowable only so long as these specified primary uses are allowed.

No authorized accessory use sign shall be located in a required side or rear yard which is adjacent to any other lot designated for residential use.

- b. A private garage with or without storeroom and/or utility room shall be permitted as an accessory building, provided that such garage shall be located not less than sixty (60) feet from the front lot line ~~nor and shall not be~~ less than five (5) feet from any interior side lot line or and ten (10) feet from any rear lot line and in the case of corner lots not less than the distance required for residences from side streets. A garage or servants' quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building.
- c. The term "accessory use" shall include home occupations subject to the following provisions:
  1. *Definition.* A home occupation is an accessory use of a dwelling unit or garage for gainful employment, involving the provision of goods and/or services.
  2. When a use is a home occupation, the owner, lessee or other resident occupant persons having a legal right to the use of the dwelling unit shall also have the vested right to conduct the home occupation without securing special permission from the city to do so.
  3. Notwithstanding section 31-186(13)c.2. above, persons conducting a home occupation are required to comply with, and are subject to, any other city ordinance conditions affecting the occupation and its property, such as off-street parking, building permits, business licenses, fire safety and the life.
  4. Notwithstanding section 31-186(13)c.2. above, persons conducting a home occupation are required to comply with, and are subject to, any and all local, state and/or federal rules, regulations, ordinances, or laws, including, but not limited to, those regarding environmental protection.
  5. Home occupations are permitted accessory uses only so long as all the following conditions are observed:
    - (i) No persons other than resident occupants of the premises shall be engaged in such occupation;
    - (ii) The home occupation shall not involve the use of advertising signs or window displays on the premises or any other local advertising media which call attention to the fact that the home is being used for business purposes; except that for purposes of a telephone directory listing, a telephone number, but no business address, may be published;
    - (iii) In no way shall the outside appearance of the dwelling be altered from its residential character;
    - (iv) Performance of the occupation activity shall not be visible from the street;
    - (v) The use shall not increase vehicular or pedestrian traffic flow beyond what normally occurs in the applicable zoning district. Additionally, the use shall not increase the number of vehicles parked on the premises by more than two (2) additional vehicles at a time. All customer/client parking shall be off-street and other than in unpaved areas of the front yard;

- (vi) There shall be no outside storage, (to include trailers), or display related to the home occupation;
  - (vii) No home occupation shall cause an increase in the use of any one (1) or more public utilities (water, sewer, electricity, garbage, etc.) so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood;
  - (viii) One (1) commercial vehicle, capacity of one (1) ton or less (excluding attached trailers) may be used or parked on the property in connection with the home occupation;
  - (ix) Except for articles produced on the premises, no stock in trade shall be displayed or sold on the premises;
  - (x) No mechanical or electrical equipment shall be employed other than the quality and quantity of machinery or equipment customarily found in a home associated with a hobby or avocation not conducted for gain or profit; and
  - (xi) The home occupation use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.
6. Home occupations may, subject to the requirements of section 31-186(13)c.1—5, include, but are not necessarily limited to, the following:
- (i) Office facility of an accountant, architect, attorney, engineer, consultant, insurance agent, real estate broker or member of similar professions;
  - (ii) Author, artist or sculptor;
  - (iii) Dressmaker, seamstress, or tailor;
  - (iv) Music/dance teacher, or similar school of instruction, provided that instruction shall be limited to no more than one (1) pupil at a time;
  - (v) Individual tutoring;
  - (vi) Millinery;
  - (vii) Minister, rabbi, priest or member of religious orders;
  - (viii) Home crafts such as rug weaving, model making;
  - (ix) Office facility of a salesman, sales representative, manufacturer's representative, or service provider, for sale of goods or services, whether said individual or individuals are self-employed or otherwise, and provided that no retail or wholesale transactions or provision of services are made on the premises;
  - (x) Repair shops for small electrical appliances (such as irons, portable fans and the like), typewriters, cameras and other similar small items, provided the item does not have an internal combustion engine; and
  - (xi) Food preparation establishments such as cake maker, provided there is compliance with all state health laws and no consumption of food items by customers on the premises.
7. Permitted home occupations shall not in any event be deemed to include:
- (i) Animal hospitals or clinics, commercial stables, or commercial kennels;

- (ii) Schools of instruction of any kind with more than one (1) pupil at a time unless such school was established prior to the date of passage of this section;
  - (iii) Restaurants;
  - (iv) Automobile, boat or trailer paint or repair shops (major or minor);
  - (v) Doctor, dentist, veterinarian or other medically related offices;
  - (vi) On-premise retail sales, except garage sales as otherwise provided in this code;
  - (vii) Laundromats with more than one (1) washing machine and one (1) dryer;
  - (viii) Barber shops and beauty parlors, unless established in compliance with this code of ordinances as the code provided at the time said business was established;
  - (ix) Mortuaries;
  - (x) Private clubs;
  - (xi) Trailer rentals;
  - (xii) Repair shops or service establishments, except as provided in section 31 186(13)c.6.(x) above;
  - (xiii) Carpentry work;
  - (xiv) Photo developing or photo studios;
  - (xv) Upholstering;
  - (xvi) Antique shops;
  - (xvii) Gift shops;
  - (xviii) Repair shops for any item with an internal combustion engine; and
  - (xix) Those home occupation uses which, without regard to principal or accessory use conditions, would be classified as assembly, factory-industrial, hazardous, institutional or mercantile occupancies as defined by the 1988 Standard Building Code, as amended.
8. Effect of this section on businesses operating under special use permits at the time this section takes effect.
- (i) Those home occupations presently in existence under the authority of a specific use permit issued by the city are hereby expressly authorized to continue said home occupation through the expiration date of said permit(s). Upon said expiration date, however, all provisions of this section shall be in full force and effect.
  - (ii) It shall constitute an offense to operate a home occupation after said permit expiration date in violation of this section.
9. No conditional use permit as provided in section 31-456 of this chapter shall be issued for any home occupations prohibited by section 31-186(13)c.7. above.
10. The provisions of this section shall apply to all home occupations, regardless of the date of their creation/existence, unless specifically exempted by section 31-186(13)c.7.(viii) or temporarily exempted by section 31-186(13)c.8. above.

11. Businesses not listed in this section:

- (i) Persons wishing to operate home occupations which are not listed in section 31-186(13)c.6. or expressly prohibited by section 31-186(13)c.7. above may make written application to the city planner, requesting a formal review in order to amend this section to either specifically authorize or prohibit said home occupation.
  - (ii) The city planner shall have the duty to ensure said application is scheduled to be heard by the planning and zoning commission's next regularly scheduled meeting which allows for compliance with statutory notice and other requirements of law.
  - (iii) The planning and zoning commission shall, in accordance with applicable law, review said application and submit a final report and recommendation to the city council.
  - (iv) The city council shall then, in accordance with applicable law, review said documents at its next regularly scheduled meeting which allows for compliance with statutory notice and other requirements of law. At said meeting, the council shall amend this section to either specifically authorize or prohibit the home occupation use requested.
  - (v) Any person applying for a formal review and amendment of this section to permit a particular use not otherwise permitted shall, at the time said application is submitted, pay a nonrefundable application fee. Such fee shall be established by resolution of the city council.
- (14) A subdivision entry sign, when such sign is located on a lot that abuts a subdivision boundary and fronts on a street entering the subdivision. Such sign:
- a. Shall not have a sign face which exceeds a total of twenty-four (24) square feet; and
  - b. Shall not exceed six (6) feet in height; and
  - c. Shall not be located in a side or rear yard which is adjacent to any other lot designated for residential use; and
  - d. Shall advertise only the name of the subdivision.
- (15) Cemetery.

\*\*\*\*\*

**DIVISION 10. - DISTRICT "B-1" PROFESSIONAL BUSINESS DISTRICT**

**Sec. 31-276. - Use regulations.**

~~A building or premises in the district "B-1" professional business district shall be used only for the following purposes:~~

~~(1) Offices of practitioners of the recognized professions, as herein defined:~~

~~a. Professional building. Any structure used solely for the housing of professional offices of recognized professions.~~

~~b. Professions, recognized. Members of a recognized profession include those persons and customary staff normally considered as professional, and shall be deemed to include doctors, dentists, lawyers, architects, certified public accountants, registered engineers and related professions.~~

~~(1)(2)~~ Uses customarily incidental to the primary use, as hereinafter provided, subject to the special conditions contained in section 31-276(3).

- a. Physical therapy clinic.
- b. Chemical or X-ray laboratory.
- c. Dispensing optician.
- d. Dispensing apothecary.
- e. Dental laboratory.

~~(2)(3)~~ Buildings may be used for one (1) or more of the uses prescribed in section 31-276(2) only under the following conditions:

- a. The total area of a professional building devoted to any single incidental use shall not exceed fifteen (15) percent of the gross floor area of the building.
- b. The total area of a professional building devoted to incidental uses in the aggregate shall not exceed twenty-five (25) percent of the gross floor area of the building.
- c. Public access to such incidental uses shall be from the interior of the building.
- d. No parking space shall occupy any part of the required front yard, except as provided in section 31-287(a)(1)b.
- e. Sign standards for this district shall apply to both primary and incidental uses.
- f. No building in this district shall be constructed or altered to produce a storefront, show window or display window, and there shall be no merchandise visible from the exterior of the building.
- g. No outside storage shall be permitted in this district.

~~(3)(4)~~ Office, general business.

~~(4)(5)~~ An on-premises residential use or living quarters may be included in one structure in a commercial land use district when the main use of the structure is commercial, provided both uses are in compliance with appropriate building codes and the proprietor or an employee of the commercial activity is a resident in the living quarters.

~~(5)(6)~~ All uses allowed in section 31-186, with the exception of one-family dwellings.

(6) Studio for photography, interior decoration.

\*\*\*\*\*

Sec. 31-278. - Area regulations.

- (a) Size of yards. The size of yards in the district "B-1" professional business district shall be as follows:
- (1) Front yard. There shall be a front yard having a minimum depth of twenty-five (25) feet. No parking, storage or similar use shall be allowed in required front yards in district "B-1," except that automobile parking will be permitted in such yards in accordance with off-street parking requirements.
  - (2) Side yard. A side yard of not less than fifteen (15) feet in width shall be provided on the side of a lot adjoining a side street. A side yard of not less than ten (10) feet in width shall be provided on the side of a lot adjoining any "R" zoned residential district. Otherwise, no side yard is required. No parking, storage, or similar use shall be allowed in any required side yard or in any required side street yard adjoining any "R" zoned residential district, except automobile parking in accordance with off-street parking requirements. The required side yard setback adjacent to a street shall not be required, provided all of the following conditions are met:
    - a. The subject property is included in the area of the city of Killeen identified as special parking district "A," described as an area bounded by the innermost rights-of-way or straight line extensions of the rights-of-way of Avenue G, Park Street, Green Avenue, and 12<sup>th</sup> Street.
    - b. The proposed construction is the rebuilding or repair of an existing structure, the proposed structure is not enlarged beyond the dimensions of the existing foundation, and the proposed structure is to be constructed on the existing building foundation.
    - c. Any new construction, other than that described in subsection (b) above, shall maintain a side yard setback adjacent to a street not less than the side yard setback provided by the existing structures on the block (~~greater than or equal to zero (0) feet but less than fifteen (15) feet~~) in which the subject property is located.
    - d. Notwithstanding subsections (a) through (c), no construction will be permitted:
      - i. in conflict with section 28-241, as amended;
      - ii. in conflict with the city's thoroughfare plan, as amended, in effect at the time of construction; or
      - iii. which encroaches into the city's right-of-way.
  - (3) Rear yard. No rear yard is required except that a rear yard of not less than ten (10) feet in depth shall be provided upon that portion of a lot abutting or across a rear street from any "R" zoned residential district.
- (b) Size of lot. There are no limitations to the size of lots in the district "B-1" professional business district.

\*\*\*\*\*

## **DIVISION 11. - DISTRICT "B-2" LOCAL RETAIL DISTRICT**

### **Sec. 31-291. - Use regulations.**

A building or premises in the district "B-2" local retail district shall be less than 5,000 square feet in leasable area and used only for the following purposes:

- (1) Any use permitted in district "B-1" or "B-DC."
- (2) Appliance (household) sales.
- (3) Bakery shop (retail sales only).
- (4) Barbershop, beauty shop, to include permanent cosmetics (licensed per Texas Health and Safety Code, chapter 146, as amended).
- (5) Construction field office and yard: on the job site; for duration of construction only.
- (6) Cleaning or laundry (pick-up station).
- (7) Cleaning or laundry (self-service) using fully automatic equipment, as follows:
  - a. Washers, capacity of not more than forty (40) pounds.
  - b. Dryers or extractors, capacity of not more than sixty (60) pounds.
  - c. Dry cleaning machines.
- (8) Custom personal service shops, such as a health studio (to include massage establishments as defined in Texas Occupations Code section 455, as amended), answering service, typing service, tailor, employment agency, FM piped music, income tax service, letter or mailing service, marriage counselor, secretarial service or shoe repair.
- (9) Drugstore or pharmacy.
- (10) Electric utility substation.
- (11) Florist (retail): retail sales of flowers and small plants. No flower or plant raising or outside display or storage.
- (12) Grocery store (drive-in).
- (13) ~~Home for the aged.~~ Bank, savings and loan or other financial institution.
- (14) Registered public surveyor.
- (15) Restaurant, coffee shop, or café (no drive-in service).
- (16) Retail stores, (other than listed): offering all types of personal consumer goods for retail sales.
- (17) ~~Studio for photography, interior decoration, fine arts instruction, or sale of art objects.~~
- (18) ~~Telephone exchange building.~~ Lodges and fraternal organizations with less than 5,000 square feet of leasable space.
- (19) ~~A customarily incidental use.~~

~~(20)~~ (19) Drop-in care centers.

\*\*\*\*\*

## **DIVISION 12. - DISTRICT "B-3" LOCAL BUSINESS DISTRICT**

### **Sec. 31-306. - Use regulations.**

A building or premises in the district "B-3" local business district shall be used only for the following purposes:

- (1) Any use permitted in the "B-2" district.
- (2) ~~Bank, savings and loan or other financial institution.~~ Bakery or confectionery, wholesale.
- (3) Day camp.
- (4) Hospital, home or center for the acute or chronic ill.
- (5) Mortuary or funeral chapel excluding cremation services.
- (6) Appliance (household) sales and repair service.
- (7) Bakery or confectionery: engaged in preparation, baking, cooking and selling of products at retail on the premises, with six (6) or less employees.
- (8) Boat and accessory sales, rental and service.
- (9) Bowling alleys.
- (10) Cleaning or laundry (self-service).
- (11) Cleaning, pressing and dyeing: with six (6) or less employees.
- (12) Florist, garden shop, greenhouse or nursery office (retail): no growing of plants, shrubs or trees out-of-doors on premises; no outside display or storage unless behind the required front yard or the actual setback of the principal building, whichever is greater.
- (13) General food products, retail sales, such as supermarkets, butcher shops, dairy stores, seafood sales or health food sales.
- (14) Cafeteria or catering service.
- (15) Marine supplies, sales and service.
- (16) ~~Office, general business.~~ Lodges or fraternal organizations with greater than 5,000 square feet of leasable space.
- (17) Restaurant or café permitted to offer alcoholic beverages for sale operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, all of which are adopted hereby and made a part hereof for all purposes. No restaurant will be permitted to dispense any type of alcoholic beverage through any "drive-through" facility or window.
- (18) Tennis or swim club.

- (19) Small animal clinic, pet grooming shop and/or inside kennel and boarding. No cremation or outside kennels.
- (20) Hotel or motel.
- (21) ~~Job printing. Not more than seventeen (17) inches by twenty five (25) inches page size.~~ Retail uses and businesses of all sizes to include second hand goods and antiques with no outside storage or display of second hand goods.
- (22) Gasoline service station, auto laundry or car wash.
- (23) Auto parts sales, new, at retail.
- (24) A customarily incidental use: sale of beer and/or wine only for off-premises consumption only shall be considered a customarily incidental use in this district, but not in any residential district or any more restrictive business district.
- (25) Theaters of general release.
- (26) Mini/self-storage facilities - a building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares. No outside storage, sales, service, or repair activities, other than the rental of storage units shall be permitted on premises.
- (27) Storage warehouse with leasable space of less than 25,000 square feet.

\*\*\*\*\*

## **DIVISION 13. - DISTRICT "B-4" BUSINESS DISTRICT**

### **Sec. 31-321. - Use regulations.**

A building or premises in the district "B-4" business district shall be used only for the following purposes:

- (1) Any use permitted in the "B-3" district.
- (2) ~~Antique shop.~~ Trailer rental and sales.
- (3) ~~Secondhand goods store. No outside display, repair or storage.~~
- (4) Auto sales. Where the major business is the showroom display and sale of new automobiles by an authorized dealer and used car sales, repair work and storage facilities on the same premises shall be purely incidental; provided, that the area allowed for the repair and storage of cars shall not be nearer than twenty (20) feet from the required front line of the principal building.
- (5) Auto sales. Used cars; no salvage, dismantling or wrecking on premises; no display of vehicles in required front yard; junked vehicles must be placed behind a screening device.
- (6) Commercial parking (public garage or parking lot).

- (76) Auto upholstery or muffler shop.
- (87) Auto repair (garage), with onsite junked vehicles being enclosed within a building.
- (98) Cold storage plant (locker rental).
- ~~(10) Bakery or confectionery, wholesale.~~
- ~~(11) Bomb shelter (as a principal use).~~
- (129) Building material or lumber sales (no outside storage).
- (130) Cleaning, pressing, and dyeing:
  - a. No direct exterior exhaust from cleaning plant permitted.
  - b. Dust must be controlled by either bag or filter and separator or precipitator so as to eliminate the exhausting of dust, odor, fumes or noise outside the plant.
- (141) Florist, garden shop, greenhouse or nursery (retail).
- (152) Ballpark, stadium, athletic field (private).
- ~~(16) Wholesale offices.~~
- ~~(17) Lodges or fraternal organizations.~~
- (183) Philanthropic institutions (not elsewhere listed).
- (194) Cabinet, upholstery, woodworking shop.
- (2015) Plumbing, electrical, air conditioning service shop (no outside storage).
- ~~(2116) Trade or business school.~~
- ~~(22) Sale of beer and/or wine only for off premises consumption only.~~
- (2317) Garment manufacturing in a space of four thousand (4,000) square feet or less, with all loading and unloading off-street.

\*\*\*\*\*

## **DIVISION 14. - DISTRICT "B-5" BUSINESS DISTRICT**

### **Sec. 31-336. - Use regulations.**

A building or premises in the district "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, greater than twenty-five thousand (25,000) square feet.
- (4) ~~Newspaper or job printing.~~ Veterinarian clinic or pet kennel with outside pens.
- (5) Railroad or bus passenger terminal.
- (6) Tire recapping or retreading.

- (7) ~~Trailer rental or sales.~~ Impound yards provided no salvaging or dismantling is allowed on the premises and site is properly screened.
- (8) ~~Wholesale house.~~
- (9) ~~Auto parts sales, used. No outside storage, display or dismantling.~~
- (10) ~~A customarily incidental use.~~
- (118) Any commercial use not included in any other district, provided such use does not involve salvaging, manufacturing or industrial type storage or dismantling, and is not noxious or offensive because of odors, dust, noise, fumes or vibrations.
- (129) Mobile home sales.
- (13) ~~Sale of beer and/or wine for off premises consumption only.~~
- (1410) Tattooing (as licensed per Texas Health and Safety Code, chapter 146, as amended).

\*\*\*\*\*

**DIVISION 15. - DISTRICT "B-C-1" GENERAL BUSINESS AND ALCOHOL SALES DISTRICT**

**Sec. 31-351. - Use regulations.**

A building or premises in the "B-C-1" general business and alcohol sales district shall be used only for the following purposes:

- (1) Business establishments dispensing alcoholic beverages under the Texas Alcoholic Beverage Code, in accordance with permits issued, and the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, all of which are adopted hereby and made a part hereof for all purposes.
- (2) Any uses permitted in a "B-5" district, excluding the sale of beer, wine and/or any other alcoholic beverages for off-premises consumption.
- (3) Business establishments dispensing alcoholic beverages may not be within three hundred (300) feet of a church, public or private school or public or private hospital. The measurement of the distance between the place of business where alcoholic beverages are sold and the church, public or private school or public or private hospital shall be as prescribed by the Texas Alcoholic Beverage Code §109.33, as amended. New applications for a B-C-1 general business and alcohol sales district zoning shall require the notification of all property owners within ~~one thousand (1,000)~~ two hundred (200) feet in all directions of the area for which the B-C-1 zoning is requested, so long as those properties are within the corporate limits of the city of Killeen.

\*\*\*\*\*

## DIVISION 19. - DISTRICT "M-1" MANUFACTURING DISTRICT

### Sec. 31-416. - Use regulations.

A building or premises in the district "M-1" manufacturing district shall be used only for the following purposes:

- (1) Any use permitted in the "B-5" district, ~~except the sale of beer, wine and/or any other alcoholic beverages for off premises consumption at retail.~~
- (2) Paper products manufacture.
- (3) Wood, paper, plastic container manufacture.
- (4) Stone monument works.
- (5) Petroleum products wholesale storage.
- (6) Processing of chemicals or mineral extractions, not elsewhere classified.
- (7) Food processing.
- (8) Foundry, forge plant, rolling mill, metal fabrication plant.
- (9) Feed mill.
- (10) Petroleum or chemical products manufacture (indoors).
- (11) Planing mill.
- (12) Railroad yard, roundhouse, shop.
- (13) Textile or garment manufacture.
- (14) Automobile, mobile home, heavy equipment manufacture.
- (15) Electroplating.
- (16) Sewage treatment plant.
- (17) Electrical equipment or appliance manufacture (large).
- (18) Furniture, cabinet, kitchen equipment manufacture.
- (19) Oil well tools, oil well equipment manufacture.
- (20) Aircraft, aircraft hardware or parts manufacture.
- (21) ~~A customarily incidental use The sale of beer, wine and/or alcoholic beverages at retail shall not be considered a customarily incidental use in this district.~~ Crematoriums.

\*\*\*\*\*

### • **Sec. 31-474. - Rear yards.**

~~An a~~Accessory buildings or structures shall be limited to ~~not exceeding~~ twenty (20) feet in height ~~may and~~ in sum shall not occupy ~~not to exceed more than~~ twenty-five (25) percent of the

area of a required rear yard, however no accessory building or structure shall be closer than ten (10) feet to the main building nor closer than ten (10) feet to any rear lot line or five (5) feet to any interior side lot lines. and unenclosed parking spaces not to exceed eighty (80) percent, of the area of a required rear yard, but no accessory building shall be closer than ten (10) feet to the main building nor closer than five (5) feet to any rear or side lot lines. In-ground swimming pools and above ground swimming pools shall be located only within the side yard or rear yard, exclusive of any publically dedicated utility or drainage easements, and shall be no closer than five (5) feet from any side lot line and ten (10) feet from any rear lot line.

**SECTION II.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION III.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV.** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION V.** That this ordinance shall be effective after its passage and publication according to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 12<sup>th</sup> day of January, 2016, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED**

\_\_\_\_\_  
Scott Cospers, MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Dianne Morrow, CITY SECRETARY

\_\_\_\_\_  
Kathryn H. Davis, CITY ATTORNEY



# City of Killeen

## Legislation Details

---

**File #:** OR-16-001    **Version:** 1    **Name:** Amend Fire Department Positions  
**Type:** Ordinance    **Status:** Ordinances  
**File created:** 11/18/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** Consider an ordinance to amend the number of authorized civil service positions for the Killeen Fire Department.  
**Sponsors:** Human Resources Department, Fire Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Ordinance](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

**AGENDA ITEM**

**Ordinance To Amend the Number of  
Authorized Civil Service Positions for the  
Killeen Fire Department**

**ORIGINATING DEPARTMENT**

**Human Resources**

**BACKGROUND INFORMATION**

The Texas Local Government Code (TLGC), Chapter 143, became effective September, 1987; this codification represents an effort to present, in a coherent and practical format, the laws and civil service procedures for Texas police and fire departments. The civil service system was established in the City of Killeen in an election duly called and lawfully conducted on August 13, 1977. The rules and regulations of TLGC Chapter 143 apply to all classified police and fire officers.

