



City of Killeen

Agenda

City Council

Tuesday, April 11, 2023

5:00 PM

City Hall
Council Chambers
101 N. College Street
Killeen, Texas 76541

Call to Order and Roll Call

- | | |
|--|---|
| <input type="checkbox"/> Debbie Nash-King, Mayor | <input type="checkbox"/> Nina Cobb |
| <input type="checkbox"/> Riakos Adams | <input type="checkbox"/> Jessica Gonzalez |
| <input type="checkbox"/> Ramon Alvarez | <input type="checkbox"/> Jose Segarra |
| <input type="checkbox"/> Michael Boyd | <input type="checkbox"/> Ken Wilkerson |

Invocation

Pledge of Allegiance

Approval of Agenda

Presentations

- [PR-23-005](#) Better Opportunities for Single Soldiers (BOSS) Recognition

Citizen Comments

This section allows members of the public to address the Council regarding any item(s), other than a public hearing item, on the agenda for Council's consideration. Each person shall sign up in advance, may speak only one time, and such address shall be limited to four (4) minutes. A majority of the City Council is required for any time extensions. The Mayor and Councilmembers shall have one (1) minute to respond to citizen comments with a statement or explanation without engaging in dialogue.

Consent Agenda

- [MN-23-007](#) Consider Minutes of Regular City Council Meeting of March 14, 2023.
- [RS-23-064](#) Consider a memorandum/resolution for the purchase of Aquatics Chemicals from Progressive Commercial Aquatics in an amount not to exceed \$85,000.00.

- Attachments:** [Quote](#)
[Certificate of Interested Parties](#)
[Contract Verification](#)
[Presentation](#)

4. [RS-23-065](#) Consider a memorandum/resolution approving the appointment of an Executive Director of Community Development.
Attachments: [Resume](#)
[Presentation](#)
5. [RS-23-066](#) Consider a memorandum/resolution confirming the Municipal Court Judge's annual evaluation and pay increase.
Attachments: [Evaluation Letter](#)
6. [OR-23-008](#) Consider an ordinance amending the Code of Ordinances, Chapter 6, Animals amending Feral Cat, Aggressive Dogs, and Wild Animals.
Attachments: [Ordinance](#)
[Presentation](#)

Resolutions

7. [RS-23-042](#) Consider a memorandum/resolution authorizing a Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc., for a needs assessment and conceptual layout of a new Killeen City Hall and Municipal Court Complex, in the amount of \$108,295. (Tabled from 2/28/23 Regular City Council Meeting)
Attachments: [Agreement](#)
[Certificate of Interested Parties](#)
[Contract Verification](#)
[Presentation](#)

Public Hearings

8. [PH-23-018](#) HOLD a public hearing and consider an ordinance requested by Vernon Hood (Case #Z23-04), to the rezone Lots 24-29, Block 3, Western Oaks, from "UD" (University District) to "UD" (University District) with a Conditional Use Permit (CUP) to allow single-family residential use on six (6) existing lots. The property is locally addressed as 505 Reese Creek, Killeen, Texas.
Attachments: [Exhibits](#)
[Maps](#)
[Site Photos](#)
[Site Plan / Survey](#)
[Minutes](#)
[Ordinance](#)
[Considerations](#)
[Presentation](#)
9. [PH-23-019](#) HOLD a public hearing and consider an ordinance approving a written

service agreement and the annexation of approximately 221.272 acres of land lying contiguous to the existing city limits, generally located on the west side of Bunny Trail, north of the Goodnight Ranch subdivision, south of Haynes Elementary School, and east of Dr. Joseph A. Fowler Elementary School, Killeen, Texas.

Attachments: [Maps](#)
[Ordinance](#)
[Written Service Agreement](#)
[Presentation](#)

10. [PH-23-020](#) HOLD a public hearing and consider an ordinance requested by Belton Engineering, Inc. on behalf of Bunny Trail Real Estate, LP (Case #Z22-59) for the initial rezoning of approximately 221.272 acres of land out of the John E. Maddera Survey, Abstract No. 600, from "A" (Agricultural District) to Planned Unit Development (PUD) with "SF-2" (Single-Family Residential District), "R-3A" (Multifamily Residential District), "RT-1" (Residential Townhouse Single-Family District), and "NBD" (Neighborhood Business District) uses. The properties are locally addressed as 6603 Bunny Trail, Killeen, Texas.

Attachments: [Exhibits](#)
[Maps](#)
[Site Photos](#)
[PUD Document](#)
[Response](#)
[Minutes](#)
[Ordinance](#)
[Considerations](#)
[Presentation](#)

11. [PH-23-021](#) HOLD a public hearing and consider an ordinance amending Chapter 31 of the Killeen Code of Ordinances, providing for amendments to the City's land use regulations regarding residential structures on a single lot and permitted uses in "R-3F" (Multifamily Residential District).

Attachments: [Minutes](#)
[Ordinance](#)
[Presentation](#)

12. [PH-23-022](#) HOLD a public hearing and consider an ordinance amending Chapter 31 of the Code of Ordinances of the City of Killeen; providing for amendments to the City's zoning regulations; allowing for short term rentals.

Attachments: [Minutes](#)
[Ordinance](#)
[Presentation](#)

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 April 7, 2023.

Laura J. Calcote, 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 254-501-7717, City Secretary'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. No official action will be taken by Council.

- 48th Annual Freedom Fund/Scholarship Banquet, April 14, 2023, 6:00 p.m., Killeen Civic and Conference Center*
- Annual Bob Gray Day, April 18, 2023, 10:00 a.m., Killeen Fort Hood Regional Airport*
- Homecoming for Heroes VII, April 22, 2023, 5:30 p.m., SC River Ranch*
- Fallen Heroes 5K, May 6, 2023, 7:30 a.m., Purser Heritage Oaks Hike and Bike Trail*

Dedicated Service -- Every Day, for Everyone!



City of Killeen

Staff Report

File Number: PR-23-005

Better Opportunities for Single Soldiers (BOSS) Recognition



City of Killeen

Staff Report

File Number: MN-23-007

1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023
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Consider Minutes of Regular City Council Meeting of March 14, 2023.

City of Killeen
City Council Meeting
Killeen City Hall
March 14, 2023 at 5:00 p.m.

Presiding: Mayor Debbie Nash-King

Attending: Mayor Protem Ken Wilkerson (arrived at 5:07 p.m.), Councilmembers Jessica Gonzalez, Riakos Adams (via Zoom), Michael Boyd, Jose Segarra, Nina Cobb, and Ramon Alvarez

Also attending were City Manager Kent Cagle, City Attorney Holli Clements, City Secretary Laura Calcote, and Sergeant-at-Arms Officer Smith

Don Smith gave the invocation. Mayor Nash-King led everyone in the Pledge of Allegiance.

Approval of Agenda

Motion was made by Councilmember Alvarez to approve the agenda. Motion was seconded by Councilmember Segarra. The motion carried unanimously (6-0).

Presentation

PR-23-003 Fire Department Award Presentation / Aviation Department Award Presentation - Fort Hood Garrison Commander

Fort Hood Garrison Commander, Chad Foster, presented the Community Partnership Award to the Fire and Aviation Departments.

Citizen Comments

Mellisa Brown spoke regarding RS-23-050, RS-23-051, and RS-23-054.

Michael Fornino spoke regarding RS-23-048.

Anca Neagu spoke regarding RS-23-048.

Consent Agenda

MN-23-005 Consider Minutes of Regular City Council Meeting of February 14, 2023.

RS-23-046 Consider a memorandum/resolution awarding Bid Number 23-19 for the Terminal Apron Rehabilitation Phase II Project to GDS LLC d.b.a. Ambrozi Contracting, in an amount of \$392,099.

- RS-23-047** Consider a memorandum/resolution authorizing the City Manager to enter into a grant agreement with the Texas Office of the Governor for the purpose of purchasing bullet resistant shields for the Killeen Police Department, and authorizing the purchase of said equipment from Armor Research Company, in an amount not to exceed \$157,092.60.

