



STAFF REPORT

DATE: October 2, 2018

TO: Ronald L. Olson, City Manager

FROM: Dr. Ray Shanaa, AICP, Exec. Dir. of Planning and Development Services

SUBJECT: ZONING CASE #Z18-18: "B-5" (BUSINESS DISTRICT) TO "B-3A" (LOCAL BUSINESS AND RETAIL ALCOHOL SALES DISTRICT)

BACKGROUND AND FINDINGS:

This request, submitted by Jim Wright on behalf of RDJ Group (Case#Z18-18) to rezone part of Lot 1, Block 1, Kemp Addition, from "B-5" (Business District) to "B-3A" (Local Business and Retail Alcohol Sales District) to allow for a package store. The property is located at 3401 W. Stan Schlueter Loop (FM 3470), Suite 10, Killeen, Texas.

District Descriptions:

A building or premises in the "B-3A" Local Business and Retail Alcohol Sales District shall be used only for the following purposes:

- (1) Any use permitted in the "B-3" district in accordance with the requirements of this division.
- (2) Package stores to be operated under, and in accordance with, a valid Texas Alcohol Beverage Commission issued package store permit provided that such establishment:
 - (a) complies with all applicable rules and regulations established under the Texas Alcoholic Beverage Code (TABC) and/or promulgated by the Texas Alcoholic Beverage Commission, as amended. Said rules and regulations are hereby adopted and incorporated herein for all purposes; and
 - (b) is not located within: three hundred (300') feet of a church, public or private school or public hospital; one thousand (1000') feet of a public school if a request is submitted to city council by the board of trustees of a school district under Section 38.007, Texas Education Code; or one thousand (1000') feet of a private school if a request is submitted to city council by the governing body of the private school. The measurement of the distances shall be as provided under TABC § 109.33 and in accordance with the procedures established by the TABC, as amended, which is hereby adopted and incorporated herein for all purposes. The city council may, however, allow a variance from this distance requirement in accordance with TABC § 109.33(e). The following exemptions to the above-stated distance requirements and expansion of the application of the distance requirements from day-care centers and child-care facilities are provided under the TABC and are hereby adopted to provide:

- (i) The one thousand (1000') public or private school distance extension shall not apply to the holder of: a retail on-premises consumption permit or license if less than fifty (50%) percent of the gross receipts for the establishment is from the sale or service of alcoholic beverages; a retail off-premises consumption permit or license if less than fifty (50%) percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages; or a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in TABC, chapter 102.
 - (ii) The one thousand (1000') foot private school distance extension shall not apply to the holder of: a license or permit issued under TABC chapters 27, 31, or 72 who is operating on the premises of the private school; or a license or permit covering an establishment where minors are prohibited from entering under TABC § 109.53 and that is located within one thousand (1000') feet of a private school.
 - (iii) The three hundred (300') foot general distance prohibition shall not apply to the holder of: a license or permit who also holds a food and beverage certificate covering an establishment that is located within three hundred (300') of a private school; or a license or permit covering a premises where minors are prohibited from entering under TABC § 109.53 and that is located within three hundred (300') feet of a private school. In this section, "private school" means 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.
 - (iv) This subsection applies only to a permit or license holder under TABC chapter 25, 28, 32, 69, or 74 who does not hold a food and beverage certificate. Except as provided by this subsection, the provisions of this section 31-311(2) relating to a public school also apply to a day-care center and a child-care facility as those terms are defined by section 42.002, Texas Human Resources Code. However, the one thousand (1000') foot distance extension by request is not available to a day-care center or child-care facility. This subsection does not apply to a permit or license holder who sells alcoholic beverages if: (1) the permit or license holder and the day-care center or child-care facility are located on different stories of a multistory building; or (2) the permit or license holder and the day-care center or child-care facility are located in separate buildings and either the permit or license holder or the day-care center or child-care facility is located on the second story or higher of a multistory building. This subsection does not apply to a foster group home, foster family home, family home, agency group home, or agency home as those terms are defined by section 42.002, Texas Human Resources Code.
- (3) Uses listed in the "B-3A" district shall not be incorporated by right into less restrictive zoning districts, including, without limitation, the "B-3", "B-4", and "B-5" districts, but shall be considered to be a stand-alone zoning district, except as provided for in this division

Property Specifics:

Applicant / Property Owner: RDJ Group

Property Location: The property is located at 3401 W. Stan Schlueter Loop (FM 3470), Suite 10, Killeen, Texas.

Legal Description: Lot 1, Block 1, Kemp Addition

Zoning/ Plat Case History:

- There is no recent zoning activity for this property.
- Kemp Addition was filed for record on August 20, 2002, in Cabinet C, Slide 300-B, Plat Records of Bell County, Texas.

Character of the Area:

Existing Land Use(s) on the Property: Retail center

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: Stan Schlueter Loop (FM 3470) is classified as a principal arterial on the City's adopted Thoroughfare Plan.

Proposed Improvements: No improvements are being proposed.

Projected Traffic Generation: A package store is a specialty retail center and suite 10 is approximately 1,500 square feet. The store is anticipated to generate 66 daily vehicle trips, with 10 peak AM trips and 4 peak PM trips [note-this data is sourced from the Institute of Transportation Engineer (ITE) Trip Generation Rates-9th Edition, provided through Spack Consulting].

Environmental Assessment:

Topography/Regulated Floodplain/Floodway/Creek: This property is not within any FEMA regulatory Special Flood Hazard Area (SFHA) and there are no known wetlands on or adjacent to the parcel.

Land Use Analysis:

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

Plan Recommendation: The Comprehensive Plan calls for a wide range of commercial, retail and service uses, at varying scales and intensities depending on the site.

Consistency: This zoning request is consistent with the Comprehensive Plan.

Public Notification:

Staff notified twenty eight (28) surrounding property owners within 400 feet of the subject site regarding this request.

THE ALTERNATIVES CONSIDERED:

Which alternative is recommended?

Staff is not recommending any alternative to the applicant's request.

Why?

The applicant would like to pursue the zoning request as submitted.

CONFORMITY TO CITY POLICY:

This zoning request conforms to the City's policy and procedures as detailed in Chapter 31 of the Killeen Code of Ordinances.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

This zoning request does not involve the expenditure of city funds.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

Is there a sufficient amount in the budgeted line-item for this expenditure?

This is not applicable.

RECOMMENDATION:

The Planning and Zoning Commission recommended approval of the rezone request from "B-5" (Business District) to "B-3A" (Local Business and Retail Alcohol Sales District) by a vote of 6 to 0. Establishments that provide beer, wine and mixed beverages for off-premises consumption are not subject to the TABC distance requirements from churches, schools, hospitals and daycares.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the planning and legal staff.

ATTACHED SUPPORTING DOCUMENTS:

Maps
Minutes
Ordinance
Considerations