One of the provisions of TLGC, Chapter 143, is that the municipality's governing body establishes the civil service classifications by ordinance. This ordinance, as adopted by the governing body, further prescribes the number of positions in each classification [TLGC 143.021(a)].

**DISCUSSION/CONCLUSION**

The Department of Homeland Security SAFER (Staffing for Adequate Fire and Emergency Response) Grant for the City of Killeen's 2015 application for salary and benefits for 37 entry-level, full-time Fire and Rescue Officers was approved at the October 6, 2015, special Killeen City Council meeting. The SAFER Grant will fund the salary and benefits of these fire rescue officers for two years, with the City absorbing the cost of these positions for the third year.

The Human Resources Department is requesting changes to the current fire staffing, by adding 37 Fire and Rescue Officers.

<b>Current Strength of Force for KFD</b>		<b>Revised Strength of Force for KFD</b>	
Fire and Rescue Officer	153	Fire and Rescue Officer	190
Fire Prevention Officer	3	Fire Prevention Officer	3
Fire Captain	26	Fire Captain	26
Battalion Chief	6	Battalion Chief	6
Deputy Chief of Fire	4	Deputy Chief of Fire	4
Fire Marshal	1	Fire Marshal	1

**FISCAL IMPACT**

Funding is available in the FY 16-17 budget.

**RECOMMENDATION**

Staff recommends the adoption of the proposed ordinance to add 37 entry-level, full-time fire and rescue officer positions as outlined in the SAFER Grant.

**AN ORDINANCE OF THE CITY COUNCIL OF KILLEEN, TEXAS, TO AUTHORIZE THE NUMBER OF FIRE DEPARTMENT CIVIL SERVICE EMPLOYEES TO COMPLY WITH THE PROVISIONS OF TEXAS LOCAL GOVERNMENT CODE §143.021; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That the City Council authorizes the following civil service classifications of employees in the Fire Department of the city of Killeen to be amended for the purpose of covering such employees under the provisions of Texas Local Government Code 143.021(a) as required by statute. These classifications and no others shall exist with the number shown indicating the number of positions in each classification:

<u>CLASSIFICATION</u>	<u>NUMBER IN EACH CLASSIFICATION</u>			
	<u>FY 14-15 (amended August, 2014)</u>		<u>FY 15-16 (amended December, 2015)</u>	
	<u>(Base Authorization)</u>	<u>(Over hire)</u>	<u>(Base Authorization)</u>	<u>(Over hire)</u>
Fire and Rescue Officer	153	7	190	7
Fire Prevention Officer	3	0	3	0
Fire Captain	26	0	26	0
Battalion Chief	6	0	6	0
Deputy Fire Chief	4	0	4	0
Fire Marshal	1	0	1	0

That this change to amend the authorized number of fire and rescue officers reflects an addition to the number of the base authorizations of Fire and Rescue Officers positions by 37 authorized positions, as a result of the acceptance of the award of a SAFER grant on October 6, 2015.

**SECTION II.** That all other ordinances or parts of ordinances that are in conflict with the provisions of this ordinance are repealed to the extent of such conflict.

**SECTION III.** That should any part of this ordinance be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

**SECTION IV.** That this ordinance shall be effective December 22, 2015, and after its passage and publication according to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas this 12th day of January, 2016, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, 551.001 *et seq.*

**APPROVED**

\_\_\_\_\_  
Scott Cospers, MAYOR

**ATTEST:**

\_\_\_\_\_  
Dianna Barker, CITY SECRETARY

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Kathryn H. Davis, CITY ATTORNEY



# City of Killeen

## Legislation Details

---

**File #:** OR-16-002    **Version:** 1    **Name:** Calling General Election  
**Type:** Ordinance    **Status:** Ordinances  
**File created:** 12/21/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** Consider an ordinance ordering the May 2016 General Election for the Mayor and three Council Members-at-Large.  
**Sponsors:** City Secretary  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Ordinance](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

**AGENDA ITEM**

**Election Ordinance**

**ORIGINATING DEPARTMENT**

**City Secretary/City Attorney**

**BACKGROUND INFORMATION**

The Texas Election Code, Chapter 3, provides for the ordering of an election not later than the 78th day before the election date. In addition to any other elements required, each order must state the date of the election and the offices or measures to be voted on at the election.

The Code, Chapter 4, also provides for giving notice of the election. The notice shall state the date and nature of the election, list the polling places, times the polling places will be open, and other information as required by law.

**DISCUSSION/CONCLUSION**

The attached ordinance has been prepared calling the election for the purpose of electing a Mayor and three Council Members-at-Large and designating the polling places and times. Extended hours of early voting will be conducted April 25th and May 3rd. In addition, should KISD have an election, early voting will also occur at the KISD Administration Building.

**FISCAL IMPACT**

The estimated cost to conduct this election is \$60,000.00, and \$60,000.00 has been budgeted in Account No. 010-1010-416.50-45, Election Expense. There will be cost-saving if KISD participates in a joint election with the City.

**RECOMMENDATION**

Recommend adoption of the proposed ordinance.

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE ORDERING THE HOLDING OF AN ELECTION IN THE CITY OF KILLEEN, TEXAS, FOR THE PURPOSE OF ELECTING A MAYOR AND THREE COUNCIL MEMBERS-AT-LARGE; PROVIDING FOR THE FILING OF WRITTEN APPLICATION TO HAVE THEIR NAMES PRINTED ON THE OFFICIAL BALLOT; FIXING THE TIME WITHIN WHICH SUCH APPLICATION MAY BE FILED; SPECIFYING THAT THE PROVISIONS OF THE GENERAL ELECTION LAWS SHALL CONTROL ALL QUESTIONS PERTAINING TO SUCH ELECTION; PRESCRIBING THE CONTENTS OF THE OFFICIAL BALLOT; PROVIDING FOR COMPENSATION; DESIGNATING THE POLLING PLACES, AND PROVIDING FOR POSTING AND PUBLICATION OF NOTICE OF ELECTION AND CONTAINING MISCELLANEOUS PROVISIONS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**SECTION 1.** That, pursuant to the laws of the State of Texas and the Charter of the City of Killeen, it is ordered by the City Council that a general election be held in the City of Killeen, Texas, on May 7, 2016, for the purpose of electing from the City of Killeen a Mayor and three Council Members-at-Large. Any reference in this ordinance hereinafter to “Election Day” shall mean May 7, 2016.

**SECTION 2.** The manner of holding the election and all questions pertaining to such election shall be governed by the V.T.C.A. Election Code, and the returns shall be made and canvassed and the results declared as in other legal elections of the City of Killeen.

**SECTION 3.** Any eligible and qualified person may have his or her name printed upon the official ballot as an independent candidate for the office of councilmember by filing a written application with the City Secretary beginning January 20<sup>th</sup> through 5:00 p.m. February 19, 2016. Any person wishing to file a declaration of write-in candidacy must do so not later than 5:00 p.m. on February 23, 2016.

**SECTION 4.** The names of all those who have filed their written applications to have their names printed on the official ballot as candidates shall be posted by the City Secretary in a conspicuous place at her office for the inspection of the public for at least ten days before she orders the ballot to be printed. The City Secretary shall preserve in her office for a period established by the Texas State Library and Archives Commission and adopted by the City all applications, statements, notice of objections, and other related papers.

**SECTION 5.** Any person eligible for the office of councilmember or other office who has filed his or her written application in accordance with the provisions of this ordinance shall have his or her name printed on the official ballot. Any such person may cause his or her name to be withdrawn at any time prior to 5:00 p.m. on February 26, 2016, by filing in writing with the City Secretary, a request to that effect over his signature, duly attested to by a Notary Public. No name so withdrawn shall be printed on the ballots. Not later than twenty days before the election, the City Secretary shall have the official ballots printed.

**SECTION 6.** Each qualified voter who desires to cast an early vote or who expects to be absent on the date of the election shall be entitled to an official ballot and to cast such ballot in accordance with the applicable provisions of Title 7, V.T.C.A., Election Code, beginning April 25, 2016, and continuing through May 3, 2016. The City Secretary will be the early voting clerk, who may appoint by written order one or more temporary deputies to serve as deputy early voting clerks in accordance with the applicable law. Early voting will be held in the first floor lobby of the Killeen City Hall, 101 North College (mailing address: PO Box 1329, Killeen, TX 76540, Attention: Early Voting Clerk), at the Gilmore Senior Center, 2201 E. Veterans Memorial Boulevard, Killeen, and at the Killeen Lions Park Senior Center, 1700-B E. Stan Schlueter Loop between the hours of 8:00 a.m. and 5:00 p.m. on each day of early voting except Saturdays, Sundays, and official State or City holidays. Provided, however, that on the first and last day of early voting, the hours shall be 7:00 a.m. to 7:00 p.m. For the 2016 election those dates shall be April 25<sup>th</sup> and May 3<sup>rd</sup>. The City Hall location for early voting is also where ballot applications and ballots voted by mail may be sent. Should the Killeen Independent School District also have an election on such date, branch early voting shall also be at the KISD School Administration Office, 200 North W.S. Young Drive, Killeen, between the hours of 8:00 a.m. and 5:00 p.m. on each day of early voting except Saturdays, Sundays, and official State holidays.

**SECTION 7.** The election shall be held in the hereafter-designated polling places between the hours of 7:00 a.m. to 7:00 p.m. on the date of the election.

**PRECINCT # 106**  
Transforming Life Fellowship  
4107 Westcliff Road

**PRECINCT #109**  
St. Joseph's Catholic Church  
2903 East Rancier

**PRECINCT #201/204**  
Fire Station #3  
700 Twin Creek Drive

**PRECINCT #205**  
Jackson Professional Learning Center  
902 Rev. R. A. Abercrombie Drive

**PRECINCT #206/402/409**  
Killeen Senior Center at Lions Club Park  
1700 E. Stan Schlueter Loop

**PRECINCT #207**  
Copper Mountain Library  
3000 South W. S. Young Drive

**PRECINCT #203/208/210**  
Cedar Valley Elementary School  
4801 Chantz Drive

**PRECINCT #404**  
Fire Station #7  
3701 Watercrest Road

**PRECINCT #405**  
Robert M. Shoemaker High School  
3302 Clear Creek Road

**PRECINCT #406**  
Central Fire Station  
201 S. 28<sup>th</sup> Street

**PRECINCT #407/412/413**  
Haynes Elementary School  
3309 W. Canadian River Loop

**PRECINCT #408**  
Fire Station #5  
905 West Jasper Road

**PRECINCT #410**  
Fire Department Support Facility  
114 W. Avenue D

**SECTION 8.** The City Council shall appoint presiding election judges and alternate presiding judges for the election at the precinct polling places and as the Early Voting Ballot Board to process the early voting results, provided that if neither the presiding judge nor the alternate presiding judge can serve and their inability to serve is discovered so late that it is impracticable to fill the vacancy in the normal manner, the Mayor shall have the authority and is hereby directed to appoint a replacement judge to preside at the election. The presiding election judge for each precinct shall appoint no more than two (2) election clerks in addition to the alternate presiding judge named herein to assist the judge in the conduct of the election. The presiding election judges, alternate presiding judges, and clerks shall be paid \$10.00 per hour for serving in such capacities, and the election judges and/or alternate judges shall be paid an additional \$25.00 for delivering the returns of such election to the City Secretary for proper tabulation. No presiding election judge, alternate presiding judge, or clerk shall be compensated for a period in excess of the time extending from one hour before the polls open until two hours after the polls close. The Early Voting Ballot Board shall be paid a set rate of \$50.00 for serving in such capacity that will include proper tabulation. Provided, however, that should the Early Voting Ballot Board need to reconvene to tabulate provisional ballots, they shall be paid an additional \$10.00 per hour for such services.

**SECTION 9.** The following positions shall be set forth on electronic ballots hereinafter provided, in substantially the following form:

**CITY OF KILLEEN GENERAL ELECTION  
MAY 7, 2016  
OFFICIAL BALLOT**

FOR MAYOR

Vote for One

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

FOR COUNCILMEMBER-AT-LARGE

Vote for One, Two, or Three

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**SECTION 10.** Optical scan ballots shall be used for early voting by mail, curbside voting, and Election Day and the ES&S Model 100 Optical Scan Voting System and ES&S AutoMARK Voter Assist Terminal shall be used for early voting by personal appearance and on Election Day.

**SECTION 11.** All resident qualified electors of the City shall be permitted to vote at the election.

**SECTION 12.** The election materials enumerated in Sec. 272.001, et seq., V.T.C.A. Election Code, shall be printed and furnished in both English and Spanish for use at each polling place on Election Day and for early voting.

**SECTION 13.** Notice of election shall be given by posting substantial copies of the Notice of Election as prescribed by the Secretary of State's office in both English and Spanish at the Killeen City Hall, the official city website and at three (3) other public places in the City at least thirty (30) days prior to the date set for the election; and substantial copies of the Notice of Election in both English and Spanish shall be one time in a newspaper of general circulation in the City, the date of publication to be not less than fourteen (14) days prior to the date set for the election.

**SECTION 14.** Returns of election shall be made by the election officers to the City Council at a meeting following the election; the returns will be canvassed and the results of the election declared as prescribed by the Election Code, V.T.C.A., of the State of Texas and the City Charter.

**SECTION 15.** It is officially found, determined, and declared that the meeting at which this Ordinance has been adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered and acted upon at the meeting, including this Ordinance, was given, all as required by the applicable provisions of the Texas Government Code, Sec. 551.001, *et seq.*

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 12<sup>th</sup> day of January 2016, at which meeting a quorum was present, held in accordance with the provisions of the Texas Government Code, Sec. 551.001, *et seq.*

**APPROVED**

---

Scott Cospers, MAYOR

**ATTEST:**

---

Dianna Barker, CITY SECRETARY

**APPROVED AS TO FORM**

---

Kathryn H. Davis, CITY ATTORNEY



# City of Killeen

## Legislation Details

---

**File #:** PH-15-060    **Version:** 1    **Name:** Zoning 15-29  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 11/24/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance by Abdul Khan (Case #Z15-29) to rezone Lot 1, Block 1, Wassay Addition, from "CD" (Cemetery District) with a Conditional Use Permit (CUP) to "CD" (Cemetery District) with a Conditional Use Permit (CUP) for a retail store. The property is locally known as 10752 S. Fort Hood Street, Killeen, Texas. (Requires a 3/4 majority vote for approval.)  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Attachment to Council Memorandum](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Location map](#)  
[Buffer map](#)  
[Responses](#)  
[Considerations](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		
12/15/2015	1	City Council		
12/8/2015	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**ZONING CASE #Z15-29 "CD" (CEMETERY DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP) TO "CD" (CEMETERY DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP)**

### ORIGINATING DEPARTMENT

**PLANNING & DEVELOPMENT SERVICES**

### Nature of the Request

This request is submitted by Abdul Khan to rezone Lot 1, Block 1, Wassay Addition, from "CD" (Cemetery District) with a Conditional Use Permit (CUP) to "CD" (Cemetery District) with a Conditional Use Permit (CUP) to allow for a 9,100 square feet retail store. The property is locally known as 10752 S. Fort Hood Street, Killeen, Texas.

**A building or premises in the "CD" Cemetery District shall be used only for the following purposes:**

- (a) Building on premises in "CD" district shall be used only for the following purposes:
  - (1) Offices of practitioners of the recognized professions, as herein defined:
    - a. Professional building. Any structure used solely for the housing of professional offices of recognized professions.
    - b. Professions, recognized. Members of a recognized profession include those persons and customary staff normally considered as professional, and shall be deemed to include doctors, dentists, lawyers, architects, certified public accountants, registered engineers and related professions.
  - (2) Uses customarily incidental to the primary use, as hereinafter provided, subject to the special conditions contained in section 31-276(3).
    - a. Physical therapy clinic.
    - b. Chemical or X-ray laboratory.
    - c. Dispensing optician.
    - d. Dental laboratory.
  - (3) Buildings may be used for one or more of the uses prescribed in section (2) only under the following conditions:
    - a. Public access to such incidental uses shall be from the interior of the building.
    - b. No parking space shall occupy any part of the required front yard, except as provided in article V, division 3.
    - c. Sign standards for this district shall apply to both primary and incidental uses.
    - d. No building in this district shall be constructed or altered to produce a storefront, show, window or display window, and there shall be no merchandise visible from the exterior of the building.
    - e. No outside storage shall be permitted in this district.
  - (4) Office, general business.

- (5) An on-premises residential use or living quarters may be included in one structure in a commercial land use district when the main use of the structure is commercial, provided both uses are in compliance with appropriate building codes and the proprietor or an employee of the commercial activity is a resident in the living quarters.
  - (6) Business day care.
  - (7) Bakery shop (retail sales only).
  - (8) Barbershop, beauty shop to include permanent cosmetics (licensed per Texas Health and Safety Code, chapter 146 amended).
  - (9) Construction field office and yard: on the job site; for duration of construction only.
  - (10) Mortuary or funeral chapel.
  - (11) Drugstore or pharmacy.
  - (12) Florist (retail) retail sales of flowers and small plants. No flowers or plant raising or outside display or storage.
  - (13) Cafeteria or catering service.
  - (14) Restaurant or café (dine in service).
  - (15) Tennis, swim club, health club or gym.
  - (16) Hotel or motel.
  - (17) Art gallery, bookstore or library.
  - (18) Mixed-use development, being located nine hundred and fifty (950) feet to fifteen hundred (1,500) feet east of the east right-of-way of State Highway 195, for the commercial and residential use of a building, set of buildings, or neighborhood, where the first floor is designed, constructed and used for commercial use only while allowing access to residential uses.
- (b) Any conflict between this district and the districts incorporated herein, or the regulations provided by the other districts, shall be resolved so that the most stringent provision shall control.

### **Conditional Use Permit.**

The City Council by an affirmative majority vote may by ordinance grant a Conditional Use Permit as provided in section 31-456 of this chapter for any residential or business land use for a specific parcel in the overlay district and may impose appropriate conditions and safeguards to assure that these land uses are compatible with and appropriate for locations around the Veterans Cemetery. Conditional Use Permits granted shall be considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed.

### **Property Specifics**

**Applicant/Property Owner:** Abdul Khan

**Property Location:** The property is located at the intersection of S. H. 195 and Splawn Ranch Road and is addressed as 10752 S. Fort Hood Street, Killeen, Texas.

**Legal Description:** Lot 1, Block 1, Wassay Addition.

**Zoning/ Plat Case History:**

- This property was last rezoned on June 28, 2011 (per Ordinance No. 11-048) to allow for a 5,000 square feet convenience store and gas station.
- The property is platted as part of Lot 1, Block 1, Wassay Addition, which was filed for record on August 4, 2011 in Cabinet D, Slide 330-B, Plat records of Bell County, Texas.

### **Character of the Area**

**Existing Land Use(s) on the Property:** Vacant parcel.

### **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: Water, sanitary sewer and drainage utility services are available to the subject property. A gravity sanitary sewer extends just south of the platted subdivision (Wassay Addition) and ties into a public lift station.

#### **Transportation**

Existing conditions: The proposed subdivision abuts S. H. 195, which is classified as a 110' principal arterial on the City's Thoroughfare Plan. Splawn Ranch Drive is a 60' local street. Access to S. H. 195 is prohibited by a platted non-access easement along the entire western lot line. It shall be noted that access to S. H. 195 is controlled by the State and is disciplined through TxDOT's Access Management Policy. Based upon the location of existing public streets and private drive approaches, the regulatory speed of this section of S. H. 195 (70 mph) and the inherent topographic constraints along this corridor, a discrete driveway to S. H. 195 would not be granted if petitioned by the applicant. Such point of connection would create an unsafe traffic conflict that cannot be supported by AAHTO design standards. The tract has adequate and viable access to Splawn Ranch Drive with high visibility from S. H. 195. Future access to S. H. 195 could be supported through mutual access to a common improved existing drive south of the tract. It should be noted that staff has discussed a marginal access (backage road) concept with the Splawn Ranch Partnership to support coordinated mutual access to future development along the entire S. H. 195 frontage.

Proposed Improvements: None are being proposed at this time.

Projected Traffic Generation: Moderate.

### **Environmental Assessment**

**Topography:** The property is relatively flat with an elevation rise of 896 feet to 912 feet. Unless replatted, the 1993 drainage requirements will apply to any new development on this site. Currently runoff on this development flows from the rear of the parcel into the S. H. 195 right-of-way prior to entering an unnamed tributary of North Reece Creek. The runoff then flows from North Reece Creek into Reece Creek and finally into the Lampasas River prior to leaving

the City. None of these water bodies are listed on the TCEQ's 2012 303(d) water quality list for impairment.

**Regulated Floodplain/Floodway/Creek:** This property is not located within any FEMA regulatory Special Flood Hazard Area (SFHA).

### **Land Use Analysis**

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

**Plan Recommendation:** The 'Suburban Commercial' character allows for a range of commercial retail and service uses, at varying scales and intensities depending on the site. This includes the following development types:

- Office (both large and/or multi-story buildings and small-scale office uses depending on the site).
- Planned development to accommodate custom site designs or mixing of uses in suburban character setting
- Public/ institutional
- Parks and public spaces

**Consistency:** The proposal is consistent with the Comprehensive Plan.

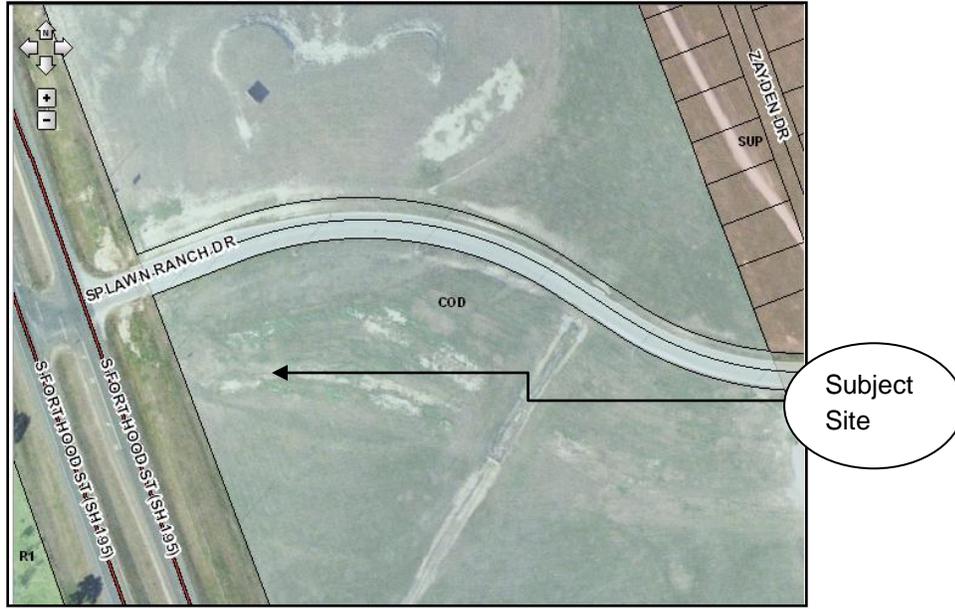
### **Public Notification**

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

### **Recommendation**

The Planning and Zoning Commission recommended CD with a Conditional Use Permit (CUP) to allow for a 9,100 square feet retail store, for Lot 1, Block 1, Wassay Addition, Killeen, Texas with the following conditions: 100% limestone façade on the north side of the building with 80% masonry requirement on the remaining three sides, with no metal siding to be visible. A three foot (3') vegetative hedge is to be installed on the north side and west side and other landscaping requirements as required by the Cemetery District by a unanimous vote.

**Figure 1. Zoning Map**



**PLANNING AND ZONING COMMISSION MEETING  
DECEMBER 7, 2015**

**CASE #Z15-29  
CD W/CUP TO CD/CUP**

**HOLD a public hearing and consider a request by Abdul Khan to rezone Lot 1, Block 1, Wassey Addition, from “CD” (Cemetery District) with a CUP (Conditional Use Permit) to “CD” (Cemetery District) with a CUP (Conditional Use Permit) for a 9,100 square foot retail store. The property is located on the southeast corner of S. Fort Hood Street (S.H. 195) and Splawn Ranch Drive and is locally known as 10752 S. Fort Hood Street, Killeen, Texas.**

Chairman Frederick requested staff comments.

City Planner Tony McIlwain stated that this request is to rezone Lot 1, Block 1, Wassay Addition from Cemetery District with a CUP to Cemetery District with a CUP to allow for a 9,100 square foot retail store. Currently the CUP allows for a 5,000 square foot retail store along with a gas station. The access for this property is on Splawn Ranch Drive. Conditional Use Permits granted shall be considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed. The property has been platted and recorded on August 4, 2011. This is designated as ‘Suburban Commercial’ on the Future Land Use Map and is consistent with the Comprehensive Plan.