- RS-23-048** Consider a memorandum/resolution authorizing the City Manager to enter into a grant agreement with the Department of Justice Office of Community Oriented Policing Services for the purpose of providing De-escalation instructor training to law enforcement.

- RS-23-049** Consider a memorandum/resolution to authorize a Letter of Agreement with Pipeline Analysis, LLC for Wastewater Flow Monitoring Study in an amount of \$352,598.

- RS-23-050** Consider a memorandum/resolution ratifying an agreement with Lloyd Gosselink for legal services related to Oncor Electric v. The City of Killeen and acquiring the street lighting system.

- RS-23-052** Consider a memorandum/resolution accepting the FY 2022 BJA Edward Byrne Memorial Justice Assistance Grant (Jag Grant) and approving an Interlocal Agreement with the City of Temple and Bell County.

- RS-23-053** Consider a memorandum/resolution approving the investment reports for the quarter ended December 31, 2022. the

- RS-23-054** Consider a memorandum/resolution appointing Councilmembers to the Youth Advisory Commission Subcommittee.

- OR-23-005** Consider an ordinance amending an ordinance ordering a General Election to be held on May 6, 2023 to elect a district councilmember for each of the City of Killeen’s four districts.

The City Secretary read the caption of the ordinance.
AN ORDINANCE AMENDING ORDINANCE NO. 23-002 ORDERING THE HOLDING OF AN ELECTION IN THE CITY OF KILLEEN, TEXAS, FOR THE PURPOSE OF ELECTING A COUNCILMEMBER FOR EACH OF THE 4 DISTRICTS; PROVIDING FOR THE FILING OF WRITTEN APPLICATION TO HAVE THEIR NAMES PRINTED ON THE OFFICIAL BALLOT; 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.

Motion was made by Mayor Protem Wilkerson to approve the Consent Agenda, with the exception of RS-23-051. Motion was seconded by Councilmember Cobb. The motion carried unanimously (7-0).

Resolutions

RS-23-051 Consider a memorandum/resolution approving an amendment to the Interlocal Agreement with the City of Temple for Regional Homelessness Cooperation and a Strategic Plan.

Staff Comments: Danielle Singh, Assistant City Manager
Ms. Singh was available to provide additional information and to answer questions.

Motion was made by Councilmember Segarra to approve RS-23-051. Motion was seconded by Councilmember Alvarez. Motion carried unanimously (6-0).

Councilmember Adams left the meeting and did not vote.

RS-23-055 Consider a memorandum/resolution to authorize the City Manager to review proposals from 5 and enter into a contract with the energy provider whose bid provides the best value for the City.

Staff Comments: Judith Tangalin, Executive Director of Finance
Ms. Tangalin was available to provide additional information and to answer questions.

Motion was made by Councilmember Segarra to approve RS-23-055. Motion was seconded by Councilmember Alvarez. Motion carried unanimously (5-0).

Mayor Protem Wilkerson stepped away from the meeting.

Public Hearings

PH-23-014 HOLD a public hearing and consider an ordinance amending the FY 2023 Annual Budget of the City of Killeen to adjust revenue and expenditure accounts in multiple funds.

The City Secretary read the caption of the ordinance.
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS,
AMENDING THE FY 2023 ANNUAL BUDGET OF THE CITY OF KILLEEN TO ADJUST
REVENUE AND EXPENDITURE ACCOUNTS IN MULTIPLE FUNDS; REPEALING ALL
ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE;
PROVIDING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

Staff Comments: Miranda Drake, Director of Budget
This item was presented to City Council during their March 7, 2023 Workshop meeting. Ms. Drake was available to provide additional information and to answer questions.

Mayor Nash-King opened the public hearing.

Mellisa Brown spoke in opposition of the proposed ordinance.

With no one else appearing, the public hearing was closed.

Mayor Protem Wilkerson returned to the meeting.

Motion was made by Councilmember Segarra to approve PH-23-014. Motion was seconded by Councilmember Alvarez. Motion carried unanimously (6-0).

PH-23-015 HOLD a public hearing and consider an ordinance requested by Michael J. Whellan, on behalf of Central Southwest Texas Development, LLC (Case #Z22- 54), to rezone approximately 203.2 acres, being Killeen Area Investment Corp. Industrial Tract, Lot PT TR C, D, & Abandoned Dogwood Blvd.; La Cascata Addition, Block 00A, Lot 1-4 & Killeen Airport Addition, Block 001, Lot PT 1, (W PT OF 1) from "B-5" (Business District) and "M-1" (Manufacturing District) to Planned Unit Development (PUD) with "B-3" (Local Business District), "R-3A" (Multifamily Apartment Residential District), and "RT-1" (Residential Townhouse Single Family District) uses. The property is locally addressed as 1401 Rio Boulevard, Killeen, Texas.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 203.2 ACRES OUT OF THE KILLEEN AREA INVESTMENT CORP. INDUSTRIAL TRACT, LOT PT TR C, D, & ABANDONED DOGWOOD BLVD.; LA CASCATA ADDITION, BLOCK 00A, LOT 1-4 & KILLEEN AIRPORT ADDITION, BLOCK 001, LOT PT 1, (W PT OF 1), FROM "B-5" (BUSINESS DISTRICT) AND "M-1" (MANUFACTURING DISTRICT) TO PLANNED UNIT DEVELOPMENT (PUD) WITH "B-3" (LOCAL BUSINESS DISTRICT), "R-3A" (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT), AND "RT-1" (RESIDENTIAL TOWNHOUSE SINGLE-FAMILY DISTRICT) USES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Edwin Revell, Executive Director of Planning and Development Services

This item was presented to City Council during their March 7, 2023 Workshop meeting. Mr. Revell was available to provide additional information and to answer questions.

The applicant, Kevin Hunter, representative for Central Southwest Texas Development, was available to provide additional information and to answer questions.

Mayor Nash-King opened the public hearing.

Mellisa Brown spoke in opposition of the proposed ordinance.

With no one else appearing, the public hearing was closed.

Motion was made by Mayor Protem Wilkerson to approve PH-23-015. Motion was seconded by Councilmember Boyd. Motion carried unanimously (6-0).

PH-23-016 HOLD a public hearing and consider an ordinance requested by John Vela on behalf of JYKM Splawn Ranch, LLC (Case #Z23-01) to amend the existing Conditional Use Permit (CUP) for Lot 1, Block 1, Splawn Ranch Retail to allow package stores (i.e., liquor stores) as a permitted use. The property is locally addressed as 10640 S. Fort Hood St., Killeen, Texas.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF LOT 1, BLOCK 1, SPLAWN RANCH RETAIL TO AMEND THE EXISTING CONDITIONAL USE PERMIT (CUP) TO ALLOW FOR PACKAGE STORES (i.e., LIQUOR STORES) AS A PERMITTED USE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Edwin Revell, Executive Director of Planning and Development Services

This item was presented to City Council during their March 7, 2023 Workshop meeting. Mr. Revell was available to provide additional information and to answer questions.

The applicant, John Vela, representative for JYKM Splawn Ranch, LLC, spoke in favor of the proposed ordinance and was available to provide additional information and to answer questions.

Mayor Nash-King opened the public hearing.

Anca Neagu spoke in favor of the proposed ordinance.

With no one else appearing, the public hearing was closed.

Motion was made by Mayor Protem Wilkerson to approve PH-23-016. Motion was seconded by Councilmember Alvarez. Motion carried 5-1, with Councilmember Boyd in opposition.

Adjournment

With no further business, upon motion being made by Councilmember Segarra seconded by Mayor Protem Wilkerson and unanimously approved, the meeting was adjourned at 6:24 p.m.



City of Killeen

Staff Report

File Number: RS-23-064

1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023
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Consider a memorandum/resolution for the purchase of Aquatics Chemicals from Progressive Commercial Aquatics in an amount not to exceed \$85,000.00.

