

CITY COUNCIL MEMORANDUM

AGENDA ITEM

**ZONING CASE #Z14-04 FROM HOD
(HISTORIC OVERLAY DISTRICT) TO HOD
WITH A CUP (CONDITIONAL USE PERMIT)**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

This request is to rezone part of Lot 12, Block 11, Original Town of Killeen, from Historic Overlay District (HOD) to HOD with a Conditional Use Permit (CUP) to allow for use as a karaoke bar with on-premises sale and consumption of alcohol. The property is locally known as 313 N. 8th Street, Killeen, Texas.

HOD District Descriptions:

The HOD is intended to establish and provide for the protection, preservation, and enhancement of buildings, structures, sites and areas of architectural, historical, archaeological, or cultural importance or value. The HOD is envisioned as a tool to help stabilize and improve property values, to encourage neighborhood conservation, to foster civic pride and past accomplishments, to protect and enhance city attractions for tourists and residents, to strengthen the economy, and to promote the use of historical and cultural landmarks for the general welfare of the community. Additionally, the HOD is intended to help promote the development of downtown consistent with the community objectives identified in the Downtown Action Agenda.

The following standards or requirements shall apply to the HOD:

- A. Any regulations for the HOD shall apply to all properties or structures wholly contained within that district, and to those portions of any property within the district.
- B. Because the HOD is an overlay district, the regulations for the underlying zoning district shall remain in effect, except as otherwise provided in the zoning ordinance.
- C. In case of any conflict between the regulations applicable in the underlying zoning district, and the regulations of the HOD, the regulations of the HOD will take precedence, even where the applicable regulation may not be a higher standard.
- D. The findings adopted by the City Council for a Historic Overlay District shall define the scope of the City's interest in protecting the historic resources in the district and shall provide the guidelines to be used by the heritage preservation officer or heritage preservation board, along with any applicable design guidelines in considering whether to grant or deny an order of design compliance.

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 business land use or any use identified in the full list of the Killeen Downtown Action Agenda adopted by City Council in February 2007 (Resolution 07-023R) for a specific parcel in the district and may impose appropriate conditions and safe guards to assure that these land uses are compatible with the character of the district setting and buildings. 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: Myong C. Woodie

Property Location: The property is located mid-block of the southwest intersection of E. Avenue D and N. 8th Street, and is locally known as 313 N. 8th Street, Killeen, Texas.

Legal Description: Part of Lot 12, Block 11, Original Town of Killeen.

Zoning/Plat Case History:

There is no recent zoning or platting activity for this property.

Character of the Area

Existing Land Uses(s) on the Property: This is an existing building/developed site within Killeen's downtown. There are numerous commercial structures in the vicinity. The property is located one block south of *Modern TV and Appliance* and is the former site of *Ding Dong Dang* karaoke bar. The site is currently undergoing interior renovation.

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 property.

Transportation:

Existing conditions: E. Avenue C and N. 8th Street are classified as 60' local streets on the City's Thoroughfare Plan.

Proposed Improvements: None

Projected Traffic Generation: No new impact is projected as part of this zoning request.

Environmental Assessment

Topography: The property is flat.

Regulated Floodplain/Floodway/Creek: The proposed development is not within any regulatory Special Flood Hazard Areas (SFHA).

Land Use Analysis

Land Use Plan: The property is designated as 'Urban' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

Plan Recommendation: The Comprehensive Plan calls for mixed uses, attached residential, detached residential on small lots, live/work units, commercial, retail, and entertainment uses.

Consistency: The request is consistent with the Comprehensive Plan.

Public Notification

The staff notified 19 surrounding property owners within a 200' notification boundary regarding this request. Staff has received one protest from Paul Jo, the owner of 311 N. 8th Street. This has been included for consideration.

Recommendation

The Planning and Zoning Commission recommended approval of the applicant's zoning request by a vote of 7 to 0. The Texas Alcohol and Beverage Code, Sec. 109.33. SALES NEAR SCHOOL, CHURCH, OR HOSPITAL, provides that a City may:

"...enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within:

- (1) 300 feet of a church, public or private school, or public hospital;
- (2) 1,000 feet of a public school, if the commissioners court or the governing body receives a request from the board of trustees of a school district under Section 38.007."

The city has not enacted this 300' requirement within the HOD. The HOD does not negate the underlying uses allowed in the B-5 zoning district. It allows for pubs and taverns as identified in the full list of the Downtown Action Agenda. No additional restrictions have been enacted in the HOD for pubs and bars. Therefore, pubs and taverns approved for a conditional use permit may site anywhere in the HOD.