Staff notified three (3) surrounding property owners with the 200 foot notification boundary. One response from Bruce Whitis was received and his concern is to ensure that Cemetery District conditions are met.

Staff recommended approval of the applicant’s Conditional Use Permit based on the submitted site plan. If the CUP is approved, the applicant will be allowed to construct a larger commercial building and would remove the gas station component from the previously approved CUP.

Mr. Joe Johnston, 511 Union Street, Nashville, TN, was present to represent this request. Mr. Johnston stated that the property is 1.3 acre in size and is located at the southeast corner of S. Fort Hood Street (SH 195) and Splawn Ranch Drive.

Chairman Frederick opened the public hearing.

Mr. Josh Welch, WBW Development, 3000 Illinois Avenue, Killeen, TX, spoke in opposition to the request to renew the CUP. He stated that WBW Development wants to ensure development adheres to the standards of the Cemetery District and that controls are in place. He also stated that architectural elevations of the building are needed for review.

With no one else requesting to speak, the public hearing was closed.

Vice Chair Dorroh motioned to recommend approval of the requested zoning for Case Z15-29 with the following conditions: 100% limestone façade on the north side of the building with 80% masonry requirement on the remaining three sides, with no metal siding to be visible. A three foot (3') vegetative hedge is to be installed on the north side and west side and other landscaping requirements as required by the Cemetery District. Commissioner Johnson seconded the motion. The motioned was approved unanimously.

Chairman Frederick stated that his will be forwarded to City Council with a recommendation to approve.

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM CD (CEMETERY DISTRICT) TO CD WITH A CONDITIONAL USE PERMIT (CUP) TO CD (CEMETERY DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Abdul Khan has presented to the City of Killeen a request for amendment of the zoning ordinance of the City of Killeen by changing the classification of Lot 1, Block 1, Wassay Addition, from CD (Cemetery District) with a Conditional Use Permit (CUP) to CD with a Conditional Use Permit (CUP) to allow for a 9,100 square feet retail store, said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 7th day of December 2015, and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 15th day of December 2015, at the City Hall, City of Killeen;

**WHEREAS**, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the  $\frac{3}{4}$  majority opinion that the request should be approved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**SECTION I.** That the zoning classification of the following described tract be changed from CD (Cemetery District) with a Conditional Use Permit (CUP) to CD with a Conditional Use Permit (CUP) to allow for a 9,100 square feet retail store, for Lot 1,

Block 1, Wassay Addition, Killeen, Texas with the following conditions: 100% limestone façade on the north side of the building with 80% masonry requirement on the remaining three sides, with no metal siding to be visible. A three foot (3') vegetative hedge is to be installed on the north side and west side and other landscaping requirements as required by the Cemetery District.

**SECTION II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**SECTION III.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 12th day of January 2016, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

**APPROVED:**

\_\_\_\_\_  
**Scott Cospers, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**Dianna Barker, CITY SECRETARY**

**APPROVED AS TO FORM**

\_\_\_\_\_  
**Kathryn H. Davis, City Attorney**

Case #15-29

Ord #15-\_\_



Date Paid:	<u>11/5/15</u>
Amount Paid:	\$ <u>500</u>
Cash/MO #/Check #:	# <u>17786</u>
Receipt #:	<u>321</u>

CASE #: Z15-29

## City of Killeen Zoning Change Application

[ ] General Zoning Change [X] Conditional Use Permit

**Name(s) of Property Owner:** Abdul Khan

Current Address: 507 Osman Drive

City: Killeen State: TX Zip: 76542 - \_\_\_\_\_

Home Phone: ( ) \_\_\_\_\_ Business Phone: ( ) \_\_\_\_\_ Cell Phone: (254) 681-7216

Email: \_\_\_\_\_

**Name of Applicant:** Jason Horowitz, Killeen DTP, LLC  
(If different than Property Owner)

Address: 9010 Overlook Boulevard

City: Brentwood State: TN Zip: 37027

Home Phone: ( ) \_\_\_\_\_ Business Phone: (615) 370-0670 Cell Phone ( ) \_\_\_\_\_

Email: jhorowitz@gbtrealty.com

Address/Location of property to be rezoned: 10752 S. Ft. Hood Street

Legal Description: Lot 1, Block 1, Wassey Addition, 1.297 acres

Metes & Bounds or Lot(s) 1 Block 1 Subdivision Wassey

Is the rezone request consistent with the Comprehensive Plan?  YES  NO

Type of Ownership: \_\_\_\_\_ Sole Ownership  Partnership \_\_\_\_\_ Corporation \_\_\_\_\_ Other

Present Zoning: CD/CUP Present Use: Vacant - Conditional Use Permit for 5,000 sf Convenience Store

Proposed Zoning: CD/CUP Proposed Use: 9,100 sf Retail Store

Conditional Use Permit for: 9,100 sf Retail Store

This property was conveyed to owner by deed dated 9-23-2011 and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Instrument Number 201100033659 of the Bell County Deed Records. (Attached)

Is this the first rezoning application on a unilaterally annexed tract?  
Yes \_\_\_\_\_ (Fee not required) No  (Submit required fee)

## APPOINTMENT OF AGENT

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Jason Horowitz, Killeen DTP, LLC c/o GBNT Realty Corporation

Mailing Address: 9010 Overlook Boulevard

City: Brentwood State: TN Zip: 37027 - \_\_\_\_\_

Home Phone: (\_\_\_\_) \_\_\_\_\_ Business Phone: (615) 370-0670 Email: \_\_\_\_\_

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

**be the point of contact between myself and the City; make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me. This authorization only applies to this specific zoning request.**

I understand that the City will deal only with a fully authorized agent. At any time it should appear that my agent has less than full authority to act, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application are part of an official proceeding of City government and, that the City will rely upon statements made by my agent. Therefore, I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter. If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to 'I', 'my', or 'me' is a reference to the entity.

Signature of Agent _____	Title <u>Authorized Agent</u>
Printed/Typed Name of Agent <u>Jason Horowitz</u>	Date <u>11-3-15</u>
Signature of Applicant _____	Title <u>Authorized Agent</u>
Printed/Typed Name of Applicant <u>Jason Horowitz</u>	Date <u>11-3-15</u>
Signature of Property Owner _____	Title <u>Partner</u>
Printed/Typed Name of Property Owner <u>ABDUL KHAN</u>	Date <u>10-29-15</u>
Signature of Property Owner _____	Title <u>Partner</u>
Printed/Typed Name of Property Owner <u>PERVEEN KHAN</u>	Date <u>10-29-15</u>
Signature of Property Owner _____	Title <u>Partner</u>
Printed/Typed Name of Property Owner <u>Babu Saleem</u>	Date <u>10-29-15</u>

\*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.



PLANNING AND  
DEVELOPMENT SERVICES

**ZONING CASE:**

Z15-29

**ZONING FROM:**

CD to CD with a CUP

**APPLICANT:**

JASON HOROWITZ  
KILLEEN DTP, LLC.

**PROPERTY OWNER:**

ABDUL KHAN

**LEGAL DESCRIPTION:**

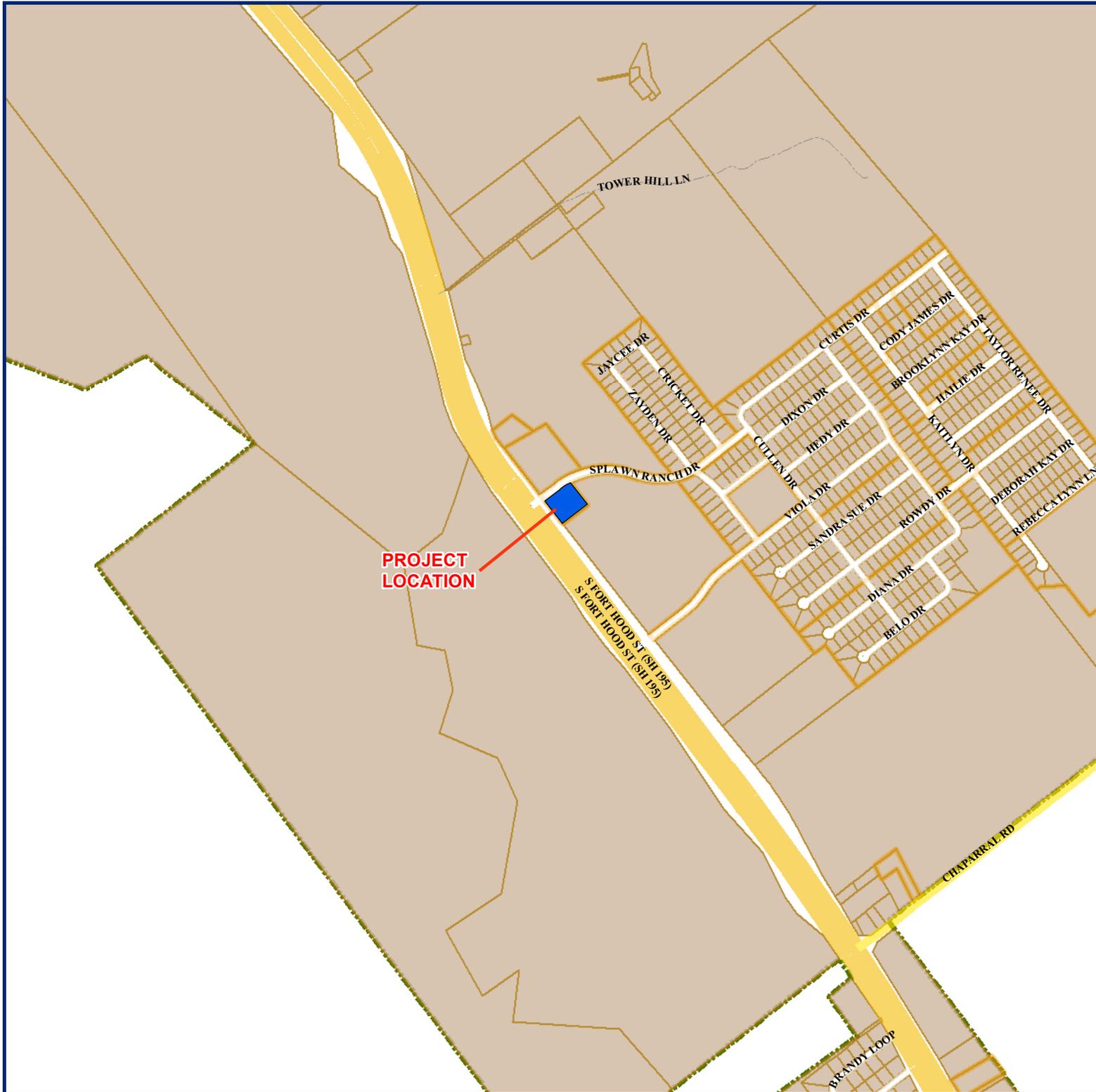
LOT 1 BLOCK 1  
WASSEY ADDITION  
1.297 ACRES

**LEGEND**

-  Zoning Case
-  Parcel
-  City Limits



Date: 11/9/2015





**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

**Z15-29**

**ZONING FROM:**

**CD to CD with a CUP**

**APPLICANT:**

**JASON HOROWITZ  
KILLEEN DTP, LLC.**

**PROPERTY OWNER:**

**ABDUL KHAN**

**LEGAL DESCRIPTION:**

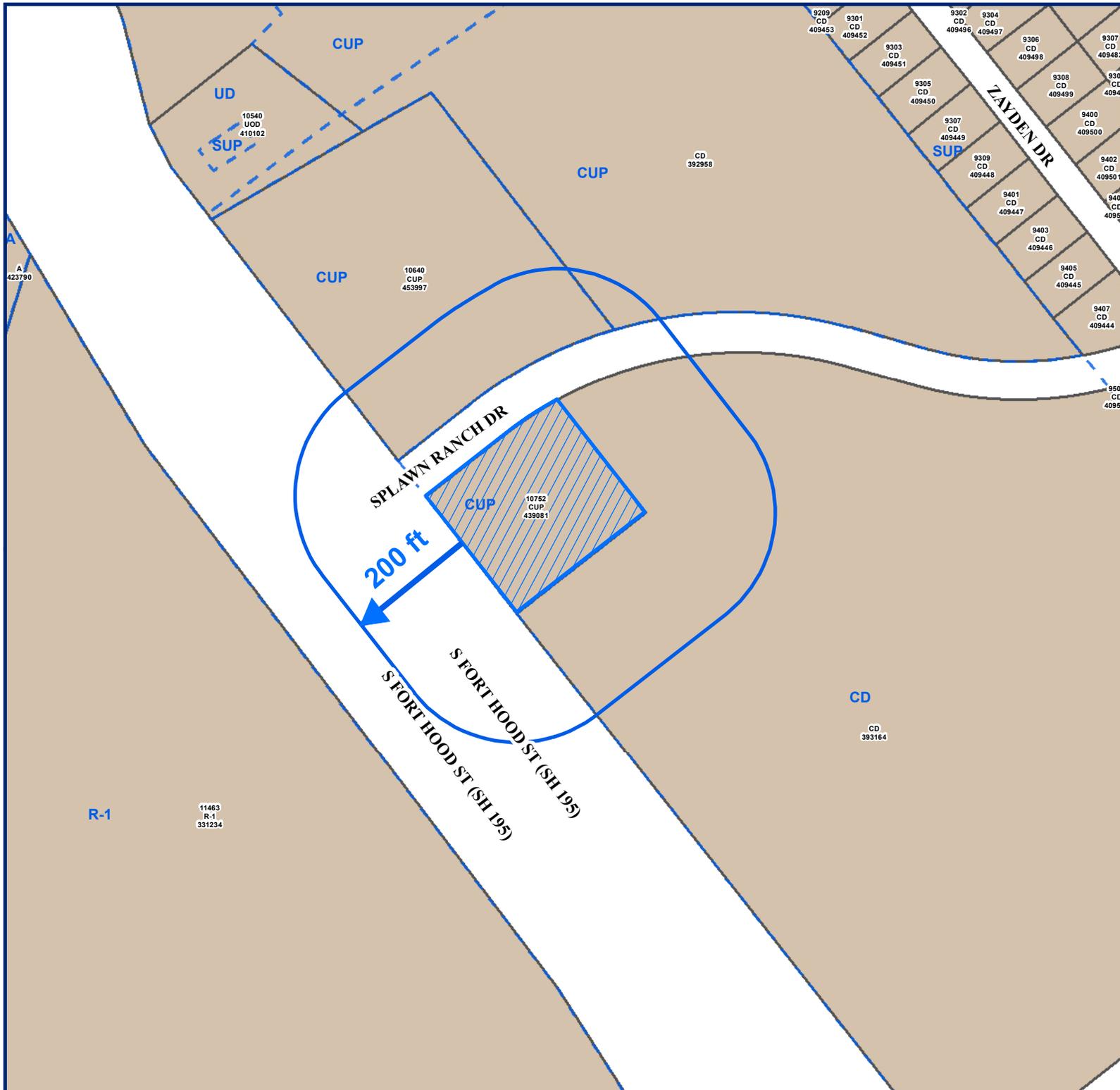
**LOT 1 BLOCK 1  
WASSEY ADDITION  
1.297 ACRES**

**LEGEND**

-  200 Ft Buffer
-  Zoning Case
-  Current Zoning
-  Parcel
-  City Limits



Date: 11/9/2015





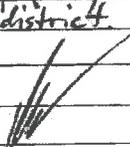
# CITY OF KILLEEN

PLANNING & DEVELOPMENT SERVICES

November 25, 2015

RE: Case #Z15-29: HOLD a public hearing and consider a request to rezone Lot 1

CUT HERE

YOUR NAME: Bruce Whit's	PHONE NUMBER: 953-5353
CURRENT ADDRESS: 3000 Ethmos Ave Killeen	
ADDRESS OF PROPERTY OWNED: Remainder of splain ranch	
COMMENTS: CD to CD w/CUP	
I oppose the CUP as written here. The retail use of the property is acceptable, but aesthetic controls and standards should be placed upon the property that complements the secondary overlay district.	
SIGNATURE: 	
SPO #Z15-29/03	

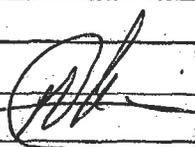
PO BOX 1329 KILLEEN TEXAS 76540-1329 254.501.7630 254.501.7628 FAX WWW.CIKILLEEN.TX.US

RECEIVED

DEC 03 2015

PLANNING

CUT HERE

YOUR NAME: JYVM Splain Ranch	PHONE NUMBER: 512-891-9991
CURRENT ADDRESS: 10640 S Ft Hood St	
ADDRESS OF PROPERTY OWNED: 10640 S. Ft Hood St	
COMMENTS: Concern about Quality of Construction and sales of items at low cost	
SIGNATURE: 	
SPO #Z15-29/01	

PO BOX 1329 KILLEEN TEXAS 76540-1329 254.501.7630 254.501.7628 FAX WWW.CIKILLEEN.TX.US

RECEIVED

DEC 07 2015

PLANNING

# CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

## **A. General Factors to Consider:**

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

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

## **B. Conditional Use Permit (if applicable)**

Whether the use is in harmonious with and adaptable to buildings, structures and use of abutting property and other property in the vicinity of the premises under construction.

## **C. Conditions to Consider**

1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
5. Cannot use any window display to advertise or call attention to the business.
6. Cannot have any signs
7. No off-street parking or on-street parking of more than two (2) vehicles at any one time for business related customer parking.
8. No retail sales.
9. Length of Permit.



# City of Killeen

## Legislation Details

---

**File #:** PH-16-001    **Version:** 1    **Name:** 2014 SAFER Grant Budget Amendment  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 12/2/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance amending the FY 2016 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing General Fund revenues by \$894,529 and various General Fund operating expenditure accounts by \$894,529.  
**Sponsors:** Finance Department, Fire Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Ordinance](#)  
[Amendment Package](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**2014 SAFER Grant Budget Amendment**

### ORIGINATING DEPARTMENT

**Finance / Fire Department**

### BACKGROUND INFORMATION

On October 6, 2015, the City Council approved resolution 15-114R accepting award of the Department of Homeland Security (DHS) Federal Emergency Management Agency's (FEMA) FY 2014 Staffing for Adequate Fire and Emergency Response (SAFER) Grant to fund thirty-seven (37) positions needed to staff Fire Station Nine, scheduled to open January 2017. The SAFER grant is a competitive program that was created to provide funding directly to fire departments to help increase the number of frontline firefighters, thus assuring the community has adequate protection. The program provides awards to assist in paying salaries and associated benefits of newly-hired Fire Rescue Officers. The City Council accepted the award of the SAFER Grant on October 6, 2015, in the amount of \$4,443,404.00 over a two-year period. In the third year, the City will be responsible for the cost of the positions awarded as a result of the grant in the third year.

### DISCUSSION/CONCLUSION

The SAFER Grant awarded the full amount requested in the City's application which will help fund the first two years of salaries and benefits for thirty-seven (37) new Fire Rescue Officer positions. The first-year salary and benefits cost of the Fire Rescue Officer positions was calculated to be \$2,114,365; the second year, \$2,329,039. The total cost of both years is \$4,443,404. The performance period for the Fire and Rescue Officers will begin on May 2, 2016. Therefore, this budget amendment will cover the remaining five months in FY2016.

### FISCAL IMPACT

The salary and benefits cost for the thirty-seven (37) Fire Rescue Officers from May 2, 2016 - September 30, 2016, is \$894,529. Accordingly, the following budget amendment is needed to increase General Fund revenue and expenditure accounts for the grant:

#### Revenues

Account Number	Account Name	Original Budget	Increase	Amended Budget
010-0000-382.45-30	SAFER Grant 2014	0	\$894,529	\$894,529

## Expenditures

Account Number	Account Name	Original Budget	Increase	Amended Budget
010-7070-442.40-05	Full Time Salaries	\$10,694,508	\$657,195	\$11,351,703
010-7070-442.40-30	Incentive Pay	\$917,640	\$18,785	\$936,425
010-7070-442.45-05	Hospital Insurance	\$870,863	\$71,457	\$942,320
010-7070-442.45-10	Retirement	\$1,615,032	\$87,876	\$1,702,908
010-7070-442.45-15	Social Security	\$986,398	\$51,710	\$1,038,108
010-7070-442.45-20	Workers Comp	\$252,465	\$7,506	\$259,971
Total		\$15,336,906	\$894,529	\$16,231,435

## RECOMMENDATION

Staff recommends that City Council approve the ordinance amending the FY 2016 City of Killeen General Fund budget.

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2016 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING GENERAL FUND REVENUE ACCOUNTS BY \$894,529 AND VARIOUS GENERAL FUND EXPENDITURE ACCOUNTS BY \$894,529; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, a budget for operating the municipal government of the City of Killeen for the Fiscal Year October 1, 2015, to September 30, 2016, has been adopted by City Council in accordance with the City Charter; and

**WHEREAS**, it is the desire of the Killeen City Council to increase General Fund Revenue accounts and various General Fund expenditure accounts to account for the 2014 Safer Grant; and

**WHEREAS**, the need for the additional funds requires a budget amendment;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**SECTION I.** That Ordinance 15-044 adopting a budget for operating the municipal government of the City of Killeen for the Fiscal Year October 1, 2015, to September 30, 2016, be amended as to the portion of said budget as follows:

**Revenues**

Account Number	Account Name	Original Budget	Increase	Amended Budget
010-0000-382.45-30	SAFER Grant 2014	0	\$894,529	\$894,529

**Expenditures**

Account Number	Account Name	Original Budget	Increase	Amended Budget
010-7070-442.40-05	Full Time Salaries	\$10,694,508	\$657,195	\$11,351,703
010-7070-442.40-30	Incentive Pay	\$917,640	\$18,785	\$936,425
010-7070-442.45-05	Hospital Insurance	\$870,863	\$71,457	\$942,320
010-7070-442.45-10	Retirement	\$1,615,032	\$87,876	\$1,702,908
010-7070-442.45-15	Social Security	\$986,398	\$51,710	\$1,038,108
010-7070-442.45-20	Workers Comp	\$252,465	\$7,506	\$259,971
Total		\$15,336,906	\$894,529	\$16,231,435

**SECTION II.** That the City Council finds that the public notice and public hearing requirements of Section 56 of the City Charter have been complied with prior to the enactment of this ordinance.

**SECTION III.** That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION V.** That this ordinance shall be effective after its passage and publication according to the law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 12th day of January, 2016, at which meeting 1a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, 551.001 et seq.

**APPROVED**

\_\_\_\_\_  
Scott Cospers, MAYOR

**ATTEST:**

\_\_\_\_\_  
Dianna Barker, CITY SECRETARY

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Kathryn H. Davis, CITY ATTORNEY

## Amendment Package

---



Federal Emergency Management Agency  
Washington, D.C. 20472

Ms Karen Evans  
City of Killeen/Fire Department  
P.O. Box 1329  
Killeen, Texas 76540-1329

Re: Grant No. EMW-2014-FH-00819

Dear Ms Evans:

This letter is in written response to your amendment request regarding an extension of your grant. Your request was reviewed by the Program and Grants Office and is hereby approved. As a result of this approval, your Grant Period of Performance and Article III of your Grant Agreement Articles are amended to extend your grant your grant from 05.01.16, through 05.01.18. All other terms and conditions of the grant remain unchanged.

If you have any further questions and/or concerns please contact me at (202) 786-9963.

Sincerely,

Francisco Bernal  
Department of Homeland Security/FEMA  
Grants Management Specialist

## Summary Award Memo

**SUMMARY OF ASSISTANCE ACTION  
STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE GRANTS  
Application**

**INSTRUMENT:** GRANT  
**AGREEMENT NUMBER:** EMW-2014-FH-00819  
**GRANTEE:** City of Killeen/Fire Department  
**DUNS Number:** 068980739  
**AMOUNT:** \$4,443,404.00,

**Project Description**

The purpose of the Staffing for Adequate Fire and Emergency Response Program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards.