DATE: March 24, 2023

TO: Kent Cagle, City Manager

FROM: Kelly Snook, Executive Director of Recreation Services

SUBJECT: Purchase of Aquatics Chemicals from Progressive Commercial Aquatics in an amount not to exceed \$85,000.00

BACKGROUND AND FINDINGS:

The City of Killeen operates three (3) aquatic facilities: Family Aquatic Center, Long Branch Pool, and Junior Service League Spray Park. The Family Aquatic Center and Long Branch Pool are open Memorial Day weekend until Labor Day weekend each year. The Junior Service League Spray Park is open Spring Break week and reopens Memorial Day weekend until Labor Day weekend each year.

Recreation Services (RS) is requesting to utilize Progressive Commercial Aquatics to purchase aquatic chemicals for the FY 2023 pool season. Progressive Commercial Aquatics is on the BuyBoard purchasing cooperative contract #613-20.

Based on historical usage of all three (3) facilities, the following minimum amounts will be ordered:

PRODUCT	FAC Long Branch Pool			Splash Pad			
ACCU-TAB	7	2	1	1 Pallet/24 buckets	10 pallets		41,040.00
ACID-RITE	2	1	1	1 Pallet/36 buckets	4 pallets		14,256.00
THIOSULFATE	1	1	1	50# bag	3 bags		450.00
TRI-CHLOR	8	5	2	50# bucket	15 buckets		5250.00
SODA ASH	4	2	1	50# bag	7 bags		315.00
CYANURIC ACID		10	7	5 100# bucket	22 buckets		6160.00
HAZMAT FEE							150.00
TOTAL COST							67,621.00

Recreation Services has budgeted for a 10% increase above last year's actuals due to inflation. It is estimated that the total cost will not exceed \$85,000.00.

THE ALTERNATIVES CONSIDERED:

Option 1 - Not to approve the purchase of aquatic chemicals from Progressive Commercial Aquatics and continue to seek quotes.

Option 2 - Approve the purchase of aquatic chemicals from Progressive Commercial Aquatics under the purchasing cooperative contract Buyboard #613-20.

Which alternative is recommended? Why?

Option 2 - Approve the purchase of aquatic chemicals from Progressive Commercial Aquatics. This is the best option for Recreation Service Aquatics Department because it allows the pools to be open in a timely manner. Without adequate pool chemicals, the Family Aquatic Center will have to close, in order to protect the safety and wellbeing of city patrons and city staff working at the facility.

CONFORMITY TO CITY POLICY:

This purchase of goods will be made through the Buyboard purchasing cooperative contract #613-20. Purchases made through a cooperative contract are exempt from the competitive bidding process as stated in Texas Local Government Code section #271.102, subchapter F; a local government to seek competitive bids for the purchase of the goods or services.

FINANCIAL IMPACT:

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

The FY 2023 expenditure is an amount not to exceed \$85,000.00.

Is this a one-time or recurring expenditure?

One-time

Is this expenditure budgeted?

Yes, funds are available in the General Fund Recreation Services account 010-3027-429.41-75.

If not, where will the money come from?

N/A

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

Yes

RECOMMENDATION:

Staff recommends that City Council approve the purchase of aquatic chemicals with Progressive Commercial Aquatics for FY 2023 in an amount not to exceed \$85,000.00.

DEPARTMENTAL CLEARANCES:

Purchasing
Finance
Legal

ATTACHED SUPPORTING DOCUMENTS:

Quote

Certificate of Interested Parties

Contract Verification



**Killeen Chemical Price List 2023 as of 2/27/23:
BUYBOARD#613-20**

YOUR COST:

<u>Part #</u>		<u>YOUR COST</u>
PPG60	60# Bucket Accu-Tab Blue Cal Hypo tabs	\$2.85/lb
ACIDRITE45	45# Bucket Acidrite Tabs	\$2.20/lb
AAA-50-8604	50# bag Sodium Bicarbonate	\$45.00
AWC-50-100	100# Bucket Cal Hypo Granular	\$375.00
REG-50-50913	50# Bucket Trichlor Granular	\$350.00
CYAN100	100# Cyanuric Acid	\$280.00
Soda	50# bag Soda Ash	\$45.00
Sodthio	50# bag Sodium Thiosulfate	\$150.00

BUYBOARD LISTING COST:

<u>Part #</u>		<u>Retail</u>
PPG60	60# Bucket Accu-Tab Blue Cal Hypo tabs	\$3.25/lb
ACIDRITE45	45# Bucket Acidrite Tabs	\$2.50/lb
AAA-50-8604	50# bag Sodium Bicarbonate	\$50.00
AWC-50-100	100# Bucket Cal Hypo Granular	\$420.00
REG-50-50913	50# Bucket Trichlor Granular	\$395.00
CYAN100	100# Cyanuric Acid	\$310.00
Soda	50# bag Soda Ash	\$50.00
Sodthio	50# bag Sodium Thiosulfate	\$165.00

- **\$150 hazmat fuel surcharge on every order**
- **Subject to change if chemical pricing changes throughout the year.**
- ***Accutab is minimum 1 pallet order (24, 60lb buckets per pallet)**
- ***Acidrite is minimum 1 pallet order (36, 45lb buckets per pallet)**
- ***Buyboard discount is 10% (or more off listing price)**

15616 Schmidt Loop Manor, Texas 78653 (512) 278-0801 Fax (512) 350-2154
 Website www.proaquatic.com E-Mail: mylesproaquatic@gmail.com

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2023-996994

Date Filed:
03/21/2023

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Progressive Commercial Aquatics
Houston, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Killeen

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

Chemical Pricelist
Chemical Pricelist

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is Russell Leto, and my date of birth is 07/21/1975.

My address is 2510 Farrell Rd, Houston, TX, 77073, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 21 day of Mar, 2023.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)



Contract Verification

Texas law provides that a governmental entity may not enter into certain contracts for goods and services with a company unless the company provides written verification regarding aspects of the company’s business dealings.

- Texas Government Code, Chapter 2271 – the company must verify that it does not boycott Israel and will not boycott Israel during the term of the contract. *Boycott Israel is defined in Government Code Chapter 808.*
- Texas Government Code, Chapter 2274 – the company must verify that it does not boycott energy companies and will not boycott energy companies during the term of the contract. *Boycott energy company is defined in Government Code Chapter 809.*
- Texas Government Code, Chapter 2274 – the company must verify that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. Verification is not required from a sole source provider. *Discriminate, firearm entity and firearm trade association are defined in Government Code Chapter 2274.*

Affected by the above statutes are contracts 1) with a company with ten (10) or more full-time employees, and 2) valued at \$100,000 or more to be paid wholly or partly from public funds. A contract with a sole proprietorship is not included.

By signing below, I verify that the company listed below does not boycott Israel, does not boycott energy companies and does not discriminate against firearms entities or firearm trade associations and will not do so during the term of the contract entered into with the City of Killeen. I further certify that I am authorized by the company listed below to make this verification.



Signature

Progressive Commercial Aquatics, Inc

Company Name

Russell Leto

Printed Name

President/CEO

Title

03/29/2023

Date



AWARDING AQUATICS CHEMICALS RFP NO. 23-13

RS-23-064

April 4, 2023

Background

2

- Recreation Services (RS) offers multiple water activities with (3) aquatic facilities to the community
- Recreation Services (RS) operates all (3) aquatic locations from Memorial Day weekend through Labor Day weekend

Bids

3

- ❑ On January 29, 2023, RS advertised RFP 23-13 for Aquatic Chemicals
- ❑ Responses due to purchasing on February 16, 2023
- ❑ We received 0 responses
- ❑ RS is requesting to utilize Progressive Commercial Aquatics to purchase aquatic chemicals for the FY 2023 pool season. Progressive Commercial Aquatics is on the BuyBoard purchasing cooperative contract #613-20.

Alternatives

4

- Option 1 – Not approve the agreement with Progressive Commercial Aquatics and continue to seek quotes
- Option 2 – Approve the purchase of aquatic chemicals from Progressive Commercial Aquatics under the purchasing cooperative contract Buyboard #613-20

Recommendation

5

- Approve the purchase of aquatic chemicals from Progressive Commercial Aquatics.
 - Without adequate pool chemicals, the Family Aquatic Center will have to close, in order to protect the safety and wellbeing of city patrons and city staff working at the facility



City of Killeen

Staff Report

File Number: RS-23-065

1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023
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Consider a memorandum/resolution approving the appointment of an Executive Director of Community Development.

DATE: April 4, 2023
TO: Kent Cagle, City Manager
FROM: Eva Bark, Executive Director of Human Resources
SUBJECT: Appointment of an Executive Director of Community Development

BACKGROUND AND FINDINGS:

On March 31, 2023, the position of the Executive Director of Community Development became vacant.

On February 13, 2023, Human Resources posted the vacancy on the City’s website and the Texas Municipal League, website. The City received Fourteen (14) applications and narrowed the candidates to four (4) finalists. Interviews took place on February 23 through March 2, 2023, with a panel of City leadership.

Mr. Cagle extended a conditional job offer to Ms. Tiffanie McNair. Ms. McNair comes to Killeen with over thirteen (13) years of experience serving in several non-profit and public sector organizations, and most recently serving as Housing Commissioner with the City of Toledo, Ohio.

Ms. McNair has experience with affordable and tax-credit housing development, underwriting, and management. Additionally, she has experience in Community Development Block Grant (CDBG), HOME, HOME-ARP, Emergency Rental Assistance (ERA) compliance and reporting, Section 42 (LHTC) housing management, compliance, and development, real estate transactions, and is educated in Fair Housing rules and regulations.

Ms. McNair received her Master of Studies in Law from the University of Toledo and holds a Bachelor of Science in Criminal Justice also from the University of Toledo. In addition, Ms. McNair completed M.B.A. core coursework from Tiffin University, graduated with Pre-Licensing Real Estate Sales from Hondros College, and graduated from the University of Toledo with a Certificate in Paralegal Studies. Ms. McNair holds the following certifications: Housing Development Finance Professional Certification, Fair Housing Compliance and Specialist in Housing Credit Management from the Affordable Housing Management Association, Asset Management Specialist Certification and Certified Housing Asset Manager with NeighborWorks, Housing Credit Certified Professional from the National Association of Home Builders, and in the process of Bloomberg-Harvard City Leadership Initiative, Innovation Track, and various leadership certifications.

Ms. McNair’s job offer is conditioned upon the following:

- Selection confirmation by the Killeen City Council

- Commencing employment on June 20, 2023

THE ALTERNATIVES CONSIDERED:

Alternatives are: (1) to disapprove the appointment of Tiffanie McNair as the City of Killeen's Executive Director of Community Development; or (2) to approve the appointment of Tiffanie McNair as the City of Killeen's Executive Director of Community Development.

Which alternative is recommended? Why?

Staff recommends the second alternative, to approve the appointment of Tiffanie McNair. Ms. McNair brings over thirteen years of experience serving in several non-profit and public sector organizations, and most recently serving as Housing Commissioner with the City of Toledo, Ohio.

CONFORMITY TO CITY POLICY:

This action conforms to city policy. Executive director appointments are subject to approval by the City Council pursuant to Section 29 of the City Charter.

FINANCIAL IMPACT:

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

The annual base salary of the position is \$145,000, plus benefits and a \$3,000 annual car allowance. In addition, there is a \$7,500 relocation allowance reimbursement. The prorated amount through the end of the fiscal year is estimated at \$58,167.

Is this a one-time or recurring expenditure?

The annual salary, car allowance, and benefits are recurring expenditures. The relocation allowance reimbursement is a one-time expenditure.

Is this expenditure budgeted?

Yes, funds are available in Community Development's salary and benefit accounts in the General Fund and CDBG Fund: 010-3250-426.40-05 through 010-3250-426.40-89 and 228-3250-426.40-05 through 228-3250-426.40-89.

If not, where will the money come from?

N/A

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

Yes.

RECOMMENDATION:

Staff recommends that the City Council approve the City Manager's appointment of Tiffanie McNair as the City of Killeen's Executive Director of Community Development.

DEPARTMENTAL CLEARANCES:

- City Manager
- City Attorney
- Finance

ATTACHED SUPPORTING DOCUMENTS:

Resume

TIFFANIE N. MCNAIR

PROFESSIONAL PROFILE

Results-oriented community development administrator and housing asset manager with 13 years' experience of affordable and tax-credit housing development, underwriting, and management. Embodying a strong work ethic and drive to succeed, this professional is motivated to develop innovative real estate projects, maintain the financial strength of the properties post-development, and effectively perform duties both assigned and implied. Experienced in Community Development Block Grant (CDBG), HOME, HOME-ARP, and Emergency Rental Assistance (ERA) compliance & reporting, Section 42 (LIHTC) housing management, compliance, and development, real estate transactions, and educated in Fair Housing rules and regulations.

SKILLS & ABILITIES

Solid written and verbal communication skills	Critical thinking
Active listening	Database management and analysis
Team-oriented and self-starting	Dynamic Leadership

EXPERIENCE

- 08/2020-Present* **Housing Commissioner, City of Toledo, Ohio**
- Leads the Housing Division within the Department of Housing and Community Development.
 - Oversees the funding of affordable housing projects utilizing HOME, CDBG, ARPA, HOME-ARP, and ERA.
 - Drafts legislation for review and approval by the Department of Law per Toledo Municipal Code for the purpose of obtaining approval for program administration in accordance with Toledo Municipal Code, Ohio Revised Code, and Federal Regulations.
 - Develops online applications and manages the Toledo Housing Programs portal.
 - Directs the Toledo Lucas County Emergency Assistance Program
 - EMAP, Rooftops.
 - Drafts Notice of Funding Availability (NOFA), CAPER, Annual Plan, Five-Year Consolidated Plan.
 - Comprehensive Housing Strategy and 10 Year Plan.
- 12/2019-08/2020* **Community Development Program Manager, Lucas Housing Services Corporation**
- Awarded \$75,000 for the 46th year of the Community Development Block Grant (CDBG).

- Oversaw multiple housing sites and exceeds in customer service to new and existing residents.
- Administered and monitored community programs and projects, while ensuring the meeting of objectives for efficient reporting.

01/2016-01/2023

Real Estate Salesperson, Key Realty

08/2008-01/2012

- Assisted minority, first time homebuyers with listing and/or purchasing real estate in the Toledo metropolitan area.
- Provided technical support to clients during the real estate transaction process.
- Maintained license according to requirements of Ohio Department of Commerce, Division of Real Estate & Professional Licensing.

07/2017-09/2019

Asset Manager, NeighborWorks Toledo Region

- Expedited 5-month interview process for property management companies as a temporary paid consultant post-employment.
- Sustained a 90% occupancy rate over 9 Low-Income Housing Tax Credit (LIHTC) projects.
- Supervised both internal and external property management and compliance operations, including housing acquisitions.

03/2016-06/2017

Director of Housing, United North Corporation

04/2010-06/2015

- Maintained 95% occupancy rate of over 220 units in North Toledo.
- Oversaw the renovation of a historical structure totaling \$125,000 and closed out a \$9 million Low-Income Housing Tax Credit (LIHTC) senior project.
- Supervised Housing Team and advocated for resident housing needs.