After careful consideration, FEMA has determined that the recipient's project or projects submitted as part of the recipient's application, and detailed in the project narrative as well as the request details section of the application - including budget information - was consistent with the Staffing for Adequate Fire and Emergency Response program's purpose and worthy of award. The projects approved for funding are indicated by the budget or negotiation comments below. The recipient shall perform the work described in the grant application for the recipient's approved project or projects as itemized in the request details section of the application and further described in the grant application narrative. The content of the approved portions of the application - along with any documents submitted with the recipient's application - are incorporated by reference into the terms of the recipient's award. The recipient may not change or make any material deviations from the approved scope of work outlined in the above referenced sections of the application without prior written approval, via amendment request, from FEMA.

**Period of Performance**

01-MAY-16 to 01-MAY-18

**Amount Awarded**

The amount of the award is detailed in the attached Obligating Document for Award. The following are the budgeted estimates for object classes for this grant (including Federal share plus recipient match):

Personnel:	\$0.00
Fringe Benefits	\$0.00
Travel	\$0.00
Equipment	\$0.00
Supplies	\$0.00
Contractual	\$0.00
Construction	\$0.00
Other	\$0.00
Indirect Charges	\$0.00
<b>Total</b>	<b>\$4,443,404.00</b>

**NEGOTIATION COMMENTS IF APPLICABLE (max 8000 characters)****FEMA Officials**

**Program Officer:** The Program Specialist is responsible for the technical monitoring of the stages of work and technical performance of the activities described in the approved grant application. If you have any programmatic questions regarding your grant, please call the AFG Help Desk at 866-274-0960 to be directed to a program specialist.

**Grants Assistance Officer:** The Assistance Officer is the Federal official responsible for negotiating, administering, and executing all grant business matters. The Officer conducts the final business review of all grant awards and permits the obligation of federal funds. If you have any questions regarding your grant please call ASK-GMD at 866-927-5646 to be directed to a Grants Management Specialist.

**Grants Operations POC:** The Grants Management Specialist shall be contacted to address all financial and administrative grant business matters for this grant award. If you have any questions regarding your grant please call ASK-GMD at 866-927-5646 to be directed to a specialist.

**ADDITIONAL REQUIREMENTS (IF APPLICABLE) (max 8000 characters)**

## Agreement Articles



# FEMA

U.S. Department of Homeland Security  
Washington, D.C. 20472

## AGREEMENT ARTICLES

### STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) Grants

**GRANTEE:** City of Killeen/Fire Department

**PROGRAM:** Staffing for Adequate Fire and Emergency Response (SAFER) -

**AGREEMENT NUMBER:** EMW-2014-FH-00819

**AMENDMENT NUMBER:** 1

## TABLE OF CONTENTS

Article I	Assurances, Administrative Requirements and Cost Principles
Article II	Acknowledgement of Federal Funding from DHS
Article III	Activities Conducted Abroad
Article IV	Age Discrimination Act of 1975
Article V	Americans with Disabilities Act of 1990
Article VI	Best Practices for Collection and Use of Personally Identifiable Information (PII)
Article VII	Title VI of the Civil Rights Act of 1964
Article VIII	Civil Right Act of 1968
Article IX	Copyright
Article X	Debarment and Suspension
Article XI	Drug-Free Workplace Regulations
Article XII	Duplication of Benefits
Article XIII	Energy Policy and Conservation Act
Article XIV	Reporting Subawards and Executive Compensation
Article XV	False Claims Act and Program Fraud Civil Remedies
Article XVI	Federal Debt Status
Article XVII	Fly America Act of 1974
Article XVIII	Hotel and Motel Safety Act of 1990
Article XIX	Limited English Proficiency (Civil Rights Act of 1964, Title VI)
Article XX	Lobbying Prohibitions
Article XXI	Non-supplanting Requirement
Article XXII	Patents and Intellectual Property Rights

Article XXIII	Procurement of Recovered Materials
Article XXIV	Contract Provisions for Non-federal Entity Contracts under Federal Awards
Article XXV	SAFECOM
Article XXVI	Terrorist Financing E.O. 13224
Article XXVII	Title IX of the Education Amendments of 1972 (Equal Opportunity in Education Act)
Article XXVII	Trafficking Victims Protection Act of 2000
Article XXIX	Rehabilitation Act of 1973
Article XXX	USA Patriot Act of 2001
Article XXXI	Use of DHS Seal, Logo and Flags
Article XXXII	Whistleblower Protection Act
Article XXXIII	DHS Specific Acknowledgements and Assurances
Article XXXIV	System of Award Management and Universal Identifier Requirements
Article XXXV	Animal Welfare Act of 1966
Article XXXVI	Protection of Human Subjects
Article XXXVII	Incorporation by Reference of Funding Opportunity Announcement
Article XXXVIII	Acceptance of Post Award Changes

I. **Assurances, Administrative Requirements and Cost Principles**

Recipients of DHS federal financial assistance must complete OMB Standard Form [424B Assurances – Non-Construction Programs](#). Certain assurances in this document may not be applicable to your program, and the awarding agency may require applicants to certify additional assurances. Please contact the program awarding office if you have any questions.

The administrative requirements and cost principles that apply to DHS award recipients originate from:

[2 C.F.R. Part 200](#), *Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards*, as adopted by DHS at 2 C.F.R. Part 3002.

II. **Acknowledgement of Federal Funding from DHS**

All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

III. **Activities Conducted Abroad**

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

IV. **Age Discrimination Act of 1975**

All recipients must comply with the requirements of the *Age Discrimination Act of 1975* ([42 U.S.C. § 6101 et seq.](#)), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

- V. **Americans with Disabilities Act of 1990**  
All recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities ([42 U.S.C. §§ 12101–12213](#)).
- VI. **Best Practices for Collection and Use of Personally Identifiable Information (PII)**  
All recipients who collect PII are required to have a publically-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate.  
  
Award recipients may also find as a useful resource the DHS Privacy Impact Assessments: [Privacy Guidance](#) and [Privacy template](#) respectively.
- VII. **Title VI of the Civil Rights Act of 1964**  
All recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* ([42 U.S.C. § 2000d et seq.](#)), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Implementing regulations for the Act are found at [6 C.F.R. Part 21](#) and [44 C.F.R. Part 7](#).
- VIII. **Civil Rights Act of 1968**  
All recipients must comply with [Title VIII of the Civil Rights Act of 1968](#), which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex ([42 U.S.C. § 3601 et seq.](#)), as implemented by the Department of Housing and Urban Development at [24 C.F.R. Part 100](#). The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see [24 C.F.R. § 100.201](#)).
- IX. **Copyright**  
All recipients must affix the applicable copyright notices of [17 U.S.C. §§ 401 or 402](#) and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).
- X. **Debarment and Suspension**  
All recipients must comply with Executive Orders [12549](#) and [12689](#), which provide protection against waste, fraud and abuse by debarment or suspending those persons deemed irresponsible in their dealings with the Federal government.
- XI. **Drug-Free Workplace Regulations**  
All recipients must comply with the *Drug-Free Workplace Act of 1988* ([41 U.S.C. § 701 et seq.](#)), which requires that all organizations receiving grants from any Federal

agency agree to maintain a drug-free workplace. DHS has adopted the Act's implementing regulations at [2 C.F.R. Part 3001](#).

## XII. **Duplication of Benefits**

Any cost allocable to a particular Federal award provided for in [2 C.F.R. Part 200, Subpart E](#) may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

## XIII. **Energy Policy and Conservation Act**

All recipients must comply with the requirements of [42 U.S.C. § 6201](#) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issues in compliance with this Act.

## XIV. **Reporting Subawards and Executive Compensation**

### **a. Reporting of first-tier subawards.**

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

### 2. *Where and when to report.*

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

### **b. Reporting Total Compensation of Recipient Executives.**

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. the total Federal funding authorized to date under this award is \$25,000 or more;

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile at <https://www.sam.gov>.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

**c. Reporting of Total Compensation of Subrecipient Executives.**

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received  
—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

**d. Exemptions**

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards,  
  
and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

**e. Definitions. For purposes of this award term:**

1. *Entity* means all of the following, as defined in 2 CFR part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. *Executive* means officers, managing partners, or any other employees in management positions.

3. *Subaward*:

- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. *Subrecipient* means an entity that:

- i. Receives a subaward from you (the recipient) under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- i. *Salary and bonus.*
- ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
- v. *Above-market earnings on deferred compensation which is not tax-qualified.*
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

XV. **False Claims Act and Program Fraud Civil Remedies**

All recipients must comply with the requirements of [31 U.S.C. §3729](#) which set forth that no recipient of federal payments shall submit a false claim for payment. See also [38 U.S.C. § 3801-3812](#) which details the administrative remedies for false claims and statements made.

XVI. **Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See [OMB Circular A-129](#) and form SF-424B, item number 17 for additional information and guidance.

XVII. **Fly America Act of 1974**

All recipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under [49 U.S.C. § 41102](#)) for international air transportation of people and property to the extent that such service is available, in accordance with the *International Air Transportation Fair Competitive Practices Act of 1974* ([49 U.S.C. § 40118](#)) and the interpretative guidelines issued by the Comptroller General of the

United States in the March 31, 1981, [amendment](#) to Comptroller General Decision B-138942.

**XVIII. Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, [15 U.S.C. §2225a](#), all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the *Federal Fire Prevention and Control Act of 1974*, as amended, 15 U.S.C. §2225.

**XIX. Limited English Proficiency (Civil Rights Act of 1964, Title VI)**

All recipients must comply with the *Title VI of the Civil Rights Act of 1964* (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. In order to facilitate compliance with Title VI, recipients are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, *DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

**XX. Lobbying Prohibitions**

All recipients must comply with [31 U.S.C. §1352](#), which provides that none of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

**XXI. Non-supplanting Requirement**

All recipients who receive awards made under programs that prohibit supplanting by law must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Where federal statutes for a particular program prohibits supplanting, applicants or recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

**XXII. Patents and Intellectual Property Rights**

Unless otherwise provided by law, recipients are subject to the [Bayh-Dole Act, Pub. L. No. 96-517](#), as amended, and codified in [35 U.S.C. § 200](#) et seq. All recipients are

subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are in [37 C.F.R. Part 401](#) and the standard patent rights clause in 37 C.F.R. § 401.14.

**XXIII. Procurement of Recovered Materials**

All recipients must comply with section 6002 of the [Solid Waste Disposal Act](#), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**XXIV. Contract Provisions for Non-federal Entity Contracts under Federal Awards**

**a. Contracts for more than the simplified acquisition threshold set at \$150,000.**

All recipients who have contracts exceeding the acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council as authorized by [41 U.S.C. §1908](#), must address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

**b. Contracts in excess of \$10,000.**

All recipients that have contracts exceeding \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

**XXV. SAFECOM**

All recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the [SAFECOM](#) Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

**XXVI. Terrorist Financing E.O. 13224**

All recipients must comply with [U.S. Executive Order 13224](#) and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the E.O. and laws.

**XXVII. Title IX of the Education Amendments of 1972 (Equal Opportunity in**

**Education Act)**

All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 ([20 U.S.C. § 1681 et seq.](#)), which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. Implementing regulations are codified at [6 C.F.R. Part 17](#) and [44 C.F.R. Part 19](#)

**XXVIII. Trafficking Victims Protection Act of 2000**

All recipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the *Trafficking Victims Protection Act (TVPA) of 2000*, as amended ([22 U.S.C. § 7104](#)). This is implemented in accordance with OMB Interim Final Guidance, *Federal Register*, Volume 72, No. 218, November 13, 2007. Full text of the award term is located at [2 CFR § 175.15](#).

**XXIX. Rehabilitation Act of 1973**

All recipients of must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, [29 U.S.C. § 794](#), as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

**XXX. USA Patriot Act of 2001**

All recipients must comply with requirements of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (USA PATRIOT Act), which amends [18 U.S.C. §§ 175–175c](#). Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

**XXXI. Use of DHS Seal, Logo and Flags**

All recipients must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

**XXXII. Whistleblower Protection Act**

All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C § 2409](#), [41 U.S.C. § 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).

**XXXIII. DHS Specific Acknowledgements and Assurances**

All recipients must acknowledge and agree—and require any sub-

recipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.
2. Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.

The United States has the right to seek judicial enforcement of these obligations.

#### **XXXIV. System of Award Management and Universal Identifier Requirements**

##### **A. Requirement for System of Award Management**

Unless exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

##### **B. Requirement for unique entity identifier**

If authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from

you unless the entity has provided its unique entity identifier to you.

2. May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

### **C. Definitions**

For purposes of this award term:

1. *System of Award Management (SAM)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <http://www.sam.gov>).

2. *Unique entity identifier* means the identifier required for SAM registration to uniquely identify business entities.

3. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- a. A Governmental organization, which is a State, local government, or Indian Tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. *Subaward*:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. *Subrecipient* means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

### **XXXV. Animal Welfare Act of 1966**

All recipients of financial assistance will comply with the requirements of the Animal Welfare Act, as amended (7 U.S.C. §2131 et seq.), which requires that minimum standards of care and treatment be provided for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. Recipients must establish appropriate policies and procedures for the humane care and use of animals based on the Guide for the Care and Use of Laboratory Animals and comply with the Public Health Service Policy and Government Principles Regarding the Care and Use of Animals.

**XXXVI. Protection of Human Subjects**

All recipients of financial assistance will comply with the requirements of the Federal regulations at 45 CFR Part 46, which requires that recipients comply with applicable provisions/law for the protection of human subjects for purposes of research. Recipients must also comply with the requirements in DHS Management Directive 026-04, Protection of Human Subjects, prior to implementing any work with human subjects. For purposes of 45 CFR Part 46, research means a systematic investigation, including research, development, testing, and evaluation, designed to develop or contribute to general knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). The use of autopsy materials is governed by applicable State and local law and is not directly regulated by 45 CFR Part 46.

**XXXVII. Incorporation by Reference of Funding Opportunity Announcement**

The Funding Opportunity Announcement for this program is hereby incorporated into your award agreement by reference. By accepting this award, the recipient agrees that all allocations and use of funds under this grant will be in accordance with the requirements contained in the Funding Opportunity Announcement.

**XXXVII. Acceptance of Post Award Changes**

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. If you have questions about these procedures, please contact the AFG Help Desk at 1-866-274-0960, or send an email to [firegrants@dhs.gov](mailto:firegrants@dhs.gov).

**FEDERAL EMERGENCY MANAGEMENT AGENCY  
OBLIGATING DOCUMENT FOR AWARD/AMENDMENT**

1. AGREEMENT NO. EMW-2014-FH-00819	2. AMENDMENT NO. 1	3. RECIPIENT NO. 74-6001504	4. TYPE OF ACTION AWARD	5. CONTROL NO. WX02758N2015T
---------------------------------------	-----------------------	--------------------------------	----------------------------	---------------------------------

6. RECIPIENT NAME AND ADDRESS City of Killeen/Fire Department 201 N. 28th Street Killeen Texas, 76540-1329	7. ISSUING OFFICE AND ADDRESS FEMA/Financial and Grants Management Division 500 C Street, S.W., Room 350 Washington DC, 20472 POC: Nikole Johnson	8. PAYMENT OFFICE AND ADDRESS FEMA/Financial Services Branch 500 C Street, S.W., Room 723 Washington DC, 20472
--	---	---

9. NAME OF RECIPIENT PROJECT OFFICER Karen Evans	PHONE NO. 2545017740	10. NAME OF PROJECT COORDINATOR Catherine Patterson	PHONE NO. 1-866-274-0960
---	-------------------------	--	-----------------------------

11. EFFECTIVE DATE OF THIS ACTION 01-MAY-16	12. METHOD OF PAYMENT SF-270	13. ASSISTANCE ARRANGEMENT Cost Sharing	14. PERFORMANCE PERIOD From:01-MAY-16 To:01-MAY-18  Budget Period From:16-APR-15 To:30-SEP-15
--	---------------------------------	--	---

15. DESCRIPTION OF ACTION  
a. (Indicate funding data for awards or financial changes)

PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE) XXXX-XXX-XXXXXX-XXXX-XXXX-XXXX-X	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + OR (-)	CURRENT TOTAL AWARD	CUMULATIVE NON-FEDERAL COMMITMENT
SAFER	97.083	2015-F4-C211-P4310000-4101-D	\$4,443,404.00	\$0.00	\$4,443,404.00	\$0.00
TOTALS			\$4,443,404.00	\$0.00	\$4,443,404.00	\$0.00

b. To describe changes other than funding data or financial changes, attach schedule and check here.  
N/A

16a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)

*SAFER recipients are not required to sign and return copies of this document. However, recipients should print and keep a copy of this document for their records.*

16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN

This assistance is subject to terms and conditions attached to this award notice or by incorporated reference in program legislation cited above.

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) N/A	DATE N/A
--	-------------

18. FEMA SIGNATORY OFFICIAL (Name and Title)	DATE
--	------

Close Window



# City of Killeen

## Legislation Details

---

**File #:** PH-16-002    **Version:** 1    **Name:** Zoning 15-33  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 12/17/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance requested by Killeen Engineering & Surveying, Ltd. on behalf of RSBP Developers (Case #Z15-33) to rezone Lots 1-2, Blocks 10 through 13 Bunny Trail Estates, Phase One and Lots 3-19, Block 10 and Lots 3-34, Blocks 11 through 13, Bunny Trail Estates, Phase Two, from "R-1" (Single-family Residential District) to "R-1" (Single-family Residential District) with a Planned Unit Development (PUD) overlay. The properties are bounded by Great Divide Road on the east and Newcastle Drive on the west, Killeen, Texas.  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Attachment to Council Memorandum](#)  
[Ordinance](#)  
[Minutes](#)  
[Application](#)  
[Location Map](#)  
[Buffer Map](#)  
[Considerations](#)  
[PUD Exhibit](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**ZONING CASE #Z15-33 "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) WITH A PLANNED UNIT DEVELOPMENT (PUD) OVERLAY.**

### ORIGINATING DEPARTMENT

### PLANNING & DEVELOPMENT SERVICES

Killeen Engineering & Surveying, Ltd. submits this request on behalf of RSBP Developers to rezone Lots 1-2, Blocks 10 through 13 Bunny Trail Estates, Phase One and Lots 3-19, Block 10 and Lots 3-34, Blocks 11 through 13, Bunny Trail Estates, Phase Two, from "R-1" (Single-Family Residential District) to "R-1" (Single-Family Residential District) uses with a Planned Unit Development (PUD) overlay. The properties are bounded by Great Divide Road on the east and Newcastle Drive on the west, Killeen, Texas. The purpose of the PUD overlay is to reduce the required rear yard from 25 feet to 17 feet, while increasing the required side yard from 7 feet to 9 feet.

### District Descriptions:

**A building or premises in a "R-1" Single-Family Residential District shall be used only for the following purposes:**

- (1) One-family dwellings.
- (2) Churches or other places of worship.
- (3) Colleges, universities or other institutions of higher learning.
- (4) Country clubs or golf courses, but not including miniature golf courses, driving ranges or similar forms of commercial amusement.
- (5) Farms, nurseries or truck gardens, limited to the proportion and cultivation of plants, provided no retail or wholesale business is conducted on the premises, and provided further that no poultry or livestock other than normal household pets shall be housed within one hundred (100) feet of any property line.
- (6) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
- (7) Public buildings, including libraries, museums, police and fire stations.
- (8) Real estate sales offices during the development of residential subdivisions but not to exceed two (2) years. Display residential houses with sales offices, provided that if such display houses are not moved within a period of one (1) year, specific permission must be obtained from the city council for such display houses to remain on their locations.
- (9) Schools, public elementary or high.
- (10) Schools, private with curriculum equivalent to that of a public elementary or high school.
- (11) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
- (12) Water supply reservoirs, pumping plants and towers.

(13) Accessory buildings and uses, incident to the uses in this section and located on the same lot therewith, not involving the conduct of a retail building...

(14) A subdivision entry sign, when such sign is located on a lot that abuts a subdivision boundary and fronts on a street entering the subdivision. Such sign:

- a. Shall not have a sign face which exceeds a total of twenty-four (24) square feet; and
- b. Shall not exceed six (6) feet in height; and
- c. Shall not be located in a side or rear yard which is adjacent to any other lot designated for residential use; and
- d. Shall advertise only the name of the subdivision.

(15) Cemetery.

A Planned Unit Development (PUD) is a land use design incorporating the concepts of density and common open space. Common open space shall include, but is not limited to, community amenities such as parks, gardens, pedestrian trails, recreation areas, and usable undisturbed, natural areas. The PUD designation serves as an "overlay zoning and development classification." In this capacity, the designation permits specific negotiated development regulations to be applied to the base land use zoning district(s) in which the property is located. When a parcel of land receives a PUD designation, the entire parcel must be assigned one or more standard zoning district classifications. However, the added PUD overlay classification enables the developer of the site to request that specific land use development regulations be applied to his development site. Such specific land use and development regulations shall not take effect until they are reviewed, public hearings held and approved by both the Planning and Zoning Commission and the City Council. The PUD classification is an overlay designation to provide the flexibility to permit development projects which may include multiple land uses.

This classification serves the following purposes:

- (a) Establish a procedure for the development of a parcel of land under unified control to reduce or eliminate the inflexibility that might otherwise result from strict application of land use standards and procedures designed primarily for individual lots;
- (b) Ensure structured review and approval procedures are applied to unique development projects that intended to take advantage of common open space and promote pedestrian circulation;
- (c )Allow developers greater freedom to be innovative in selecting the means to provide access, light, open space and amenities; and
- (d) Provide flexibility from the strict application of existing development regulations and land use standards and allow developers the opportunity to take advantage of special site characteristics and location.

The regulatory provisions of this classification are intended to achieve the above purposes while maintaining the spirit of the current City of Killeen Development Regulations, as amended. As such, these provisions represent the governing body's minimum quality of life standard and no variance or exception shall be granted thereto.

### **Property Specifics**

**Applicant/Property Owner:** RSBP Developers, Inc.

**Property Location:** The properties are bounded by Great Divide Road on the east and Newcastle Drive on the west, Killeen, Texas.

**Legal Description:** Lots 3-34, Blocks 11 through 13 and Lots 3-19, Block 10, Bunny Trail Estates, Phase Two; Lots 1-2, Blocks 10 through 13 Bunny Trail Estates, Phase One.

**Zoning/ Plat Case History:**

The property was rezoned from "A" (Agricultural District) to "R-1" (Single-family Residential District) on November 11, 2011 per Ordinance No. 11-098.

The subject property is platted as Bunny Trail Estates, Phase One, which was filed for record on January 23, 2012 in Cabinet D, Slide 384-A/B, Plat Records, Bell County, Texas and Bunny Trail Estates, Phase Two, which was filed for record on February 8, 2013 in Cabinet D, Slide 384-A, Plat Records, Bell County, Texas.

**Character of the Area**

**Existing Land Use(s) on the Property:** The project area is currently under development with a mixture of single-family residential uses. Bridgewood Addition and Brighton Place are two existing subdivisions around this development.

**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: Water, sanitary sewer, and drainage utility services are readily available to the above subject property proposed to be rezoned within the City of Killeen municipal utility service area. The property lies entirely within previously platted subdivisions - Bunny Trail Estates, Phases One and Two. In accordance with the City of Killeen Code of Ordinances, the developer is required to extend public utilities to the property in accordance with the plan of service validated with the approved plat cases. All supporting public utilities and public streets have been accepted and dedicated to the City for maintenance. The property owner and his agents are cautioned that unknown or unforeseen site conditions may require remedial action to provide safe and adequate water, sewer, or drainage service to the property. Further, City of Killeen development regulations require that capacity analyses related to development of the property are the sole responsibility of the owner. The owner or his agents, acting as the permit applicant for the subject property, shall coordinate tie-in to all publicly dedicated infrastructure with the Public Works Department.

**Transportation:**

Existing conditions: This project area has been platted with adequate ingress/egress according to the Code of Ordinances. Brunswick Drive, Endicott Drive, Ozark Drive and Anvil Range Road are all 60' local streets that abut the subject property.

Proposed Improvements: None.

Projected Traffic Generation: Moderate upon build out.

**Environmental Assessment**

**Topography:** This property is relatively flat.

**Regulated Floodplain/Floodway/Creek:** This property is located in a Zone X Special Flood Hazard Area. There are no known wetlands on this parcel.

**Land Use Analysis**

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

**Plan Recommendation:** The 'General Residential' character encourages detached residential dwellings as the primary focus, attached housing types subject to compatibility and open space standards (e.g. duplexes), planned developments with a mix of housing types subject to compatibility and open space standards, public/institutional, parks, and other public spaces.