EDUCATION

Graduated 12/2022	Master of Studies in Law, Toledo, Ohio, <i>University of Toledo</i>
Completed 07/2014	M.B.A. (core coursework only), Tiffin, OH, <i>Tiffin University</i>
Graduated 05/2008	Pre-Licensing Real Estate Sales, Holland, OH, <i>Hondros College</i>
Graduated 08/2007	Certificate in Paralegal Studies, Toledo, OH, <i>University of Toledo</i>
Graduated 12/2004	B.S. in Criminal Justice, Toledo, OH, <i>University of Toledo</i>

CERTIFICATIONS

- Housing Development Finance Professional Certification™, National Development Council, LIC: #0813-024
- Fair Housing Compliance™, NAHMA™
- Specialist in Housing Credit Management®, NAHMA™
- Asset Management Specialist Certification, NeighborWorks®
- Certified Housing Asset Manager®, NeighborWorks®
- Housing Credit Certified Professional, NAHB®
- Bloomberg-Harvard City Leadership Initiative, Innovation Track (Pending)

LEADERSHIP

- Executive Leadership Certification, Center for Non-profit Resources, 2014
- Skyway Career Prep High School (Formerly Life Skills Toledo High School), Executive Board Member & Secretary, 2017-2020
- Alternative Education Academy, Executive Board Member & Secretary, 2017-2020
- Lucas County Democratic Party, Precinct Captain (District 1, Precinct 6H), 2020
- Urban Wholistics, Executive Board Member & Treasurer, 2020
- Toledo Regional Chamber of Commerce, Institute for Leadership & Advocacy Certification, 2021
- Pathway, Inc. Executive Board Member & Programs Committee, 2020-Present
- Toledo Lucas County Homelessness Board Executive Board Member & Finance Committee, 2020-Present
- Toledo Design Collective, Executive Board Member & Projects Committee, 2020-Present



APPOINTMENT OF AN EXECUTIVE DIRECTOR OF COMMUNITY DEVELOPMENT

RS-23-065

April 4, 2023

31

Background/Recruitment

2

- Executive Director of Community Development vacancy
 - ▣ March 31, 2023
- Recruitment
 - ▣ February 13, 2023
 - ▣ City of Killeen and Texas Municipal League websites
 - ▣ Fourteen (14) candidates applied
 - ▣ Four (4) candidates interviewed

Candidate Information

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- The City Manager selected Tiffanie McNair as the Executive Director of Community Development
- Ms. McNair received her Master of Studies in Law from the University of Toledo and holds a Bachelor of Science in Criminal Justice also from the University of Toledo
- Completed M.B.A. core course work from Tiffin University, graduated with Pre-Licensing Real Estate Sales from Hondros College and graduated from the University of Toledo with a Certificate in Paralegal Studies

Candidate Information (Cont.)

4

- Over thirteen (13) years of experience serving in several non-profit and public sector organizations, and most recently serving as Housing Commissioner with the City of Toledo, Ohio
- Experience with affordable and tax-credit housing development, underwriting, and management
- Experience with Community Development Block Grant (CDBG), HOME, HOME-ARP, and Emergency Rental Assistance (ERA) compliance and reporting, Section 42 (Low-Income Housing Tax Credit) housing management, compliance, and development, real estate transaction, and educated in Fair Housing rules and regulations

Candidate Information (Cont.)

5

- Certifications:
 - ▣ Housing Development Finance Professional Certification
 - ▣ Fair Housing Compliance and Specialist in Housing Credit Management from the Affordable Housing Management Association
 - ▣ Asset Management Specialist Certification and Certified Housing Asset Manager with NeighborWorks
 - ▣ Housing Credit Certified Professional from the National Association of Home Builders

Alternatives

6

- ❑ To disapprove the City Manager's appointment of Tiffanie McNair as the City of Killeen's Executive Director of Community Development
- ❑ To approve the City Manager's appointment of Tiffanie McNair as the City of Killeen's Executive Director of Community Development

Staff Recommendation

7

Staff recommends approving the City Manager's appointment of Tiffanie McNair as the Executive Director of Community Development



City of Killeen

Staff Report

File Number: RS-23-066

Consider a memorandum/resolution confirming the Municipal Court Judge's annual evaluation and pay increase.

DATE: April 11, 2023

TO: Kent Cagle, City Manager

FROM: Eva Bark, Executive Director of Human Resources

SUBJECT: Annual Evaluation and Pay Increase of Municipal Court Judge

BACKGROUND AND FINDINGS:

The position of Municipal Court Judge is currently filled by Kris Krishna. Kris Krishna has served in this capacity since April 11, 2022. Per City Charter Section 32, the City Council shall appoint a magistrate as a presiding judge for the court, and associates' judges, as deemed necessary for the benefit and conduct of the court. Each judge shall be a competent and duly licensed attorney.

On April 4, 2023, the City Council met with Mr. Krishna for his annual performance evaluation and based on the majority consensus, the City Council discussed an increase of five percent (5%) for the cost of living and an additional 15.079% increase in salary for a total annual salary of \$145,000 for the presiding Municipal Court Judge to be effective April 11, 2023.

THE ALTERNATIVES CONSIDERED:

Council can choose (1) to not approve an increase of five percent (5%) for the cost of living and an additional 15.079% increase in salary for a total annual salary of \$145,000 or (2) to approve an increase of five percent (5%) for the cost of living and an additional 15.079% increase in salary for a total annual salary of \$145,000.

Which alternative is recommended? Why?

Staff recommends that the Council approve an increase of five percent (5%) for the cost of living and an additional 15.079% increase in salary for a total annual salary of \$145,000 for the Municipal Court Judge, Kris Krishna based on the majority consensus reached at the Council workshop held on April 4, 2023.

CONFORMITY TO CITY POLICY:

City Charter Section 32 provides that the governing body may appoint a magistrate as a presiding

judge for the court, and associates' judges, as deemed necessary for the benefit and conduct of the court. Each judge shall be a competent and duly licensed attorney.

FINANCIAL IMPACT:

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

The estimated additional cost in FY 2023 is \$14,644. The Municipal Court Judge's current annual salary is \$120,000.19. A five percent (5%) increase in the cost of living will bring the salary to \$126,000.19. An additional 15.079% increase in salary will bring the total annual salary to \$145,000. The approved salary and associated wage-based benefits will be included in future budgets.

Is this a one-time or recurring expenditure?

This is a recurring expenditure.

Is this expenditure budgeted?

Yes, funds are available in the General Fund Municipal Court accounts 010-2015-417.40-05 through 010-2015-417.40-89.

If not, where will the money come from?

N/A

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

Yes

RECOMMENDATION:

Staff recommends that the Council approve an increase of five percent (5%) for the cost of living and an additional 15.079% increase in salary for a total annual salary of \$145,000.00 for the Municipal Court Judge, Kris Krishna, based on the majority consensus reached at the Council workshop held on April 4, 2023.

DEPARTMENTAL CLEARANCES:

Finance
City Attorney

ATTACHED SUPPORTING DOCUMENTS:

Evaluation Letter



CITY OF KILLEEN
Office of the Mayor

TO: KENT CAGLE, CITY MANAGER
VIA: EVA BARK, EXECUTIVE DIRECTOR OF HUMAN RESOURCES
FROM: KILLEEN CITY COUNCIL
DATE: APRIL 5, 2023
SUBJECT: MUNICIPAL JUDGE ANNUAL REVIEW

Mr. Kris Krishna, Municipal Judge, received his annual performance evaluation on Tuesday, April 3, 2023, by the Killeen City Council and was given the following rating:

- Exceeds Expectations

The Council reached a consensus to increase Mr. Krishna's annual salary to \$145,000.

Sincerely,


Debbie Nash-King
Mayor, City of Killeen



City of Killeen

Staff Report

File Number: OR-23-008

1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023
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Consider an ordinance amending the Code of Ordinances, Chapter 6, Animals amending Feral Cat, Aggressive Dogs, and Wild Animals.

DATE: April 4, 2023

TO: Kent Cagle, City Manager

FROM: Danielle Singh, Assistant City Manager

SUBJECT: Consider an ordinance amending Chapter 6 of the Code of Ordinances regarding Animals.

BACKGROUND AND FINDINGS:

On April 20, 2021, City Council issued a motion of direction for staff to work with the Animal Advisory Committee to review and develop an amendment to Chapter 6 of the Code of Ordinances for feral cat regulations for consideration.

A subcommittee was formed but little progress was made. Following several resignations of subcommittee members, staff drafted an amendment and presented it to the Animal Advisory Committee on January 12 and February 9, 2023 for review. The Committee made several recommendations for amendments which have been incorporated into the draft ordinance.

1. Change references from feral cats to community cats and add a definition for community cat.
2. Allow a community cat colony caregiver thirty days to address the unwanted presence of cats on private property.
3. Remove the prohibition of community cat colonies within ½ mile of a school, church, or public playground as this item can be address through other sections of the ordinance
4. Allow appeals regarding community cats to be made to the Assistant City Manager.
5. Change how community cats are handled while at the shelter.
 - a. Allow a cat to be returned to a colony one time after it is impounded on another person’s private property.
 - b. Have a microchip placed in the community cat while it is in possession of the shelter to allow it to be tracked for future encounters.
 - c. Allow a cat to be released to an alternate colony if it does not meet the criteria to be returned to the original colony.

While the Committee was able to come to a consensus on the majority of the amendments, the Committee could not come to consensus on limiting the number of cats in a residential colony to six cats at any given time. Staff feels this section would help to limit some of the nuisance concerns that occur frequently when community cat colonies are established in residential areas.

The amendments to the ordinance also include to administrative amendments to the sections addressing Aggressive Dogs, to comply with state law, and Wild Animals, to provide clarity.

THE ALTERNATIVES CONSIDERED:

1. Do not approve the amendment to Chapter 6 of the Code of Ordinances.
2. Approve the amendment to Chapter 6 of the Code Ordinances, with revisions.
3. Approve the amendment to Chapter 6 of the Code Ordinances as drafted.

Which alternative is recommended? Why?

Staff recommends that the City Council approve the ordinance amendments.

CONFORMITY TO CITY POLICY:

This item complies with all applicable policies.

FINANCIAL IMPACT:

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

This action does not authorize any expenditure of funds.

Is this a one-time or recurring expenditure?

N/A

Is this expenditure budgeted?

N/A

If not, where will the money come from?

N/A

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

N/A

RECOMMENDATION:

Staff recommends that City Council adopt the ordinance amending Chapter 6 of the Code of Ordinances regarding animals.

DEPARTMENTAL CLEARANCES:

Legal

ATTACHED SUPPORTING DOCUMENTS:

Ordinance

AN ORDINANCE AMENDING CHAPTER 6, ANIMALS, OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN, ADDING PROVISIONS RELATED TO DANGEROUS AND AGGRESSIVE DOGS, COMMUNITY CATS, AND WILD ANIMALS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATIONS 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;

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

SECTION I. That Chapter 6, Articles I, IV, V, and VI of the City of Killeen Code of Ordinances are hereby amended to read as follows:

Chapter 6 Animals

ARTICLE I. IN GENERAL

Sec. 6-4. Definitions.

[Community Cat shall mean any free-roaming cat, regardless of socialization or sociability, cared for by one or more known or unknown residents of the immediate area.](#)

Feral ~~or free-roaming~~ cat means any cat that has no apparent owner or identification and is wild, untamed or unsocialized, and is unable to be approached or handled.

ARTICLE IV. DANGEROUS AND AGGRESSIVE DOGS

DIVISION 2. AGGRESSIVE DOGS

Sec. 6-126. Requirements for owners/possessors of aggressive dogs.

- (a) Unless the person is appealing animal services' determination that the ~~animal dog~~ animal dog is an aggressive ~~animal dog~~, in addition to the other requirements of this chapter, the owner/possessor of an aggressive dog shall comply with the following conditions not later than ~~ten (15)~~ fifteen (15) calendar days after a person learns that the person is the owner/possessor of an aggressive dog or receives notice of the aggressive dog determination:
- (1) Removal from the city. Remove the dog from the territorial limits of the City of Killeen; or
 - (2) Register the animal with animal services and pay applicable registration fee once a year;
 - (3) Restrain the aggressive dog at all times either indoors or within a double secured enclosure outdoors, where each of the two (2) enclosures consists of a substantial fence or enclosure measuring at least one hundred (100) square feet secured by a lock to include a secure top and concrete bottom, and of sufficient strength and height to prevent the animal from escaping or reaching any part of its body over, under, or through the fence;
 - (4) Obtain liability insurance coverage or show financial responsibility in an amount of at least one hundred thousand dollars (\$100,000.00) to cover damages resulting from an attack by the aggressive dog and provide proof of the required liability insurance coverage or financial responsibility to the animal services;
 - (5) Present proof of current rabies vaccination of the aggressive dog to animal services annually;
 - (6) Have the dog sterilized by a veterinarian if the animal is over six (6) months old, or sterilized by the 30th day after the animal becomes six (6) months old;
 - (7) Have the dog identified by a microchip device and provide proof to animal services; and
 - (8) Pay any kennel fees accrued due to the seizure of the dog by the city.
- (b) It is an exception to subsection (a)(3) if the dog is being transported to or from a veterinary or kennel appointment and is secured by means of a leash, cord or chain to control the actions of such animal or secured within the passenger compartment of a motor vehicle.
- (c) If the dog was not seized and the owner/possessor of the aggressive dog decides not to comply with subsection (a), the owner/possessor shall deliver the ~~animal aggressive dog~~ animal aggressive dog immediately to animal services, but not later than ~~ten~~ fifteen (15) calendar days after the owner/possessor learns that the animal is an aggressive dog.

ARTICLE V. ~~COMMUNITYFERAL~~ AND FREE-ROAMING CATS

Sec. 6-140. ~~Community Feral~~ and free-roaming cat colony permit.

- (a) A trap, neuter, vaccinate, and return programs (TNVR) ~~may~~ shall be permitted in accordance with this division. In order to participate in the TNVR program, all ~~community feral~~ and free-roaming cat colony caregivers must apply to animal services and be approved by the animal services ~~director~~ manager for a ~~community feral~~ or free-roaming cat colony caregiver permit prior to the date on which the colony caregiver begins to provide care for a ~~community feral~~ and free-roaming cat colony. A cat colony caregiver shall obtain a permit from animal services for each cat colony that the caregiver intends to ~~provide care for feed or water prior to the date on which the cat colony caregiver commences to feed or water the colony.~~ All colony caregivers providing care for a ~~feral or community or~~ free-roaming cat colony prior to the effective date of this division shall register each ~~community feral~~ or free-roaming cat colony within ~~thirty ten (3010)~~ calendar days from the effective date of this division.
- (b) To apply for a permit to care, feed, or water a ~~feral or community~~ or free-roaming cat colony, a person must present evidence to animal services of satisfactory completion of a trap, neuter, and release educational course.

~~(c) Community cat colonies within the city limits of Killeen must meet the following requirements:~~

~~(1) No community cat colony shall be established on public or private property without first obtaining written permission from the property owner and providing a copy of the written permission to animal services;~~

~~(2) No community cat colony shall be allowed to continue on a property that creates the unwanted presence of cats on another private property, in compliance with section 6-142;~~

~~a. Community cat caregivers shall be given a period of thirty (30) days to resolve any issues associated with the unwanted presence of cats on another private property.~~

~~(3) Residential community cat colonies shall be limited to no more than six (6) cats at one time; and~~

~~(4) No cats shall be brought into a community cat colony from outside the city limits of Killeen.~~

~~(cd) Community and free-roaming cat colony permits must be renewed annually.~~

~~(c) A cat colony caregiver shall implement proper trap, neuter, vaccinate, and return (TNVR) and management practices as required by animal services to maintain a valid feral or free-roaming cat colony permit.~~

~~(d) The cost associated with participation in the TNVR program shall be solely on the permitted colony caregiver, and participation in the TNVR program is at the colony caregiver's own risk. The city shall not be responsible for any costs or liabilities associated with the TNVR program.~~

(e) The decision of the animal services ~~director~~ manager under this division ~~is final and may not be further appealed to the Assistant City Manager or designee.~~

(Ord. No. 20-057 , § I, 10-27-20)

Sec. 6-141. Trap, neuter, vaccinate, and return program (TNVR).