The characteristics of this designation include:

- Predominantly "R-1" zoning district with less openness and separation between dwellings compared to Suburban Residential areas.

- Auto-oriented character that can be offset with architectural standards, landscaping, and limited uniform subdivision designs.

- Neighborhood-scale commercial emerging over time for well-suited areas.

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

**Public Notification**

The staff notified 93 (ninety three) surrounding property owners regarding this request. No responses have been received.

**Recommendation**

The Planning & Zoning Commission recommended approval (by a vote of 6 to 0) of the applicant's request with the following standards:

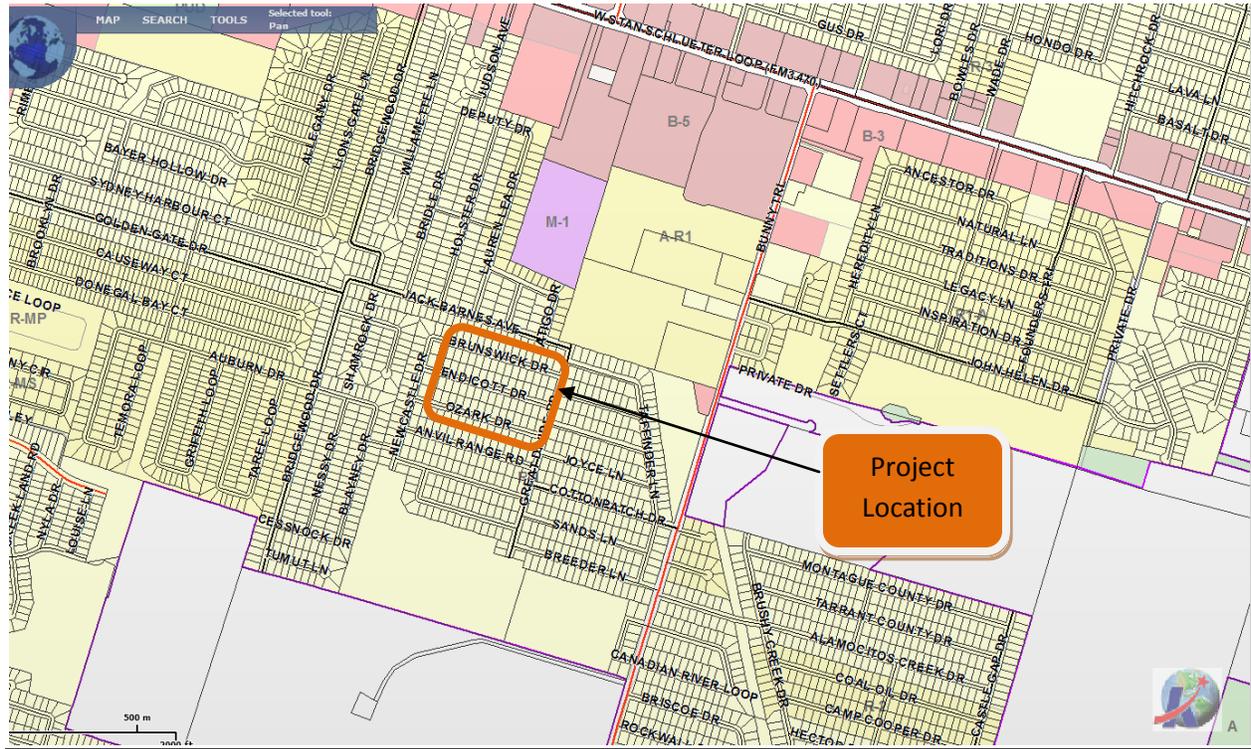
Side yards shall be a minimum width of nine (9) feet (as illustrated on the PUD zoning concept plan), exclusive of those side yards located adjacent to public rights-of-way, which shall remain at fifteen (15) feet.

Rear yards shall have a depth of not less than seventeen (17) feet (as illustrated on the PUD zoning concept plan) from the current standard of twenty-five (25) feet.

There shall be a minimum of 3-sides masonry (for the front and side exteriors) of all housing units.

Each lot shall have a fully sodded yard.

**Figure 1. Zoning Map**



**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO R-1 WITH A PLANNED UNIT DEVELOPMENT (PUD) OVERLAY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, RSBP Developers, Inc. has presented to the City of Killeen a request for amendment of the Zoning Ordinance of the City of Killeen by changing the classification of the hereinafter described property from R-1 (Single-family Residential District) to R-1 (Single-family Residential District) with a Planned Unit Development (PUD) overlay for Lots 1-2, Blocks 10 through 13, Bunny Trail Estates Phase One and Lots 3-19, Block 10 and Lots 3-34, Blocks 11 through 13, Bunny Trail Estates Phase Two, said request having been duly presented and recommended for approval to by the Planning and Zoning Commission of the City of Killeen on the 21st day of December 2015 with the following conditions:

- Side yards shall be a minimum width of nine (9) feet (, exclusive of those side yards located adjacent to public rights-of-way, which shall remain at fifteen (15) feet.
- Rear yards shall have a depth of not less than seventeen (17) feet (as illustrated on the attached PUD site concept plan) from the current standard of twenty-five (25) feet.
- There shall be a minimum of 3-sides masonry (for the front and side exteriors) of all housing units.
- Each lot shall be fully sodded;

and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 12th day of January 2016, at

the City Hall, City of Killeen;

**WHEREAS**, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the majority opinion that the request should be approved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**Section I.** That the zoning classification of the following described tract be changed from R-1 (Single-family Residential District) to R-1 (Single-family Residential District) with a Planned Unit Development (PUD) overlay, with the standards as stipulated by the Planning and Zoning Commission, for Lots 1-2, Blocks 10 through 13, Bunny Trail Estates Phase One and Lots 3-19, Block 10 and Lots 3-34, Blocks 11 through 13, Bunny Trail Estates Phase Two, Killeen, Texas.

**Section II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**Section III.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 12th day of January 2016, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED:**

---

**Scott Cospers, MAYOR**

**ATTEST:**

---

**Dianna Barker, CITY SECRETARY**

**APPROVED AS TO FORM**

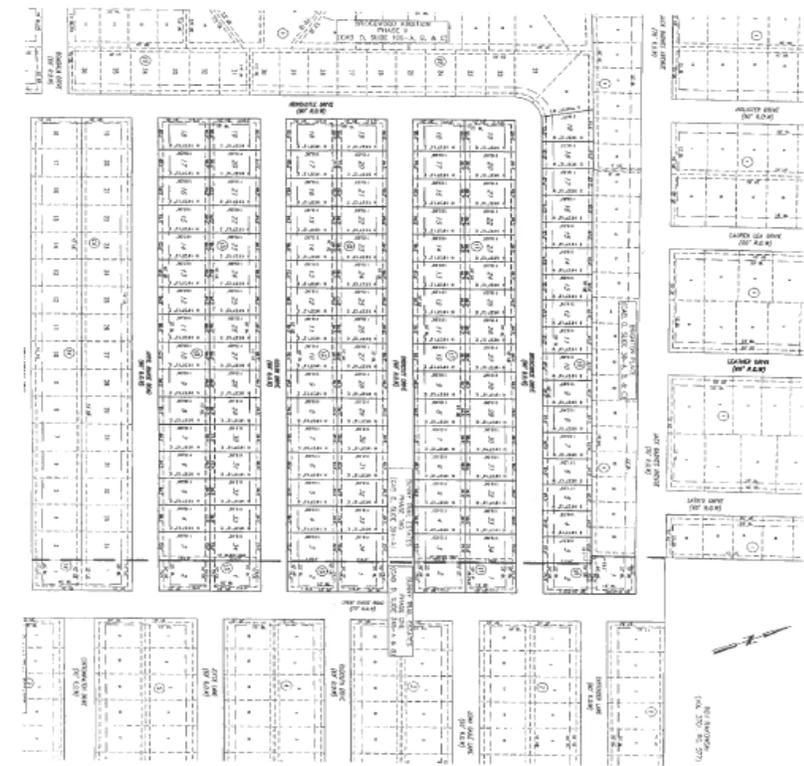
---

**Kathryn H. Davis, City Attorney**  
Case #15-33  
Ord. #

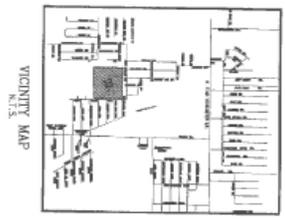
Fig. 1: PUD Site Concept Plan



THIS INSTRUMENT IS VALID FOR THE PURPOSES OF THE PUBLIC UTILITIES ACT, CHAPTER 49, ARTICLE 10, SECTION 10.01, OF THE TEXAS CONSTITUTION, AND THE PUBLIC UTILITIES ACT, CHAPTER 49, ARTICLE 10, SECTION 10.02, OF THE TEXAS CONSTITUTION.



SECTION 10.01, ARTICLE 10, CHAPTER 49, TEXAS CONSTITUTION. THIS INSTRUMENT IS VALID FOR THE PURPOSES OF THE PUBLIC UTILITIES ACT, CHAPTER 49, ARTICLE 10, SECTION 10.01, OF THE TEXAS CONSTITUTION, AND THE PUBLIC UTILITIES ACT, CHAPTER 49, ARTICLE 10, SECTION 10.02, OF THE TEXAS CONSTITUTION.



ZONING EXHIBIT

PUD SITE CONCEPT PLAN  
KILLEEN, BELL COUNTY, TEXAS

Project No.	2021-049
Address	
No. of Lots	151
Acres	1.7 ± ± 0.07
Date	11/17/2021
Client No.	402/707
Sheet No.	12

DATE	DESCRIPTION

**KILLEEN ENGINEERING & SURVEYING, LTD**

2801 E. Stov. Schlueter Loop  
Killeen, Texas 76542  
OFFICE: (254) 338-3800 FAX: (254) 820-4331  
TWP REGISTRATION NO. F-4200  
TWP REGISTRATION NO. 10244-02

**PLANNING AND ZONING COMMISSION MEETING  
DECEMBER 21, 2015**

**CASE # Z15-33  
R-1 TO R-1 w/PUD**

**HOLD a public hearing and consider a request by RSBP Developers, Inc. to rezone Lots 1-2, Blocks 10, 11, 12 and 13, Bunny Trail Estates, Phase One and Lots 3-19, Block 10, Lots 3-34, Blocks 11, 12 and 13, Bunny Trail Estates, Phase Two, from R-1 (Single-family Residential District) to R-1 with a Planned Unit Development (P.U.D.) for single family use with reduced required rear yards and increased required side yards. The properties are bounded by Jack Barnes Avenue (north), Great Divide Road (east), Newcastle Drive (west) and Anvil road Range (south), Killeen, Texas.**

Chairman Frederick requested staff comments.

Senior Planner Charlotte Hitchman stated Killeen Engineering & Surveying, Ltd. submits this request on behalf of RSBP Developers to rezone the lots to Planned Unit Development (PUD) with “R-1” (Single-Family Residential District). The purpose of the PUD overlay is to reduce the required rear yard from 25 feet to 17 feet, while increasing the required side yard from 7 feet to 9 feet. The property was rezoned from “A” (Agricultural District) to “R-1” (Single-family Residential District) on November 11, 2011 per Ordinance No. 11-098.

Staff notified 93 (ninety three) surrounding property owners within the 200 foot notification boundary and no responses have been received.

Staff recommends approval of “R-1” (Single-Family Residential District) zoning with a PUD overlay with the following standards:

- Side yards shall be a minimum width of nine (9) feet exclusive of those side yards located adjacent to public rights-of-way, which shall remain at fifteen (15) feet as illustrated on the attached PUD zoning exhibit.
- Rear yard shall have a depth of not less than seventeen (17) feet from current standard of twenty-five (25) feet.
- There shall be a minimum of 3-side masonry on the front and side exteriors of all housing units.
- Each lot shall have a fully sodded yard.

Ms. Hitchman noted that staff is of the determination that this project is a unique in-fill development opportunity, and the requested deviation is more than mitigated by the requested increase in lot width, overall lot size, and additional conditions required.

Mr. Charles Gamble, 609 Sunny Brook Drive, Leander, Texas, was present to represent this request.

Chairman Frederick opened the public hearing.

Mr. Gary Purser Jr., 6503 Wells Fargo, Killeen, Texas, was present to support this request. With no one else requesting to speak, the public hearing was closed.

Commissioner Alvarez motioned to recommend approval of the “PUD” zoning with the conditions for Case #Z15-33. Commissioner Cooper seconded the motion. The motioned was approved by a vote of 6 to 0.

Chairman Frederick stated that his will be forwarded to City Council with a recommendation to approve.



Date Paid:	<u>11/19/15</u>
Amount Paid:	\$ <u>300</u>
Cash/MO #/Check #:	# <u>1199</u>
Receipt #:	<u>327</u>

CASE #: 215-33

## City of Killeen Zoning Change Application

General Zoning Change \$300.00 [ ] Conditional Use Permit \$500.00

Name(s) of Property Owner: RSBP Developers, Inc.

Current Address: 2901 E. Stan Schlueter Loop

City: Killeen State: Texas Zip: 75642 -

Home Phone: (254) 526-4652 Business Phone: (254) 634-5567; Ext #104 Cell Phone: (254) 535-1540

Email: cpurser@purserco.com

Name of Applicant: (SAME)  
(If different than Property Owner)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: ( ) \_\_\_\_\_ Business Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Address/Location of property to be rezoned: Bunny Trail Estates Phase Two  
Near Anvil Range Road & Great Divide Road

Legal Description: Bunny Trail Estates Phase Two - Blocks 11,12, & 13, Lots 3-34; Block 10, Lots 3-19 and  
Bunny Trail Estates Phase One - Blocks 10, 11, 12, & 13, Lots 1-2

Metes & Bounds or Lot(s) Block Subdivision

Is the rezone request consistent with the Comprehensive Plan?  YES NO  
If NO, a FLUM amendment application must be submitted.

Type of Ownership: \_\_\_\_\_ Sole Ownership \_\_\_\_\_ Partnership  Corporation \_\_\_\_\_ Other

Present Zoning: R-1 Present Use: SINGLE FAMILY RESIDENTIAL - VACANT

Proposed Zoning: PUD Proposed Use: PLANNED UNIT DEVELOPMENT

Conditional Use Permit for: \_\_\_\_\_

This property was conveyed to owner by deed dated August 26, 2011 and recorded in Volume Page \_\_\_\_\_, Instrument Number 2011-00029590 of the Bell County Deed Records. (Attached)

Is this the first rezoning application on a unilaterally annexed tract?  
Yes \_\_\_\_\_ (Fee not required) No  (Submit required fee)

## APPOINTMENT OF AGENT

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Killeen Engineering & Surveying, Ltd.

Mailing Address: 2901 E. Stan Schlueter Loop

City: Killeen State: Texas Zip: 76542 - \_\_\_\_\_

Home Phone: ( 254 ) 526-4652 Business Phone: ( 254 ) 526-3981 Email: bpurser@kesltd.com

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

**be the point of contact between myself and the City; make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me. This authorization only applies to this specific zoning request.**

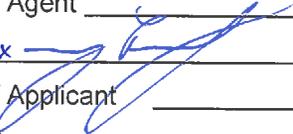
**I understand that the City will deal only with a fully authorized agent.** At any time it should appear that my agent has less than full authority to act, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application are part of an official proceeding of City government and, that the City will rely upon statements made by my agent. Therefore, **I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter.** If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to 'I', 'my', or 'me' is a reference to the entity.

Signature of Agent  Title Project Manager

Printed/Typed Name of Agent Ben Purser Date 11-18-15

Signature of Agent \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Agent \_\_\_\_\_ Date \_\_\_\_\_

Signature of Applicant x  Title President - RSBP

Printed/Typed Name of Applicant RSBP Developers, Inc. Date 11-18-15

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner (same) Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

\*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.

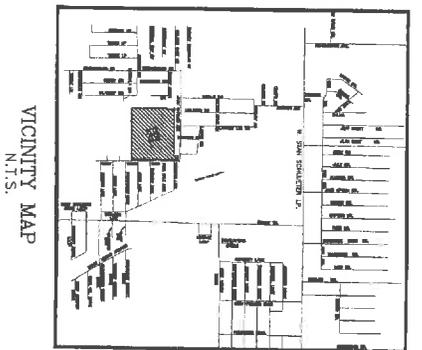
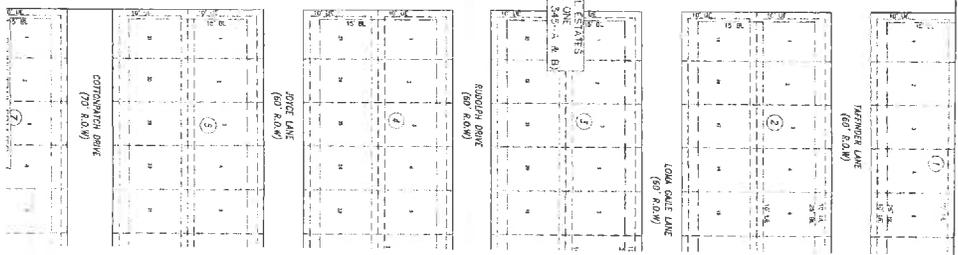
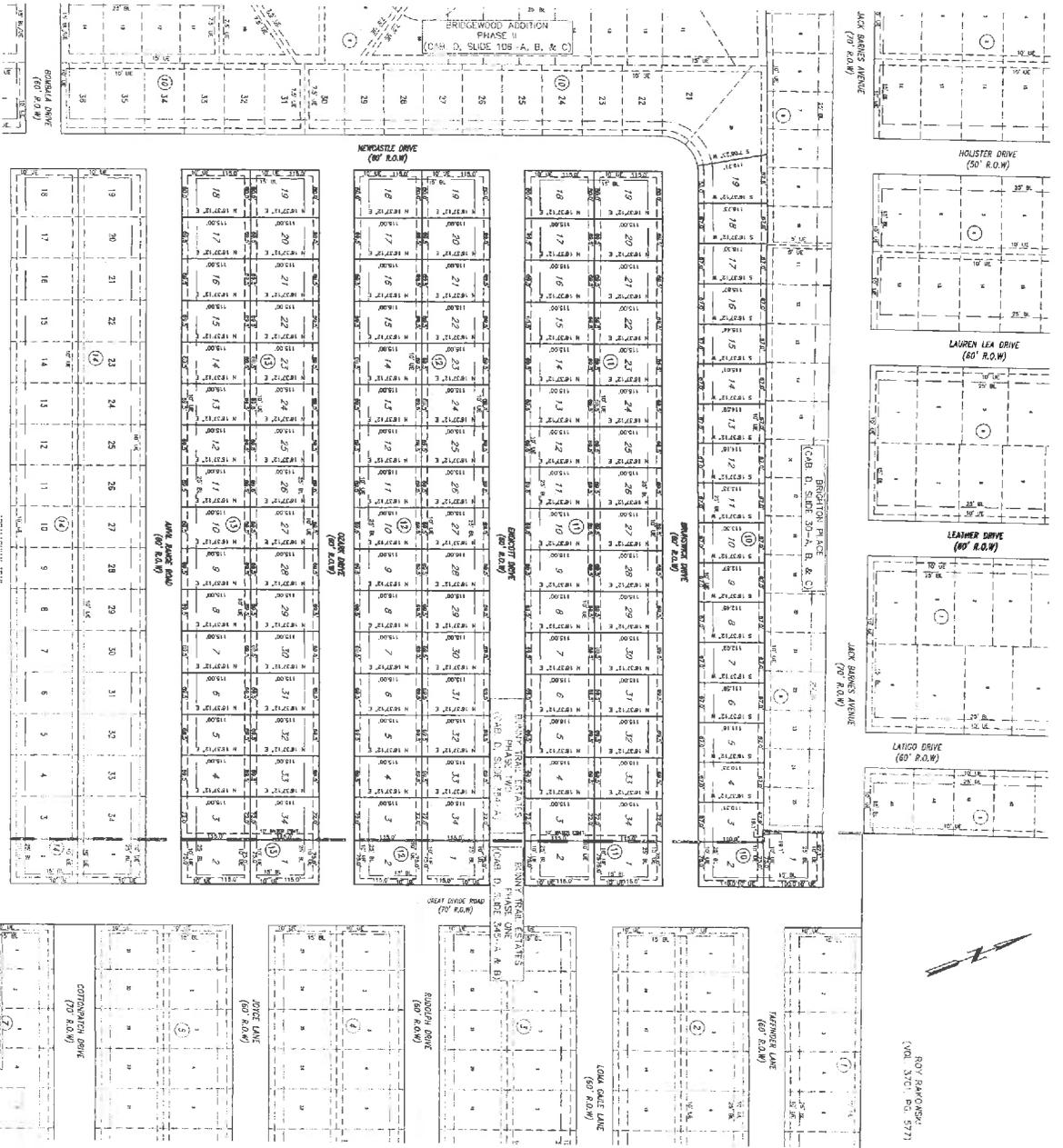
PUD OVERLAY

Property: Per attached exhibit.

Request modification of rear yard setback to having a depth of not less than seventeen (17) feet from current standard of not less than twenty-five (25) feet.

Request modification of interior side yard setback on each side of the lot having a width of not less than nine (9) feet from current standard of not less than seven (7) feet.

---



ZONING EXHIBIT

PUD SITE CONCEPT PLAN  
KILLEEN, BELL COUNTY, TEXAS



**KILLEEN ENGINEERING & SURVEYING, LTD**  
 2901 E. Stan Schlueter Loop  
 Killeen, Texas 76542  
 OFFICE: (254) 525-3981 FAX: (254) 526-4351  
 TBPE REGISTRATION NO. F-4200  
 TBPLS REGISTRATION NO. 100144-00

Δ DATE	SHEETS

Project No.:	2015-040
Acreage:	---
No. of Lots:	121
Scale:	1" = 100'
Date:	11/19/2015
Design By:	MEL/BP
Sheet No.:	1.0

REQUESTED: All lots, depicted on the zoning exhibit, and described in the legal description of the rezoning application request, submitted with this exhibit to the City of Killeen, for reclassification so that they reflect the modification listed.

1) First yard setbacks are adjusted to minimum 171 feet from the standard twenty (20) feet.

2) Side yard setbacks are adjusted to minimum 9 feet from the standard seven (7) feet.

NOTE: All lot dimensions shown on this plan are based on the final subdivision plat. The zoning application request submitted with this exhibit is for informational purposes only. The zoning commission will consider the zoning application and its findings.



TYPICAL LOT LAYOUT





**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

**Z15-33**

**ZONING FROM:**

**R-1 To PUD**

**APPLICANT:**

**RSBP DEVELOPERS INC.**

**PROPERTY OWNER:**

**RSBP DEVELOPERS INC.**

**LEGAL DESCRIPTION:**

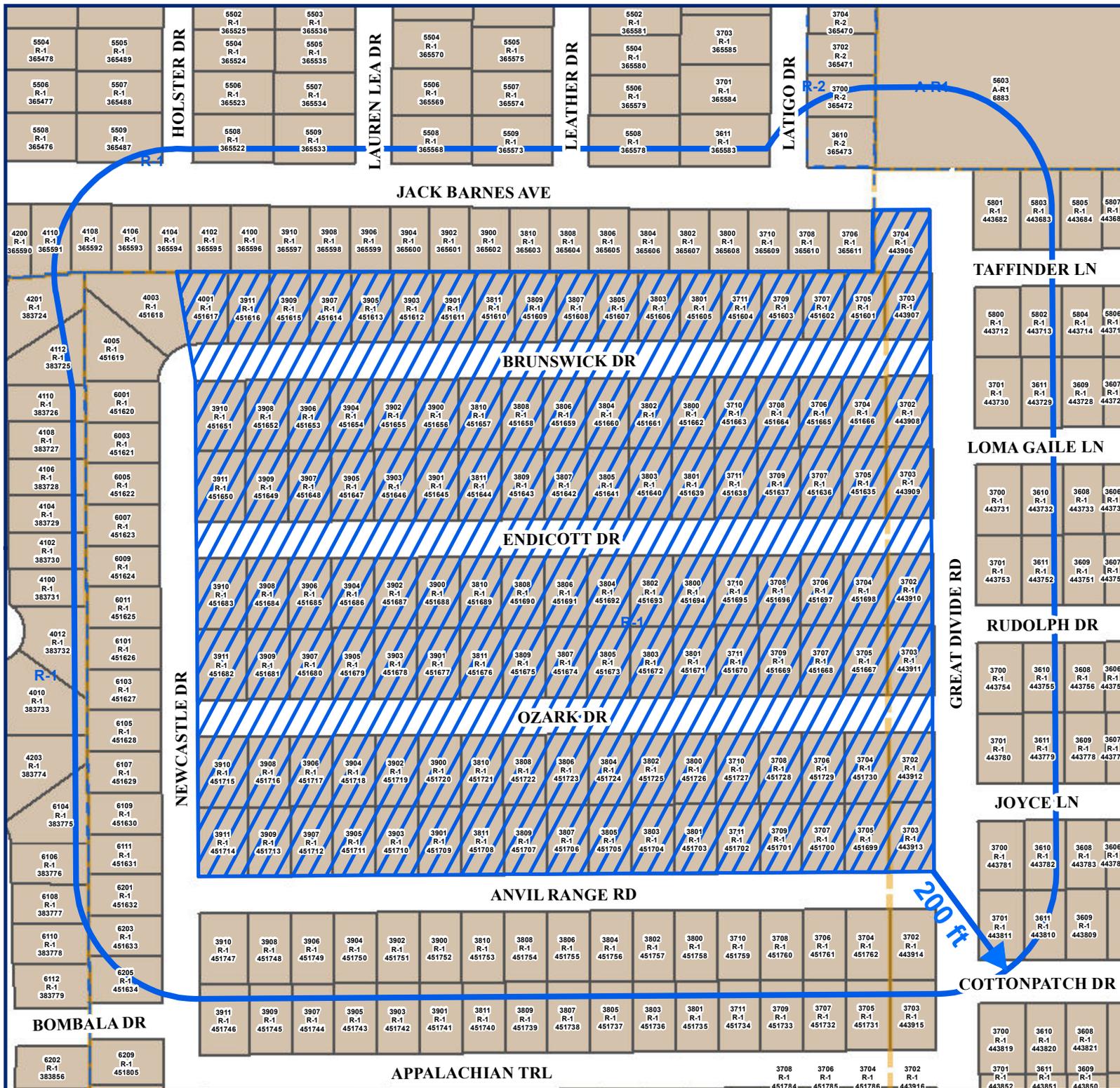
BUNNY TRAIL ESTATES PH II -  
BLK 11,12,13 LOT 3-34  
BLK 10 LOT 1,2  
BUNNY TRAIL ESTATES PH I -  
BLK 10,11,12,13 LOT 1,2

**LEGEND**

-  200' Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 11/23/2015



GREAT DIVIDE RD

200 ft

# CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

## **A. General Factors to Consider:**

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

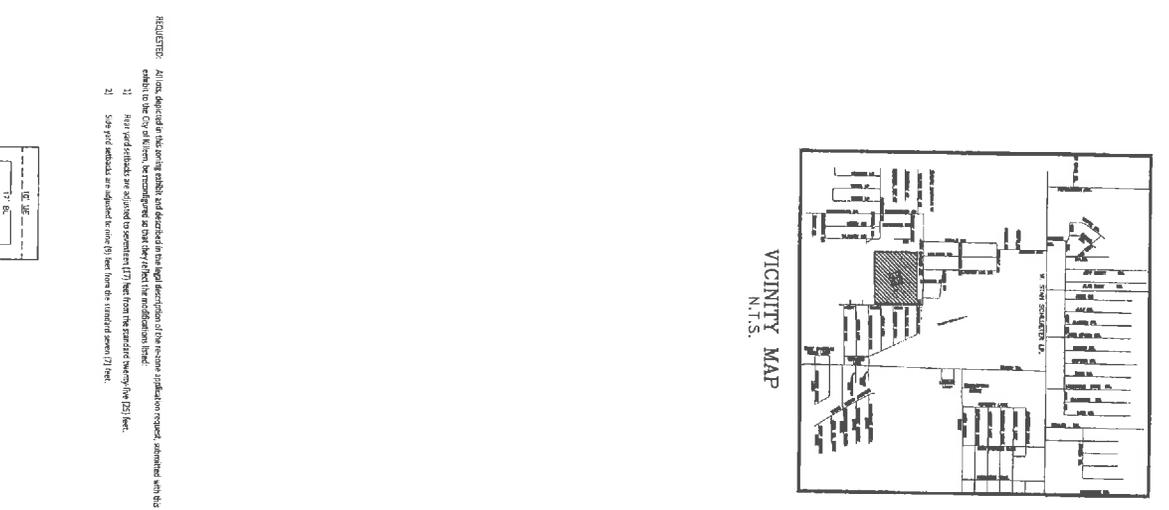
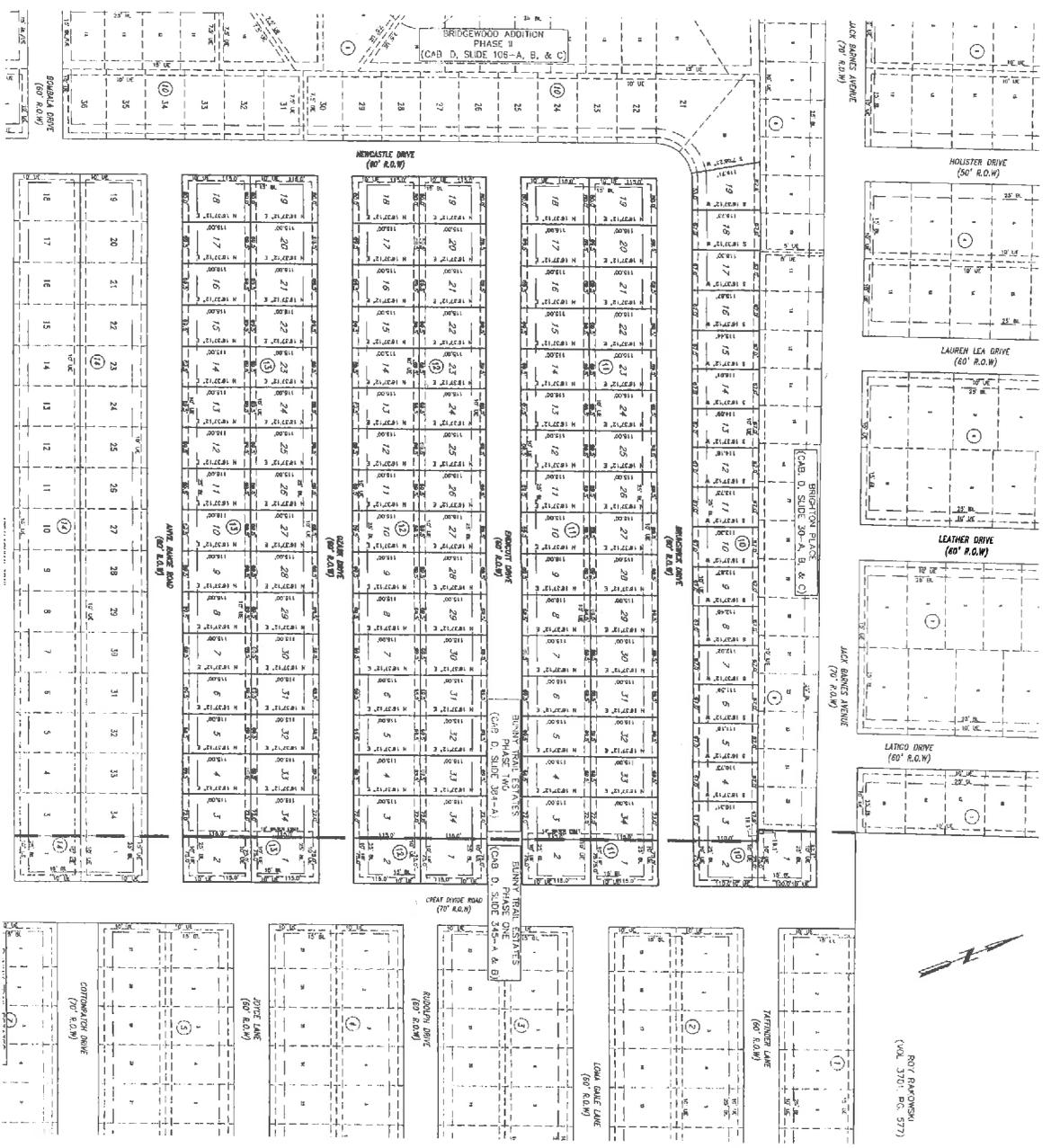
Any other factors which will substantially affect the health, safety, morals or general welfare.

## **B. Conditional Use Permit (if applicable)**

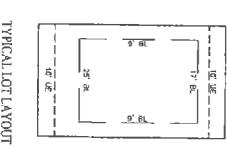
Whether the use is in harmonious with and adaptable to buildings, structures and use of abutting property and other property in the vicinity of the premises under construction.

## **C. Conditions to Consider**

1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
5. Cannot use any window display to advertise or call attention to the business.
6. Cannot have any signs
7. No off-street parking or on-street parking of more than two (2) vehicles at any one time for business related customer parking.
8. No retail sales.
9. Length of Permit.



NOTE: All lots depicted in this zoning exhibit are described in the legal description of the rezoning application request, submitted with this exhibit to the City of Killeen. The current zoning classification of lots surrounding said lots is shown on this plan.



REQUIREMENTS: All lots depicted in this zoning exhibit are described in the legal description of the rezoning application request, submitted with this exhibit to the City of Killeen. The current zoning classification of lots surrounding said lots is shown on this plan.

### ZONING EXHIBIT

PUD SITE CONCEPT PLAN  
KILLEEN, BELL COUNTY, TEXAS



**KILLEEN ENGINEERING & SURVEYING, LTD**  
2901 E. Stan Schlueter Loop  
Killeen, Texas 76542  
OFFICE: (254) 526-3981 FAX: (254) 526-4351  
TBPE REGISTRATION NO. F-4200  
TBPLS REGISTRATION NO. 100144-00

Project No.:	2015-040
Acres:	---
No. of Lots:	121
Scale:	1" = 100'
Date:	11/19/2015
Design By:	MEL/gp
Sheet No.:	1.0



# City of Killeen

## Legislation Details

---

**File #:** PH-16-003    **Version:** 1    **Name:** Zoning 15-34  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 12/17/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**

**Title:** HOLD a public hearing and consider an ordinance requested by Vincent Gerard & Associates Inc. on behalf of DCM&M Automotive Group, L.P. (Case #Z15-34) to rezone a .0574 acre (50 x 50 foot) area out of Lot 1, Block 1 Malibu Tower Addition, from "M-1" (Manufacturing District) to "M-1" (Manufacturing District) with a Conditional Use Permit (CUP) for a 85' tall monopole communication structure. The property is located south of Bacon Ranch Road west of E. Stan Schlueter Loop (FM 3470) and is locally known as 3800 Bacon Ranch Road in Killeen, Texas. (Requires a 3/4 majority vote for approval.)

**Sponsors:** Planning & Development Dept

**Indexes:**

**Code sections:**

**Attachments:** [Council Memorandum](#)  
[Attachment to Council Memorandum](#)  
[Ordinance](#)  
[Minutes](#)  
[Application](#)  
[Location Map](#)  
[Buffer Map](#)  
[Considerations](#)  
[CUP Exhibit](#)  
[Response](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

<b>AGENDA ITEM</b>	<b>ZONING</b>	<b>CASE</b>	<b>#Z15-34</b>	<b>"M-1"</b>
	<b>(MANUFACTURING DISTRICT)</b>	<b>TO</b>	<b>(MANUFACTURING DISTRICT)</b>	<b>"M-1"</b>
	<b>(MANUFACTURING DISTRICT)</b>	<b>WITH</b>	<b>CONDITIONAL USE PERMIT (CUP)</b>	

### **ORIGINATING DEPARTMENT**

### **PLANNING & DEVELOPMENT SERVICES**

Vincent Gerard & Associates Inc. submits this request on behalf of DCM&M Automotive Group, L. P. to rezone a .0574 acre (50 x 50 foot) area out of Lot 1, Block 1 Malibu Tower Addition, from "M-1" (Manufacturing District) to "M-1" (Manufacturing District) with a Conditional Use Permit (CUP) for a 85' tall monopole communication structure. The property is located south of Bacon Ranch Road west of E. Stan Schlueter Loop (FM 3470) and is locally known as 3800 Bacon Ranch Road in Killeen, Texas.

### **District Descriptions:**

- Any communication facility (tower) that does not comply with subsection 31-602 of the Code of Ordinances may be constructed only upon approval of a Conditional Use Permit.
- All conditions and tower regulations listed within Chapter 31, Division 6, of the Code of Ordinances shall be met.
- Conditional Use Permits must be approved by the majority of the Planning and Zoning Commission and then by the City Council with a three-fourths (3/4) affirmative vote. The City Council may impose reasonable conditions and safeguards deemed appropriate to that application in order to protect the health, safety, and welfare of the public and protect property and property values.

### **Property Specifics**

**Applicant/Property Owner:** DCM&M Automotive Group

**Property Location:** The property is located along the south right-of-way of Bacon Ranch Road, west of E. Stan Schlueter Loop (FM 3470) and is locally known as 3800 Bacon Ranch Road in Killeen, Texas.

**Legal Description:** Lot 1, Block 1 Malibu Tower Addition.

**Zoning history:** There has been no recent zoning activity for this property.

**Plat Case History:** Malibu Tower Addition was filed and recorded December 9, 2015.

### **Character of the Area**

**Existing Land Use(s) on the Property:** The property is largely undeveloped.

## **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: This memorandum is to advise that water, sanitary sewer, and drainage utility services are available to the above subject tract located within the City of Killeen municipal utility service area. Adequate potable water and sanitary sewer capacity is currently available to the tract. An existing potable water main borders the entire frontage of the subject tract. A sanitary sewer main bisects the tract. The public wastewater collection network in this basin is adequate and allows flow by gravity from the subject tract. Natural undisturbed drainage patterns are present. Public storm drainage infrastructure is limited to public right-of-way and detention of post development storm water run-off may be required.

It shall be noted that Public Works personnel have performed only a basic assessment of publicly-dedicated water and sanitary sewer infrastructure that would serve this property. The property owner and his agents are cautioned that unknown or unforeseen site conditions may require remedial action to provide safe and adequate water, sewer, or drainage service to the property. Further, City of Killeen development regulations require that capacity analyses related to development of the property are the sole responsibility of the owner. The owner or his agents, acting as the permit applicant for re-development of the subject property, shall coordinate tie-in to all publicly dedicated infrastructure with the Public Works Department.

#### **Transportation:**

Existing conditions: The improved public right-of-way serving the tract is a rural section street classified as a collector under the City's adopted Thoroughfare Plan. The collector is not at the desired level of service and is identified for future capital improvement under the adopted KTMO 2030 Mobility Plan. The applicant is advised that ingress/egress will be disciplined by TxDOT and City of Killeen's Access Management Policies when the property is developed.

Proposed Improvements: No improvements are planned as part of this zoning request.

Projected Traffic Generation: No Increase.

### **Environmental Assessment**

**Topography:** This property is relatively flat.

**Regulated Floodplain/Floodway/Creek:** This property is located in a Zone X Special Flood Hazard Area. There are no known wetlands on this parcel.

### **Land Use Analysis**

**Land Use Plan:** The property is designated as 'General Commercial' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

**Plan Recommendation:** The Comprehensive Plan considers 'General Commercial' to encompass a variety of commercial uses.

**Consistency:** The rezone is consistent with the FLUM designation for this area.

**Public Notification**

The staff notified five (5) surrounding property owners within a 200' notification boundary regarding this request and no responses were received.

**Recommendation**

The Planning & Zoning Commission recommended approval (by a vote of 6 to 0) of the applicant's request subject to adherence to the site plan and communication monopole design submitted by the applicant with this zoning request. The proposed location will allow for the communication tower to meet all regulations listed in Chapter 31, Division 6, of the Killeen Code of Ordinances.

Figure 1. Location Map



**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM M-1 (MANUFACTURING DISTRICT) TO M-1 (MANUFACTURING DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, DCM&M has presented to the City of Killeen a request for amendment of the Zoning Ordinance of the City of Killeen by changing the classification to rezone an approximate 0.0574 acre area out of Lot 1, Block 1, Malibu Tower Addition, from M-1 (Manufacturing District) to M-1 (Manufacturing District) with a Conditional Use Permit (CUP) for a 85' tall communication monopole structure as per the attached site plan. The property is located along the south right-of-way of Bacon Ranch Road, west of E. Stan Schlueter Loop (FM 3470) and is locally known as 3800 Bacon Ranch Road, said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 21st day of December 2015, and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 12th day of January 2016, at the City Hall, City of Killeen;

**WHEREAS**, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the  $\frac{3}{4}$  majority opinion that the request should be approved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**Section I.** That the zoning classification of the following described tract be changed from M-1 (Manufacturing District) to M-1 (Manufacturing District) with a Conditional Use

Permit (CUP) for a 85' tall communication monopole structure for an approximate 0.0574 acre area out of Lot 1, Block 1, Malibu Tower Addition, Killeen, Texas.

**Section II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**Section III.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 12<sup>th</sup> day of January 2016, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED:**

---

**Scott Cospers, MAYOR**

**ATTEST:**

---

**Dianna Barker, CITY SECRETARY**

**APPROVED AS TO FORM**

---

**Kathryn H. Davis, City Attorney**

Case #15-34  
Ord #



**PLANNING AND ZONING COMMISSION MEETING  
DECEMBER 21, 2015**

**CASE # Z15-34  
M-1 TO M-1 w/CUP**

**HOLD a public hearing and consider a request by DCM&M Automotive Group, L.P. to rezone an approximate 0.0574 acre area out of Lot 1, Block 1, Malibu Tower Addition, from M-1 (Manufacturing District) to M-1 (Manufacturing District) with a Conditional Use Permit (CUP) for a 85' tall communication monopole structure. The property is located along the south right-of-way of Bacon Ranch Road, west of E. Stan Schlueter Loop (FM 3470) and is locally known as 3800 Bacon Ranch Road, Killeen, Texas.**

Chairman Frederick requested staff comments.

Senior Planner Charlotte Hitchman stated that Vincent Gerard & Associates Inc. submits this request on behalf of DCM&M Automotive Group, L. P. to rezone a .0574 acre (50 x 50 foot lease) area to "M-1" (Manufacturing District) with a Conditional Use Permit (CUP) for a 85' tall monopole communication structure. The property is currently vacant.

The staff notified five (5) surrounding property owners within a 200' notification boundary regarding this request and no responses were received.

Staff recommends approval of the applicant's request subject to adherence to the site plan and communication monopole design submitted by the applicant with this zoning request. The proposed location will allow for the communication tower to meet all regulations listed in Chapter 31, Division 6 of the Killeen Code of Ordinances.

Mr. Vincent G. Huebinger, 1715 Capital Texas Hwy, Suite 207, Austin, Texas, was present to represent this request.

Chairman Frederick opened the public hearing. With no one requesting to speak, the public hearing was closed.

Commissioner Johnson motioned to recommend approval of the requested zoning for Case Z15-34. Commissioner Harkin seconded the motion. The motioned was approved by a vote of 6 to 0.

Chairman Frederick stated that his will be forwarded to City Council with a recommendation to approve.



Date Paid:	11/19/15
Amount Paid:	\$ 500
Cash/MO #/Check #:	# 12867
Receipt #:	3216

CASE # Z15-34

## City of Killeen Zoning Change Application

[ ] General Zoning Change [ ] Conditional Use Permit

Name(s) of Property Owner: William Dunivan Jr & Teddy J. Mullins  
 Current Address: 3800 Bacon Ranch Road  
 City: Killeen State: Tx Zip: 76549  
 Home Phone: ( ) \_\_\_\_\_ Business Phone: ( ) \_\_\_\_\_ Cell Phone: ( ) \_\_\_\_\_  
 Email: \_\_\_\_\_

Name of Applicant: Vincent Gerard & Assoc. Agent for Verizon Wireless  
 (If different than Property Owner)

Address: 1715 Capital Texas Hwy South, Suite 207  
 City: Austin State: Tx Zip: 78746  
 Home Phone: ( ) N/A Business Phone: ( ) 512 328-2693 Cell Phone ( ) 512 423-0853  
 Email: vinceh@flashnet

Address/Location of property to be rezoned: 3700 Bacon Ranch Rd.  
 Legal Description: (Proposed) Lot 1 Blk 1 Malibu Tower Addition

Metes & Bounds or Lot(s) Block Subdivision

Is the rezone request consistent with the Comprehensive Plan?  YES  NO

Type of Ownership: \_\_\_\_\_ Sole Ownership  Partnership \_\_\_\_\_ Corporation \_\_\_\_\_ Other

Present Zoning: M-1 Present Use: Vacant

Proposed Zoning: M-1 Proposed Use: Wireless CUP

Conditional Use Permit for: Wireless Communication Site

This property was conveyed to owner by deed dated \_\_\_\_\_ and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Instrument Number \_\_\_\_\_ of the Bell County Deed Records. (Attached)

Is this the first rezoning application on a unilaterally annexed tract?  
 Yes \_\_\_\_\_ (Fee not required) No  (Submit required fee)

**APPOINTMENT OF AGENT**

As title owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Vincent Gerard & Associates Inc. Vincent G. Huebinger (RE: Verizon Application)

Mailing Address: 1715 Capital Texas Hwy, Suite 207

City: Austin State: TX Zip: 78746

Home Phone: ( 512 ) 423-0853 Business Phone: (512) 328-2693

**I acknowledge and affirm that I will be legally bound by the words and acts of my agent in this matter. By initialing the lines below, I fully authorize my agent to make on-the-spot decisions in dealing with City staff and while appearing before the Zoning Board of Adjustments, as follow:**

- me  
Initials To be the point of contact between myself and the City on this matter;
- me  
Initials To make legally binding representations of fact and commitments of every kind on my behalf;
- me  
Initials To grant legally binding waivers of rights and releases of liabilities of every kind on my behalf;
- me  
Initials To consent to legally binding modifications, conditions and exceptions on my behalf; and,
- me  
Initials To execute documents on my behalf which are legally binding on me.

**I understand that the City will deal only with a fully authorized agent.** At any time it should appear that my agent has less than full authority to act, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application, are part of an official proceeding of City government and, that the City will rely upon statements made by my agent. Therefore, I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter. If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to "I", "my" or "me" is a reference to the entity.

[Signature]  
Signature of Title Owner

12-4-15  
Date

DC MEM Automotive Group, LP  
Printed/Typed Name of Property Owner

[Signature]  
Signature of Agent

12/4/15  
Date

Vincent G. Huebinger  
Printed/Typed Name of Agent



PLANNING AND  
DEVELOPMENT SERVICES

**ZONING CASE:**

Z15-34

**ZONING FROM:**

M-1 To M-1 w/CUP

**APPLICANT:**

VINCENT GIRARD  
& ASSOC.