- (a) ~~All colony caregivers must participate in the trap, neuter, vaccinate, and return program (TNVR). A cat colony caregiver shall implement a proper trap, neuter, vaccinate, and return (TNVR) program and management practices to ensure that every cat within the community cat colony has met each of the following requirements:~~

-
- (1) Sterilization by a licensed veterinarian with an ear tip amputation for recognition purposes; and
 - (2) Vaccination against communicable diseases, particularly rabies, in accordance with best practices for community cats by a licensed veterinarian.
 - (b) The cat colony caregiver must maintain accurate records of the cat colonies in their TNVR program.
 - (1) The records must include:
 - a. The location and size of each cat colony; and
 - b. Proof of sterilization and vaccination for all community or free-roaming cats in the caregiver's permitted cat colony.
 - (2) Animal services may request copies of these records at any time. Failure to provide such records may result in the revocation of the permit to operate a community cat colony.
 - (c) The cost associated with participation in the TNVR program shall be solely on the permitted colony caregiver, and participation in the TNVR program is at the colony caregiver's own risk. The city shall not be responsible for any costs or liabilities associated with the TNVR program.
 - (d) Cat colony caregivers must make all reasonable efforts to catch a sick or injured cat within the permitted cat colony and take the cat to a veterinarian.
 - ~~(b) All sites authorized for use in the TNVR program must be located on private property and approved by the animal services manager or his/her designee prior to the release of any feral or free-roaming cats onto the property. It will be the responsibility of the colony caregiver to provide the following to animal services in the colony caregiver's request for TNVR permit:~~
 - ~~(1) Address of the property requested for use in the TNVR program;~~
 - ~~(2) Location on the property where the colony caregiver plans to provide care to the feral or free-roaming cats;~~
 - ~~(3) Obtain written permission of the landowner or the landowner's agent, if not owned by the colony caregiver, where the colony caregiver plans to provide care for the feral or free-roaming cats, to include where the cats congregate or are fed;~~
 - ~~(4) Obtain written permission from the landowners or tenants of the residences and/or business establishments within one (1) block of the address of the property requested for use in the TNVR program;~~
 - ~~(5) No site will be authorized for use in the TNVR program if the site is located within one-half (½) mile of a school, church, or public playground.~~
 - ~~(c) The TNVR program requires a colony caregiver to:~~
 - ~~(1) Provide animal services with a reasonable estimation of the number of cats in each cat colony on an annual basis or as required by animal services.~~
 - ~~(2) Trap feral or free-roaming cats in a humane manner.~~
 - ~~(3) Sterilize (spay or neuter) all trapped feral or free-roaming cats by a licensed veterinarian, show proof to animal services of sterilization and the number sterilized.~~

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- ~~(4) Vaccinate for rabies and administered by a licensed veterinarian all trapped feral or free-roaming cats, show proof to animal services certificate of rabies vaccination and the number vaccinated.~~
 - ~~(5) Obtain an ear tip amputation performed by a licensed veterinarian on all trapped feral or free-roaming cats once the cat has been sterilized and given a rabies vaccination.~~
 - ~~(6) Make all reasonable efforts to catch a sick or injured cat within the permitted cat colony and take the cat to a veterinarian.~~
 - ~~(7) Have a licensed veterinarian evaluate the health of all trapped feral or free-roaming cats.
 - ~~a. Any feral or free-roaming cat testing positive for feline leukemia (FeLv) and/or feline immune deficiency virus (FIV) shall not be released and shall be either humanely euthanized or isolated indoors, and shall be reported immediately to animal services; and~~
 - ~~b. Seriously ill or injured cats with no reasonable prognosis for humane rehabilitation for survival outdoors will be humanely euthanized.~~~~
 - ~~(8) Maintain proof of sterilization and vaccination for all feral or free-roaming cats in the caregiver's permitted feral or free-roaming cat colony.~~
 - ~~(9) Provide adequate fresh food and water on a daily basis to the cats in the caregiver's permitted feral or free-roaming cat colony, to include ensure arrangements for feeding the colony throughout the year, including weekends, holidays, and vacations which may take the colony caregiver away from the location of the colony. Ensure that sufficient provisions of food and water are available for the cats within the colony in a manner that does not leave excess food in the area.~~
 - ~~(10) Submit annual reports to animal services to include but not limited to the estimated number of cats per colony that the cat colony caregiver has obtained a permit for, the number of cats vaccinated for rabies, the number of cats sterilized, and the name and location of the veterinary clinic used by the caregiver.~~
 - ~~(11) Release non-feral cats to animal services for domestication and placement, unless a nonprofit animal welfare organization approved by animal services agrees to accept the animal into their adoption program.~~
 - ~~(12) Make every effort to remove kittens from the colony before eight (8) weeks of age for domestication and placement through the animal shelter or a nonprofit animal welfare organization approved by animal services.~~
- ~~(d) All colony caregivers must fully cooperate with animal services in resolving any:~~
- ~~(1) Situation involving any cat within the colony posing a potential threat to the public health and safety, including the risk of rabies transmission;~~
 - ~~(2) Investigation into animal cruelty;~~
 - ~~(3) Investigation into animal nuisance claims; and~~
 - ~~(4) Situations involving feral or free-roaming cats in unsafe or inappropriate areas.~~
- ~~(e) If at any time a colony caregiver chooses or is unable to continue to provide care to their permitted colony or colonies, it will be the responsibility of the colony caregiver or their representative to notify animal services in writing that the colony caregiver will no longer be participating in the TNVR program. If no other colony~~

caregiver wishes to assume responsibility for the colony or colonies that will be left without care, animal services shall immediately take steps to remove the colony or colonies.

- (f) ~~A cat colony caregiver may apply to animal services for a waiver of any provision of this section. The decision of the animal services manager or authorized representative on the application and any waiver is final and may not be appealed.~~
- (g) ~~Animal services may immediately seize and remove all, or parts of any colony for the following reasons:~~
 - (1) ~~Public health or safety concerns including, but not limited to, rabies or other epizootic and certain zoonoses identified by the department of health;~~
 - (2) ~~Animals creating a public nuisance by interfering with passing vehicles, trespassing on school grounds, repeatedly defecating on neighboring properties, or crying or whining in an excessive, continuous or untimely fashion.~~
- (h) ~~Animal services shall contact the nearest colony caregiver when an ear tipped cat has been impounded at the animal shelter. If positively identified, the ear tipped cat will be released back to the colony caregiver to be returned to the approved TNVR release site.~~
- (i) ~~Any feral or free-roaming cat, regardless of whether or not it has completed the TNVR program, that is found to be a public nuisance will not be released back to the colony caregiver, and will become the property of the animal shelter.~~

(Ord. No. 20-057 , § I, 10-27-20)

Sec. 6-142. Enforcement~~Revocation of permit.~~

- (a) A permit issued under this division may be revoked by the animal services ~~director~~manager or his/her designee, for any violation of the provisions of this chapter by the holder thereof.
 - (1) ~~Revocation of a colony caregiver permit by the animal services ~~director~~manager or their designee is final and non-appealable may be appealed to the Assistant City Manager or designee.~~
 - (b2) ~~Animal services shall provide written notice of the revocation to the holder by sending the notice certified mail returned receipt or by personally delivering the written notice to the last known address of the holder of the permit. An executed return receipt is prima facie evidence of service. If notice is mailed according to this subsection and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and notice shall be deemed to be delivered. Animal services shall provide written notice of the revocation to the holder by sending the notice certified mail or by personally delivering the written notice to the holder of the permit.~~
- (b) ~~Prior to revocation, written notice will be given to the colony caregiver. The notice shall set forth any specific conditions that are grounds for revocation of the permit. The colony caregiver shall be given thirty (30) days to correct these conditions.~~
- (c) ~~Animal services may immediately seize and remove any and all community cats from a community cat colony for any of the following reasons:~~
 - (1) ~~Public health or safety concerns including, but not limited to, rabies or other epizootic and certain zoonoses identified by the department of health;~~

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- (2) Animals creating a public nuisance by interfering with passing vehicles, trespassing on school grounds, repeatedly defecating on neighboring properties, damaging private property, or crying or whining in an excessive, continuous or untimely fashion; or
 - (3) A community cat colony violates any provisions of this chapter.
 - (d) Any community cat impounded at the animal shelter will be identified by its ear tip and may be immediately released to the appropriate community cat colony provided:
 - (1) The community cat has not been reported as a nuisance by a property owner, on whose property the community cat has been impounded more than once.
 - (2) The community cat is not a member of a colony that has been reported as a nuisance or as having created the unwanted presence of cats on another private property.
 - (3) The cat colony caregiver is not in violation of any provision of this chapter.
 - (4) A community cat may be released to an alternate colony if any of the provisions in this subsection exist.
 - (5) A microchip may be placed in the community cat while in the care of the shelter, with any applicable fees paid by the cat colony caregiver.