**PROPERTY OWNER:**

DCM&M AUTOMOTIVE  
GROUP

**LEGAL DESCRIPTION:**

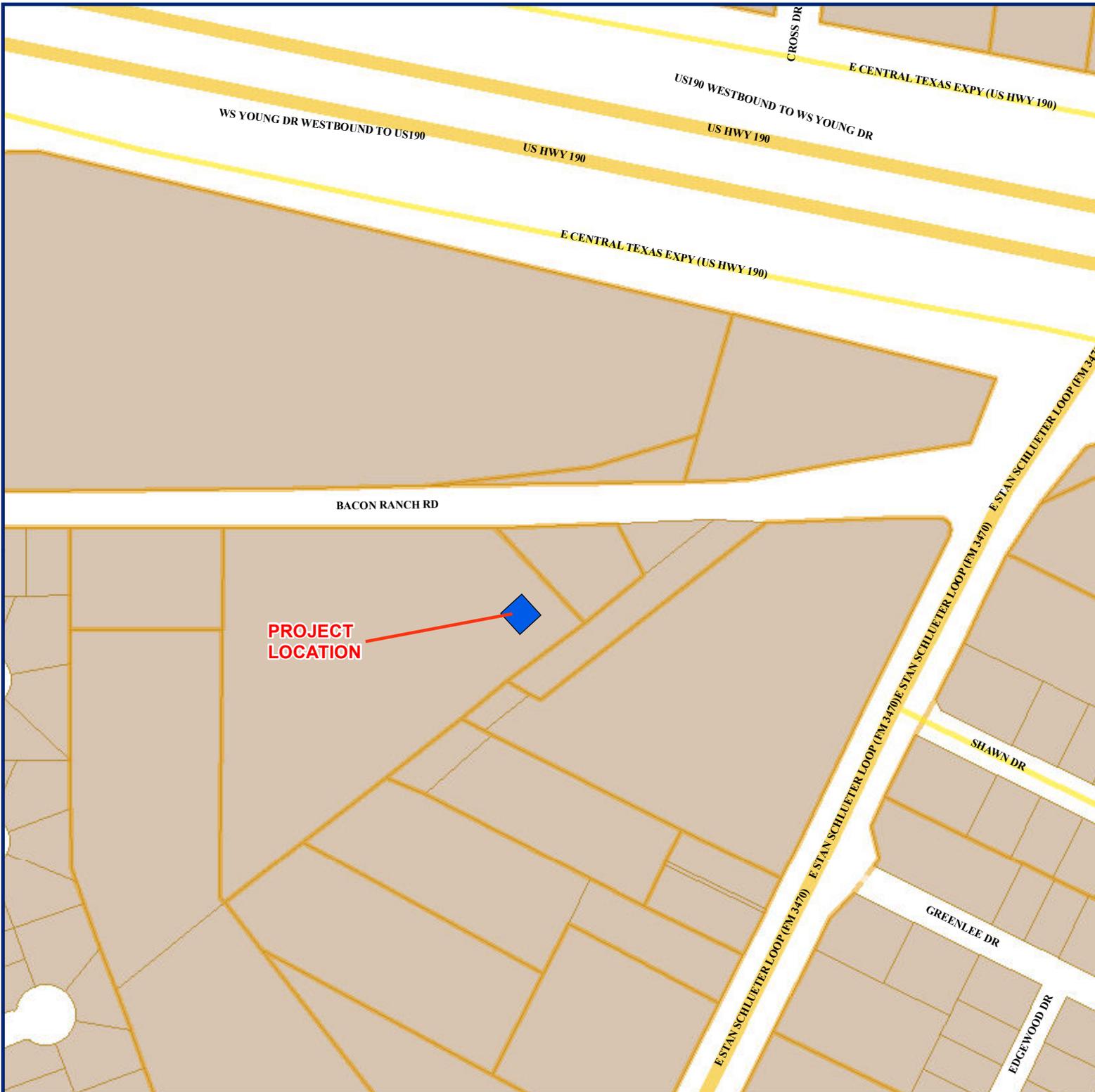
LOT 1 BLK 1 MALIBU TOWER  
ADDITION

**LEGEND**

-  Zoning Case
-  Parcel
-  City Limits



Date: 12/16/2015





**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

Z15-34

**ZONING FROM:**

M-1 To M-1 w/CUP

**APPLICANT:**

VINCENT GIRARD  
& ASSOC.

**PROPERTY OWNER:**

DCM&M AUTOMOTIVE  
GROUP

**LEGAL DESCRIPTION:**

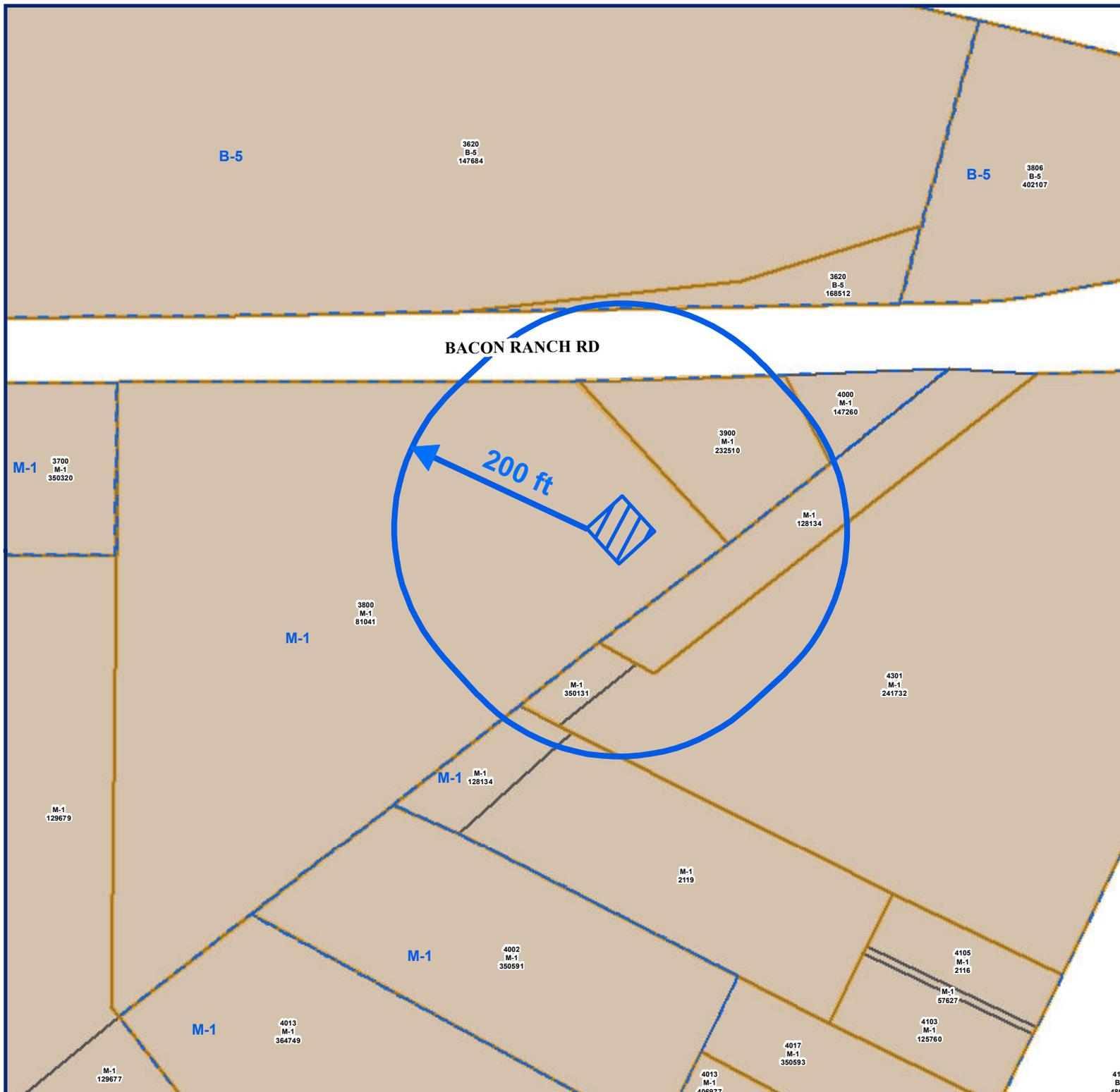
LOT 1 BLK 1 MALIBU TOWER  
ADDITION

**LEGEND**

-  200' Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 12/16/2015



# CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

## A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

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

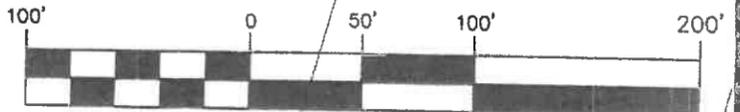
## B. Conditional Use Permit (if applicable)

Whether the use is in harmonious with and adaptable to buildings, structures and use of abutting property and other property in the vicinity of the premises under construction.

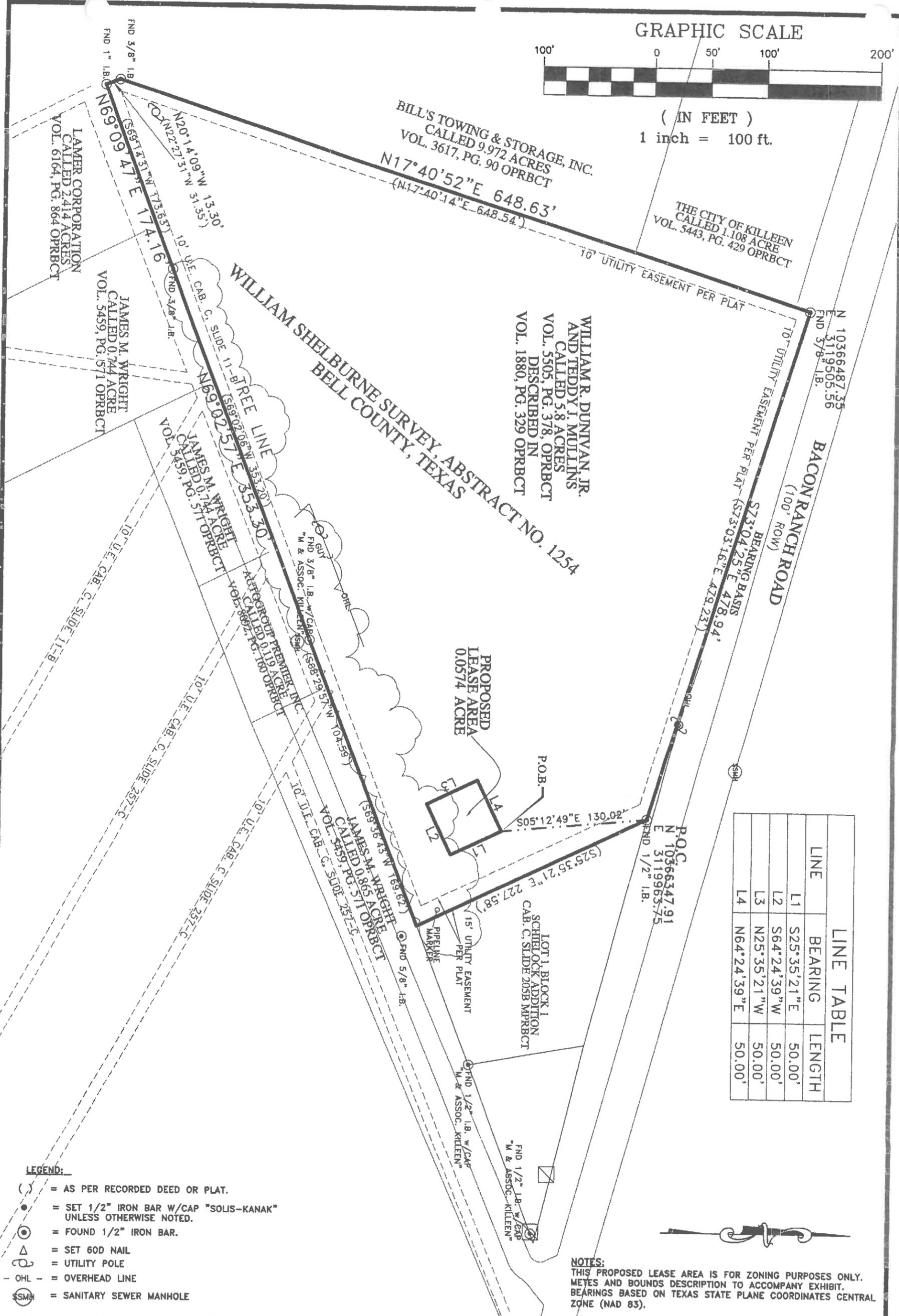
## C. Conditions to Consider

1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
5. Cannot use any window display to advertise or call attention to the business.
6. Cannot have any signs
7. No off-street parking or on-street parking of more than two (2) vehicles at any one time for business related customer parking.
8. No retail sales.
9. Length of Permit.

GRAPHIC SCALE



( IN FEET )  
1 inch = 100 ft.



LINE TABLE		
LINE	BEARING	LENGTH
L1	S25°35'21"E	50.00'
L2	S64°24'39"W	50.00'
L3	N25°35'21"W	50.00'
L4	N64°24'39"E	50.00'

- LEGEND:**
- ( ) = AS PER RECORDED DEED OR PLAT.
  - = SET 1/2" IRON BAR W/CAP "SOLIS-KANAK" UNLESS OTHERWISE NOTED.
  - ⊙ = FOUND 1/2" IRON BAR.
  - △ = SET 60D NAIL
  - ⊕ = UTILITY POLE
  - OHL - = OVERHEAD LINE
  - ⊗ = SANITARY SEWER MANHOLE

**NOTES:**  
THIS PROPOSED LEASE AREA IS FOR ZONING PURPOSES ONLY. METES AND BOUNDS DESCRIPTION TO ACCOMPANY EXHIBIT. BEARINGS BASED ON TEXAS STATE PLANE COORDINATES CENTRAL ZONE (NAD 83).

**EXHIBIT OF:**  
A 0.0574 OF AN ACRE PROPOSED LEASE AREA OUT OF A CALLED 5.8 ACRE TRACT OF LAND IN DEED TO WILLIAM R. DUNIVAN, JR., AND TEDDY J. MULLINS RECORDED IN VOLUME 5505, PAGE 378 OFFICIAL PUBLIC RECORDS BELL COUNTY, TEXAS (OPRBCT), DESCRIBED IN VOLUME 1880, PAGE 329 OPRBCT, SITUATED IN THE WILLIAM SHELburne SURVEY, ABSTRACT NO. 1254, BELL COUNTY, TEXAS.



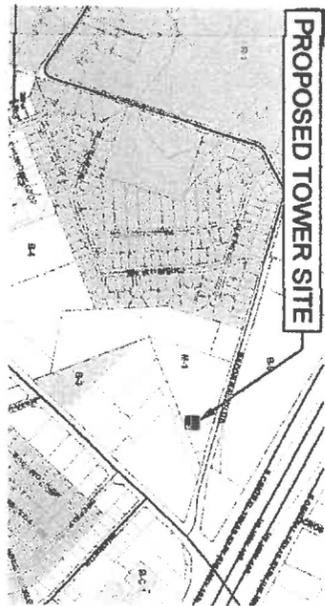
*Clinton L. Kanak*  
CLINTON L. KANAK, R.P.L.S.  
TEX. REG. 4499



**Solis-Kanak & Associates, Inc.**  
**Professional Surveyors**  
FIRM LICENSE NO. 10140200  
17500 FM 306  
CANYON LAKE, TX 78133  
(830) 935-4011 FAX (830) 935-4012

DATE: 10-15-15	DRAWN BY: A.A.	GF NUMBER:	JOB NUMBER: 14-0075
REV.:			

**ZONING MAP**



District R-1, Single-family residential district.  
 District B - 3 Business District  
 District B - 5 Business District  
 District M-1, Manufacturing district.

**SPECIAL USE PERMIT SITE PLAN**

**PROJECT TYPE**  
 Proposed 85' Monopole Structure

**SITE INFORMATION**

JURISDICTION: CITY OF KILLEEN, TEXAS 76542  
 BELL COUNTY  
 Latitude 31°04'47.26" N, Longitude - 97°42'09.98" W  
 OCCUPANCY: N/A (UNMANNED)  
 USE: TELECOMMUNICATIONS FACILITY  
 ZONING FILE NO.:

**DATE**

SEPTEMBER 25, 2015

**SITE NAME:**

VERIZON / MALIBU

**SITE ADDRESS**

3800 BACON RANCH ROAD  
 KILLEEN, TX, 76542

**CONTACT INFORMATION**

VINCE HUEBINGER  
 VINCENT GERARD & ASSOCIATES  
 1715 S. CAPITAL OF TEXAS HWY  
 SUITE 207  
 AUSTIN, TEXAS 78746  
 PHONE: (512) 328-2693

**LEGAL DESCRIPTION**

A12549C W SHELBYRN, ACRES 5.951  
 VOL. 1890, PG. 329 OPBRC1

**CONSULTANTS**

VINCENT GERARD & ASSOCIATES  
 1715 S. CAPITAL OF TEXAS HWY  
 SUITE 207  
 AUSTIN, TEXAS 78746  
 PHONE: (512) 328-2693  
 VINCE HUEBINGER

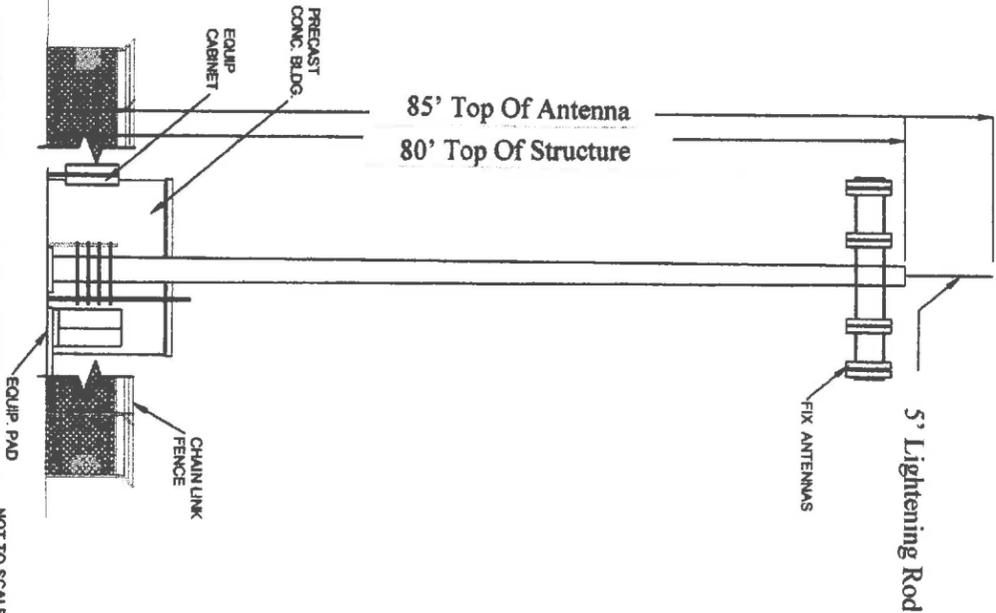
**CARRIER INFORMATION**

VERIZON WIRELESS  
 KANDI VONGSOMBATH-  
 MNG., REAL ESTATE & REGULATORY  
 7 VILLAGE CIRCLE  
 SUITE 400  
 WESTLAKE, TX 76262  
 PHONE: (817) 961-2596  
 EMAIL: viengxk.vongsombath@vzw.com

**NOT FOR CONSTRUCTION PURPOSES**

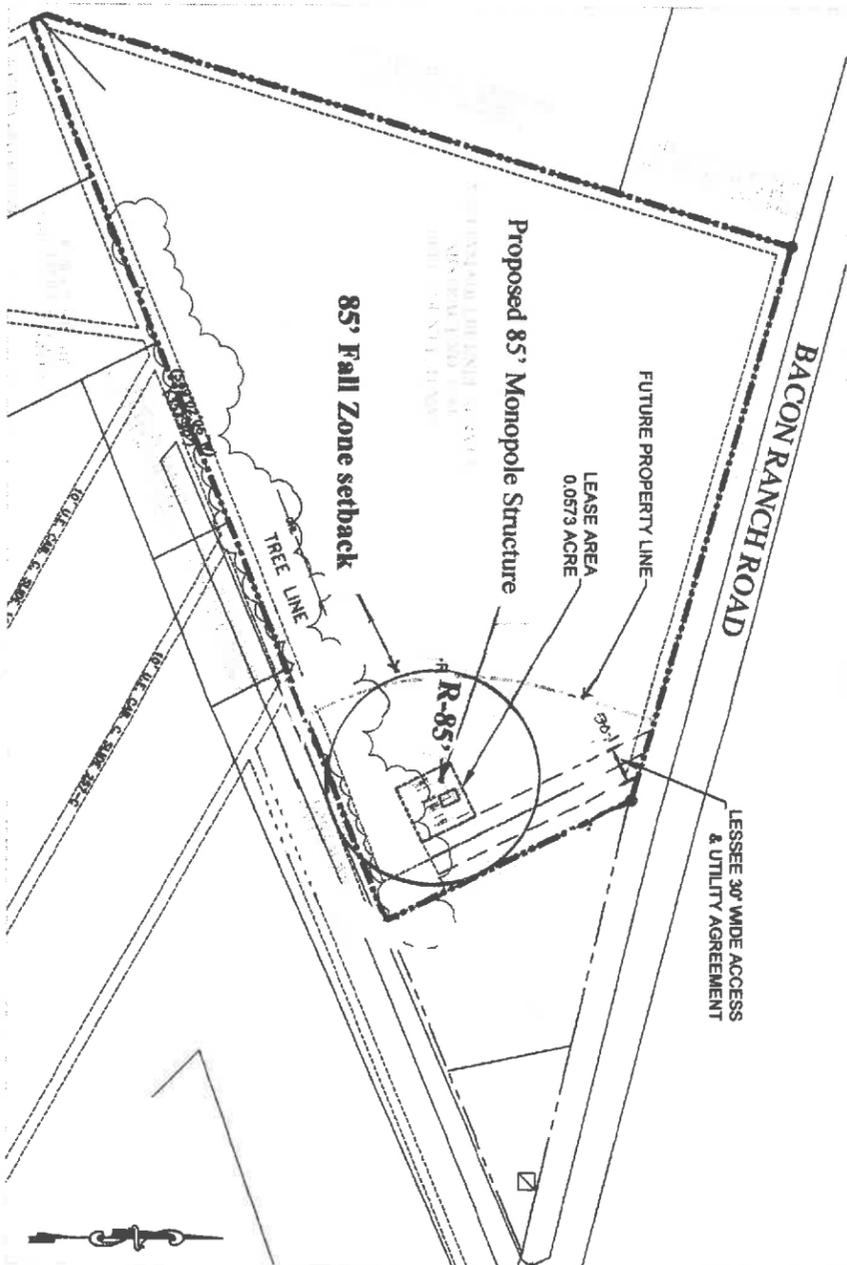
ADVERTISING IS PROHIBITED ANYWHERE ON A WTF, WITH THE EXCEPTION OF THE MINIMUM SIGNAGE AS REQUIRED BY THE FEDERAL COMMUNICATIONS COMMISSION (FCC) REGULATIONS OR NECESSARY FOR THE OPERATIONS OF A WTF.  
 AN IDENTIFICATION SIGN FOR EACH SERVICE PROVIDER RESPONSIBLE FOR THE OPERATION AND MAINTENANCE OF A WTF AT THE SITE, NOT LARGER THAN TWO SQUARE FEET, SHALL BE POSTED AT A LOCATION FROM WHICH IT CAN BE EASILY READ FROM OUTSIDE THE PERIMETER OF THE WTF, AND SHALL PROVIDE THE NAME, ADDRESS, AND EMERGENCY NUMBER OF THE RESPONSIBLE SERVICE PROVIDER.

**TOWER - TYPICAL**

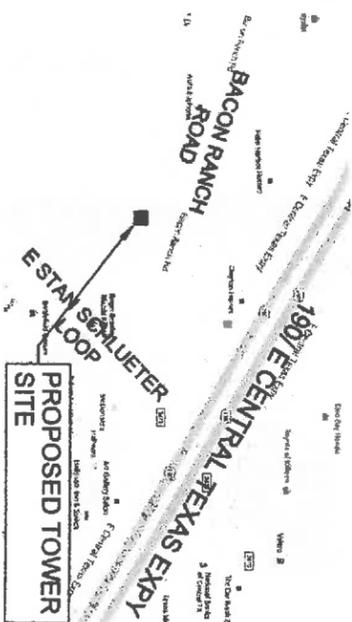


NOTE: TYPICAL LEASE AREA ACTUAL EQUIPMENT LOCATIONS MAY VARY.  
 NOT TO SCALE

**SITE PLAN**

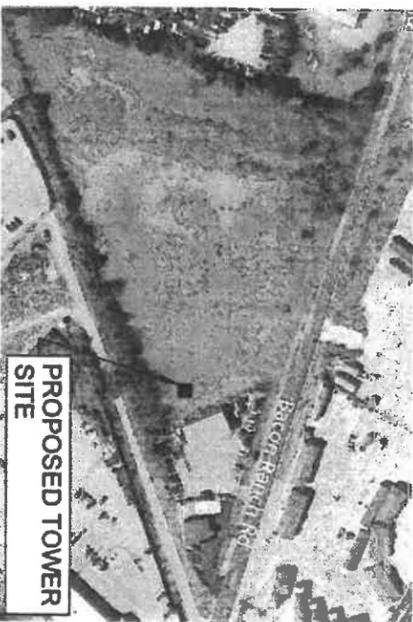


**VICINITY MAP**

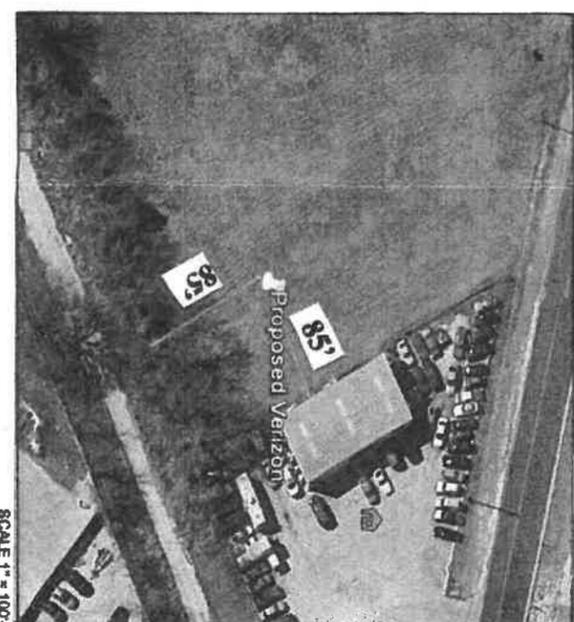


NOT TO SCALE

**AERIAL IMAGERY**



**DETAILED SITE PLAN**



**APPROVAL BOX**

ORIGINAL SUBMITTAL DATE:

ACCEPTED FOR APPROVAL:

CITY OF KILLEEN, TEXAS



VERIZON - MALIBU  
 ZONING EXHIBIT  
 VERIZON COMMUNICATIONS  
 3800 BACON RANCH ROAD  
 KILLEEN, TEXAS 76542

VINCENT GERARD & ASSOCIATES  
 LAND PLANNING & ZONING CONSULTANTS  
 1715 CAPITAL OF TEXAS HWY SOUTH, STE. 207  
 AUSTIN, TEXAS 78746  
 (512)328-2693 - \* vinceh@flash.net

CUT HERE

YOUR NAME: *Jim Wright* PHONE NUMBER: *526-5117*

CURRENT ADDRESS: *3800 S. Joe Young, Houston, TX*

ADDRESS OF PROPERTY OWNED: *Los Beron La Rd*

COMMENTS: *M-1 to M-1 w/CUP*

*NO OBJECTION!*

RECEIVED

DEC 22 2015

PLANNING

SIGNATURE: *[Signature]*

SPO #Z15-34/ 03.07



# City of Killeen

## Legislation Details

---

**File #:** PH-16-004    **Version:** 1    **Name:** Zoning 15-35  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 12/17/2015    **In control:** City Council  
**On agenda:** 1/12/2016    **Final action:**

**Title:** HOLD a public hearing and consider an ordinance requested by Killeen Independent School District (KISD) (Case #Z15-35) to rezone approximately 31.234 acres, being part of the Eugene Lasere Survey, Abstract No. 527, from "A" (Agricultural District) to "R-1" (Single-Family Residential District) to allow for a public middle school. The property is located along the east right-of-way of Bunny Trail, approximately 2,960 feet south of W. Stan Schlueter Loop (FM 3470), Killeen, Texas.

**Sponsors:** Planning & Development Dept

**Indexes:**

**Code sections:**

**Attachments:** [Council Memorandum](#)  
[Attachment to Council Memorandum](#)  
[Ordinance](#)  
[Minutes](#)  
[Application](#)  
[Location Map](#)  
[Buffer Map](#)  
[Considerations](#)  
[Opposition](#)

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**ZONING CASE #Z15-35 "A" (AGRICULTURAL DISTRICT) TO "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT)**

### ORIGINATING DEPARTMENT

**PLANNING & DEVELOPMENT SERVICES**

The Killeen Independent School District (KISD) has submitted this request to rezone approximately 31.234 acres, being part of the Eugene Lasere Survey, Abstract No. 527, from "A" (Agricultural District) to "R-1" (Single-Family Residential District) to allow for a public middle school. The property is located along the east right-of-way of Bunny Trail, approximately 2,960 feet south of W. Stan Schlueter Loop (FM 3470), Killeen, Texas.

### Property Specifics

**Applicant/Property Owner:** Killeen Independent School District (KISD)

**Property Location:** The property is located on the east right-of-way of Bunny Trail, approximately 2,960 feet south of W. Stan Schlueter Loop (FM 3470), Killeen, Texas.

**Legal Description:** Part of the Eugene Lasere Survey, Abstract No. 527, Killeen, Texas.

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

- This is the first zoning request of this annexed property.
- This property has a concurrent plat, Killeen ISD Middle School 13, which is being reviewed by staff.

### Character of the Area

**Existing Land Use(s) on the Property:** None. The Goodnight Ranch Addition Phase Six subdivision is located south of the subject tract.

### **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 existing potable water main that would serve the property is a 16-inch diameter transmission main running along the east right-of-way of Bunny Trail. Upon approval of a future development permit application, the developer would be required to extend public water mains across the property to provide adequate commercial 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.

Public sanitary sewer utilities are in place and immediately accessible to the tract. The existing sanitary sewer main that serves the property is a 12-inch diameter gravity interceptor main following North Reese Creek Tributary #1 bisecting the tract. Upon approval of a future development permit application, the developer would be required to extend public sanitary sewer mains across the property to provide adequate collection capacity in accordance with the City of Killeen Code of Ordinances and other applicable development criteria. No future development may be served by an existing or new on-site septic facility (OSSF).

#### **Transportation:**

Existing conditions: Bunny Trail is an urbanized road section (curb and gutter) and is classified as a 90' minor arterial (based on current L-O-S standards) on the City's adopted Thoroughfare Plan. The south portion of the school site abuts Brushy Creek Drive, which is a 60' local street.

Proposed Improvements: The applicant is proposing to construct proposed Briar Patch Lane, which will tie into Bunny Trail. Any new modes of ingress/egress to the tract from Bunny Trail will be disciplined through the policies of the City's Thoroughfare Development Manual when the property is developed.

Projected Traffic Generation: The school site will generate significant traffic at specific times of the day during the school year.

#### **Environmental Assessment**

**Topography:** The site is undulating with various changes in elevation.

**Regulated Floodplain/Floodway/Creek:** This property is located in a Zone X Special Flood Hazard Area. There are no known wetlands on this parcel.

#### **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 Public/ institutional as well as parks and public spaces.

**Consistency:** Consistent; public / institutional land uses are allowed within the 'Rural' designation.

### **Public Notification**

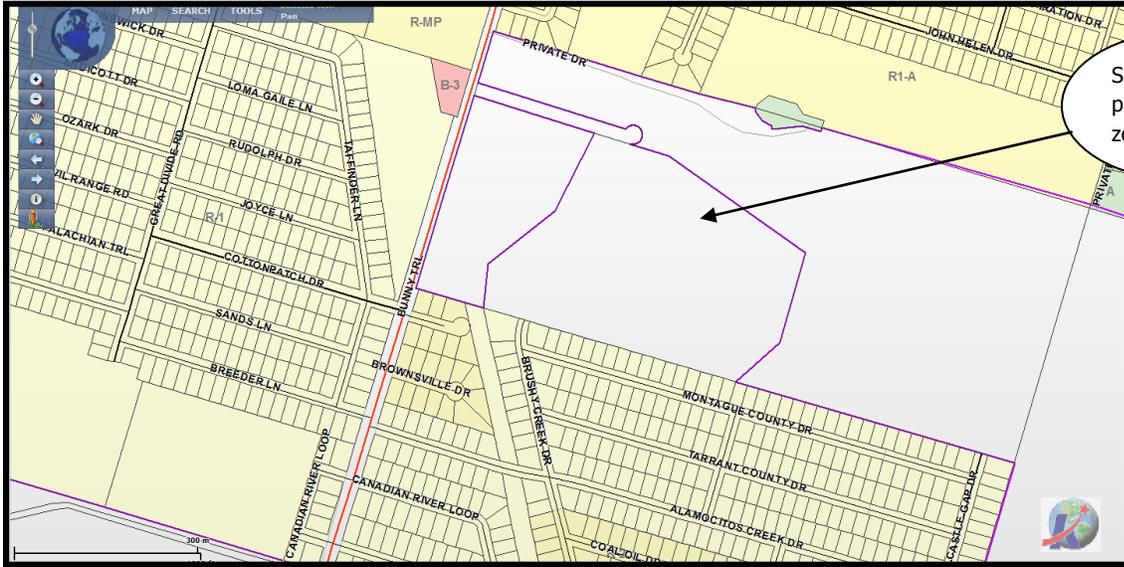
The staff notified forty-five (45) surrounding property owners within a 200' notification boundary regarding this request. Staff has received two protests from Alan Essenberg, the owner of 2713 Montague County Drive and Justin and Brittany McLaughlin, the owners of 2711 Montague County Drive. These protests have been included for Council's consideration.

### **Recommendation**

The Planning & Zoning Commission recommended approval (by a vote of 6 to 0) of the R-1 zoning district for this parcel for further development of the middle school.

Each lot shall have a fully sodded yard.

**Figure 1. Zoning Map**



Subject site-property is zoned 'A'

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM ‘A’ (AGRICULTURAL DISTRICT) TO ‘R-1’ (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Killeen Independent School District has presented to the City of Killeen a request for amendment of the Zoning Ordinance of the City of Killeen by changing the classification of approximately 32.756 acres, part of the Eugene LaSere Survey, Abstract No. 527, from ‘A’ (Agricultural District) to ‘R-1’ (Single-family Residential District), said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 21st day of December 2015, and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 12th day of January 2016, at the City Hall, City of Killeen;

**WHEREAS**, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the majority opinion that the request should be approved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**Section I.** That the zoning classification of the following described tract be changed from ‘A’ (Agricultural District) to ‘R-1’ (Single-family Residential District) for approximately 32.756 acres, part of the Eugene LaSere Survey, Abstract No. 527, Killeen, Texas.

**Section II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other

section or parts of this ordinance.

**Section III.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 12<sup>th</sup> day of January 2016, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED:**

---

**Scott Cospers, MAYOR**

**ATTEST:**

---

**Dianna Barker, CITY SECRETARY**

**APPROVED AS TO FORM**

---

**Kathryn H. Davis, City Attorney**

Case #15-35

Ord #

**PLANNING AND ZONING COMMISSION MEETING  
DECEMBER 21, 2015**

**CASE # Z15-35  
'A' TO R-1**

**HOLD a public hearing and consider a request by the Killeen Independent School District to rezone approximately 32.756 acres, out of the Eugene LaSere Survey, Abstract No. 527, from 'A' (Agricultural District) to R-1 (Single-Family Residential District) for use as a public middle school. The property is located north of Willacy Drive, on the eastside of Bunny Trail, Killeen, Texas.**

Chairman Frederick requested staff comments.

Senior Planner Charlotte Hitchman stated that Killeen Independent School District (KISD) has submitted this request to rezone approximately 31.234 acres, from "A" (Agricultural District) to "R-1" (Single-Family Residential District) to allow for a public middle school.

The staff notified forty-five (45) surrounding property owners within a 200' notification boundary regarding this request. Staff received one response in opposition from Alan Essenberg, 2713 Montague County Drive, Killeen, Texas.

Staff recommends approval of the R-1 zoning district for this parcel to further development of the middle school.

Mr. Mike Boyle, 11501 Alterra Pkwy., Austin, TX, was present to represent this request.

Chairman Frederick opened the public hearing. With no one requesting to speak, the public hearing was closed.

Commissioner Cooper motioned to recommend approval of the requested zoning for Case Z15-35. Commissioner Harkin seconded the motion. The motioned was approved by a vote of 6 to 0.

Chairman Frederick stated that his will be forwarded to City Council with a recommendation to approve.



Date Paid:	_____
Amount Paid:	\$ _____
Cash/MO #/Check #:	# _____
Receipt #:	_____

CASE #: 215-35

## City of Killeen Zoning Change Application

General Zoning Change \$300.00 [ ] Conditional Use Permit \$500.00

Name(s) of Property Owner: Killeen ISD

Current Address: 110 N WS Young Drive

City: Killeen State: TX Zip: 76543

Home Phone: ( ) \_\_\_\_\_ Business Phone: 800.687.1220 Cell Phone: ( ) \_\_\_\_\_

Email: kenneth.crawford@killeenisd.org

Name of Applicant: Crystal Vasquez w/Huckabee  
(If different than Property Owner)

Address: 801 Cherry Street, Ste. 500

City: Fort Worth State: TX Zip: 76102

Home Phone: 800 687.1229 Business Phone: ( ) \_\_\_\_\_ Cell Phone 817 946.0047

Email: cvasquez@huckabee-inc.com

Address/Location of property to be rezoned: on Bunny Trail

Legal Description: Eugene Lasere Survey, Abstract #527

Metes & Bounds	or	Lot(s)	Block	Subdivision
Is the rezone request consistent with the Comprehensive Plan? <span style="border: 1px solid red; border-radius: 50%; padding: 2px;">YES</span> NO				
If NO, a FLUM amendment application must be submitted.				

Type of Ownership:  Sole Ownership  Partnership  Corporation  Other

Present Zoning: AG Present Use: NA - empty lot

Proposed Zoning: R-1 Proposed Use: New Middle School

Conditional Use Permit for: \_\_\_\_\_

This property was conveyed to owner by deed dated May 1, 2015 and recorded in Volume 4484, Page 267, Instrument Number 2011-00011093 & 2009-00049426 of the Bell County Deed Records. (Attached)

Is this the first rezoning application on a unilaterally annexed tract?  
Yes \_\_\_\_\_ (Fee not required) No  (Submit required fee)

## APPOINTMENT OF AGENT

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Crystal Vasquez and Mike Boyle w/Huckabee

Mailing Address: 801 Cherry Street, Ste. 500

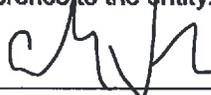
City: Fort Worth State: TX Zip: 76109

Home Phone: (817)946.0047 Business Phone: (800)687.1229 Email: cvasquez@huckabee-inc.com  
& mboyle@huckabee-inc.com

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

**be the point of contact between myself and the City; make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me. This authorization only applies to this specific zoning request.**

I understand that the City will deal only with a fully authorized agent. At any time it should appear that my agent has less than full authority to act, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application are part of an official proceeding of City government and, that the City will rely upon statements made by my agent. Therefore, I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter. If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to 'I', 'my', or 'me' is a reference to the entity.

Signature of Agent  Title Regulatory

Printed/Typed Name of Agent Crystal Vasquez Date 11/18/2015

Signature of Agent  Title Associate Principal

Printed/Typed Name of Agent Mike Boyle Date 11/18/2015

Signature of Applicant \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner  Title EXEC DIR FAC SVCS

Printed/Typed Name of Property Owner Kenneth Crawford Date 11/18/2015

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

\*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.



**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

**Z15-35**

**ZONING FROM:**

**A To R-1**

**APPLICANT:**

**KILLEEN ISD**

**PROPERTY OWNER:**

**KILLEEN ISD**

**LEGAL DESCRIPTION:**

**EUGENE LASERE  
SURVEY ABSTRACT #527**

**LEGEND**

-  City Limits
-  15-35
-  Parcel



Date: 12/10/2015





**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

**Z15-35**

**ZONING FROM:**

**A To R-1**

**APPLICANT:**

**KILLEEN ISD**

**PROPERTY OWNER:**

**KILLEEN ISD**

**LEGAL DESCRIPTION:**

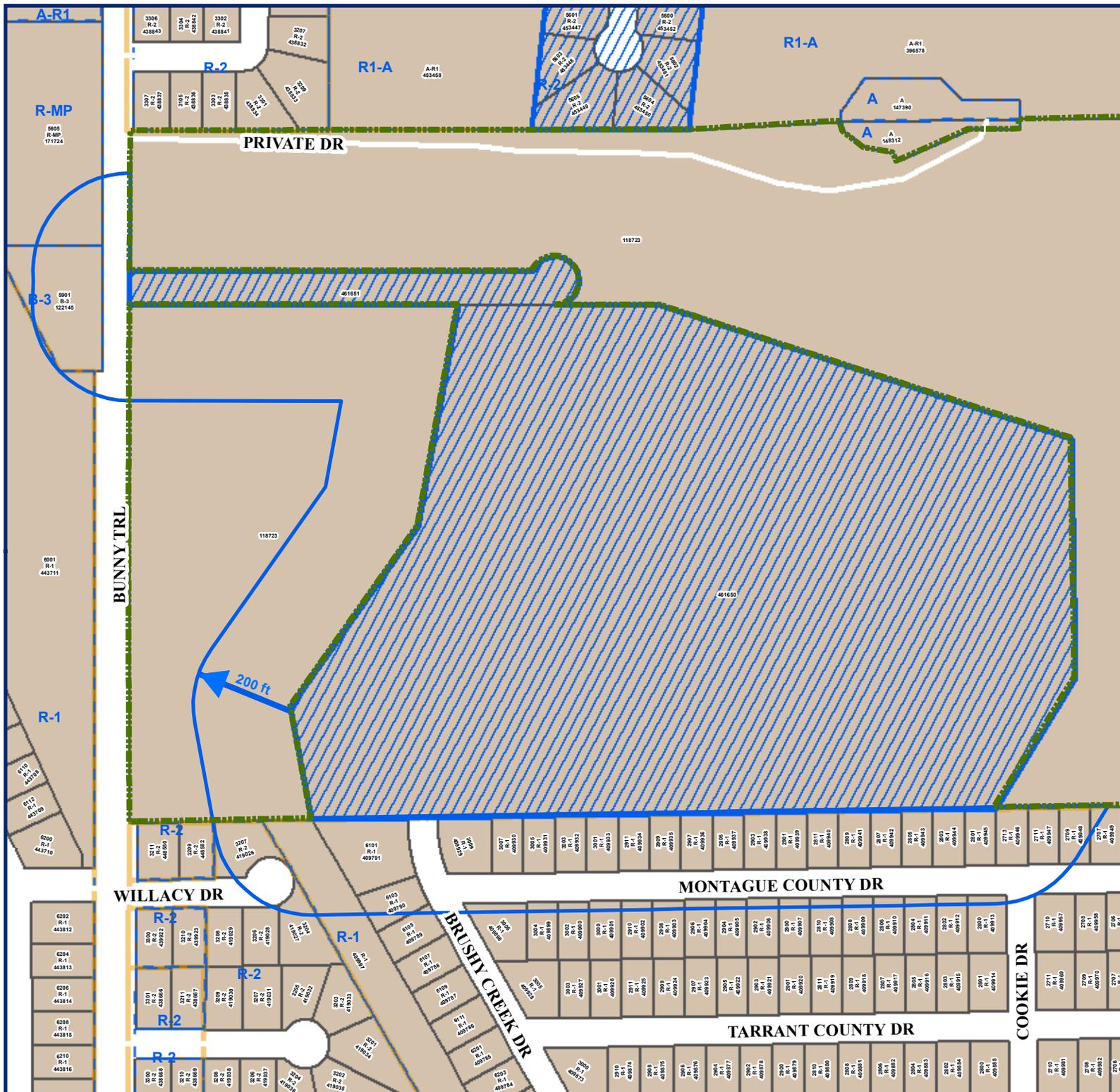
**EUGENE LASERE  
SURVEY ABSTRACT #527**

**LEGEND**

-  City Limits
-  15\_35
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel



Date: 12/10/2015



# CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

## **A. General Factors to Consider:**

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

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

## **B. Conditional Use Permit (if applicable)**

Whether the use is in harmonious with and adaptable to buildings, structures and use of abutting property and other property in the vicinity of the premises under construction.

## **C. Conditions to Consider**

1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
5. Cannot use any window display to advertise or call attention to the business.
6. Cannot have any signs
7. No off-street parking or on-street parking of more than two (2) vehicles at any one time for business related customer parking.
8. No retail sales.
9. Length of Permit.



# CITY OF KILLEEN

PLANNING & DEVELOPMENT SERVICES

December 9, 2015

**RE: Case #Z15-35: HOLD a public hearing and consider a request by Killeen Independent School District to rezone approximately 32.756 acres out of the Eugene LaSere Survey, Abstract No. 527, from 'A' (Agricultural District) to 'R-1' (Single-Family Residential District) for a school. The property is located north of Willacy Drive on the east side of Bunny Trail on proposed Briar Patch Lane, Killeen, Texas.**

**Dear Property Owner:**

**Killeen Independent School District**, owner of the above mentioned property, has requested rezoning of this property. The City of Killeen is required by state law to notify all property owners with a 200 foot radius of the request. The enclosed maps show the property to be rezoned. This property is marked by diagonal lines, and the circular line indicates those properties within the 200 foot radius.

The City of Killeen Planning and Zoning Commission has scheduled a public hearing for this request on **December 21, 2015, 5:00 p.m.** in the Large Conference Room, Utility Collections, 210 W. Avenue C. The Large Conference Room is located at the northwest corner of the building. You are invited to attend this hearing to present any facts, which you feel the Planning and Zoning Commission should consider in evaluating this request.

You may also indicate your support or opposition to this request, by filling out the bottom portion of this letter and sending it to: *Planning and Zoning Commission, City of Killeen, P.O. Box 1329, Killeen, Texas 76540-1329.* To be considered a protest under provisions of the State Local Government Code, the protest must be written and signed by the property owner of a property located within the 200 foot notification area (you may use the slip on the bottom of this page). Any petition, whether in support or opposition to this request, must be received by the Planning Department no later than **4:00 p.m., December 21, 2015.** After the Planning and Zoning meeting, this matter will be forwarded to the City Council on **January 12, 2016, at 5:00 p.m.,** where you may also appear and speak. If you desire additional information relative to this matter, please call (254) 501-7630.

-----CUT HERE-----

YOUR NAME: <i>Alan Essenberg</i>	PHONE NUMBER: <i>231-638-2037</i>
CURRENT ADDRESS: <i>2713 Montague County Dr. Killeen, TX 76545</i>	
ADDRESS OF PROPERTY OWNED: <i>2713 Montague County Dr. Killeen, TX 76545</i>	
COMMENTS:	<i>A to R-1</i>
<i>See Attached</i>	
<b>RECEIVED</b>	
<b>DEC 18 2015</b>	
<b>PLANNING</b>	
SIGNATURE: <i>[Signature]</i>	SPO #Z15-35/ <i>42</i>

City of Killeen: Planning and Zoning Commission  
P.O Box 1329  
Killeen, TX 76540

15 December 2015

Alan Essenberg  
2713 Montague County Dr  
Killeen, TX 76549  
231-638-2037

RE: Case #Z15-35

To Whom It May Concern:

I am writing this letter IAW State Local Government Code requiring all protests to be in writing. I do not support the rezoning of this property from A to R-1. According to the letter the purpose of the rezoning is for a school. There is already an elementary school across the street from this location. The subdivision in which I live only has one street that provides access for entry and exit and wait times to exit the subdivision during school drop off in the morning can already easily exceed 10 minutes and the addition of another school will only add to this excessive wait time.

One of the main reasons that I bought my house where I did was for the reason that it did not have any houses or structures behind it and provided that "country feel" while still being in the city limits. I very much enjoy the view out the back of my house and building a school there will greatly detract from the beauty that the area provides. This land is actively grazed and roamed by livestock as well as deer and other wild animals. Building a school there will take away from the freedom that these animals have and will diminish the already rapidly decreasing natural habitat of these livestock and wild animals.

Another reason that I am protesting this rezoning is that I work third shift and having the noise of construction and land moving vehicles so close to my house will be detrimental to the quality of sleep that I would get during the day time hours. Also once the school is completed the noise associated with the kids at the school during the day will contribute to undermining the quality of my sleep. Also I do not have a privacy fence around my yard, for the reason stated in paragraph two where I like the view I have, and I fear that with a school built right there that kids would use my yard as a shortcut into the subdivision and I do not think that I should be forced build a fence to keep kids out of my yard.

Overall I do not support rezoning this property for the school district to be able to build another school. The increased traffic, noise and reduction of land for wild live and livestock greatly outweigh any benefits. There are plenty of other available lands in Killeen where the impact would be diminished. I ask that you please not support the rezoning of this property.

Very Respectfully,



Alan Essenberg  
2713 Montague County Dr  
Killeen, TX 76549

RECEIVED  
DEC 18 2015  
PLANNING

YOUR NAME: Justin + Brittany McLaughlin PHONE NUMBER: 712-229-7606

CURRENT ADDRESS: 2711 Montague County Dr, Killeen, TX 76549

ADDRESS OF PROPERTY OWNED: "

COMMENTS:

A to R-1

The main reason we love our house is due to the calm and openness of our backyard. Developing a school while there already two within a one mile radius is a waste of government funds and an eyesore for this community. Do not build the school.

RECEIVED

DEC 22 2015

PLANNING

SIGNATURE:



SPO #Z15-35/

43