(Ord. No. 20-057 , § I, 10-27-20)

Sec. 6-143. Violations.

- (a) It shall be a violation of this chapter to feed a cat running at-large outside of the property owned by the person feeding the cat, without first obtaining a communityferal or free-roaming cat colony permit.
- (b) Any cat colony caregiver determined to be in violation of proper management, ~~and~~ sterilization practices, or any other provisions required by this division shall be issued a written warning and allowed a period of time, which shall not exceed ninety (90) calendar days, to come into compliance. Failure to comply within the given time period is a violation.
- (c) Colony caregivers shall have immunity from criminal charges regarding restraint violations, but are responsible for ensuring that the communityferal and free-roaming cats in their care do not create a public nuisance.
- (d) Colony caregivers are not immune from criminal charges for failure to provide care for the cats in their care.
- (e) Colony caregivers are not immune from civil suit for damages as a result of their choice to participate in the TNVR program.
- (f) Community cat colonies within the city limits of Killeen shall be in violation of this ordinance if the Community cat colony is not in compliance with the below conditions:
 - (1) No community cat colony shall be established on public or private property without first obtaining written permission from the property owner and providing a copy of the written permission to animal services;

(2) No community cat colony shall be allowed to continue on a property that creates the unwanted presence of cats on another private property;

a. Community cat caregivers shall be given a period of thirty (30) days to resolve any issues associated with the unwanted presence of cats on another private property before any such permit revocation may occur in accordance with Sec. 6-142.

(3) Residential community cat colonies shall be limited to no more than six (6) cats at one time; and

(4) No cats shall be brought into a community cat colony from outside the city limits of Killeen.

(Ord. No. 20-057 , § I, 10-27-20)

Secs. 6-144—6-149. Reserved.

ARTICLE VI. TRAPPING, WILD ANIMALS, AND LIVESTOCK

DIVISION 2 WILD ANIMALS

Sec. 6-152. Prohibited wild animals.

- (a) It shall be unlawful to keep, maintain, harbor or possess any of the following animals, fowl or reptiles within the corporate limits of the city:
- (1) *Class Reptilia*. Family Heldermatidea (venomous lizards such as, but not limited to, gila monster and Mexican beaded lizard); family Viperidae (rattlesnakes, copperheads, cottonmouths, adders, bushmasters, other pit vipers and true vipers); family Elapidae (coral snakes, cobras, asps, mambas, and other elapids); the following listed species of family Colubridae *Dispholidus typus* (boomslang), *Hydrodynastes gigas* (water cobra), *Bioga* (mangrove snake), and *Thelotornis* (African twig snake) only; Order Phidia, family Boidae (racers and water snakes); and Order Crocadrilla (crocodiles, alligators, caimans, and gavials).
 - (2) *Class Mammalia*. Order Carnivora, family Felidae (such as ocelots, margays, tigers, jaguars, leopards and cougars), except commonly accepted domesticated cats; family Canidae (such as wolves, wolf-dog, hybrids, dingos, coyotes and jackals), except domesticated dogs; family Mustelidae (such as weasels, skunks, martins, mink and badgers) except domestic ferrets (*Mustela putorius furo*); family Procyonidae (raccoon); family Ursidae (such as bears); order Marsupialia (such as kangaroos, wallabies and common opossums); order Edentata (such as sloths, anteaters and armadillos); order Proboscidea (elephants); order Primata (such as monkeys, chimpanzees and gorillas); order Rodentia (such as porcupines); and order Ungulata (such as antelope, deer, bison and camels), unless the order Ungalata are located on properly zoned property.

-
- (3) *Class Arachnida*. Order Scorpiones (scorpions); order Araneae, genus, Loxosceles (recluse spiders such as brown recluse spider); order Araneae, genus, Latrodectus (such as black widow, red widow and brown or gray widow spiders).
 - (4) *Bats*.
 - (5) *Skunks*.
 - (6) *Animals not listed*. The animal services manager may declare any species of animal not listed in this subsection as "prohibited" if the confinement of the animal within the city can be shown to constitute a threat to public health and safety; and does not mean any bird kept in a cage or aviary that is not regulated by international, federal or state law, or a gerbil, hamster, guinea pig, hedgehog or laboratory mouse or rat.
- (b) No person shall own, keep, harbor or permit to be kept any prohibited wild animal or hybrid thereof as a pet.
 - (c) No person shall keep or permit to be kept on his premises or premises under his control, any prohibited wild animal for sale, display or for exhibition purposes, whether gratuitously or for a fee.
 - (d) No person shall sell, give, transfer or import into the city any prohibited wild animal except for the transportation of a prohibited wild animal to and from a veterinary clinic.
 - (e) It shall be unlawful for any person to breed, raise, keep, or have in his possession any prohibited wild animal within the corporate city limits, except a prohibited wild animal kept by an educational or a scientific institution. These institutions shall be subject to initial approval and periodic inspections by the animal services manager or his/her designee.~~It shall be unlawful for any person to breed, raise, keep or have in his possession any poisonous reptile within the corporate city limits, except a poisonous reptile kept by an educational or a scientific institution. These institutions shall be subject to initial approval and periodic inspections by the animal services manager or his/her designee.~~
 - (f) The animal services manager may issue temporary approval for keeping, care and protection of an injured, newborn or immature animal native to this area that he deems to be incapable of caring for itself. Further, the animal services manager shall have the power to release or order released any animal being kept temporarily under the provisions of the previous sentence.
 - (g) This section shall not apply to the city, veterinary clinics, licensed wildlife rehabilitators, approved zoological parks, performing animal exhibitions, circuses, primary and secondary schools, colleges and universities, or zoological parks owned and operated by a governmental entity.
 - (h) This section shall not be interpreted to restrict a person from giving ill, injured, or orphaned wildlife to a registered wildlife rehabilitator or to a permitted wildlife educational center. This section shall not be interpreted to restrict a permitted wildlife educational center from transferring wild animals to another educational center, zoological park, or other facility capable of legally caring for the animal.

(Ord. No. 20-057 , § I, 10-27-20)

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 on April 12, 2023, after its passages and publication according to law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 11th day of April 2023, 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

Debbie Nash-King, MAYOR

ATTEST:

Laura Calcote

CITY SECRETARY

APPROVED AS TO FORM:

Holli Clements

CITY ATTORNEY



COMMUNITY CATS, AGGRESSIVE DOGS, AND WILD ANIMALS

OR-23-008

April 4, 2023

Background

2

- April 20, 2021, City Council directed staff to work with the Animal Advisory Committee to review and develop an amendment to Chapter 6 for community cat regulations
- A subcommittee was formed but little progress was made and several members resigned
- Staff drafted an amendment and presented it the Animal Advisory Committee on January 12 and February 9, 2023
 - Ordinance simplifies governance of community cat colonies but requires responsible management of colonies
 - Still has the ability to enforce any nuisance issues
 - Committee recommended approval with changes

Committee Changes

3

- ❑ Change references from feral cats to community cats
- ❑ Allow a community cat colony caregiver thirty days to address any unwanted presence on a neighboring property
- ❑ No longer prohibit colonies within ½ mile of a school, church, or playground
 - Any unwanted presence would be addressed as nuisance issues
- ❑ Allow appeals regarding community cats to be made to the Assistant City Manager
- ❑ Outline how community cats are treated at the shelter
 - Allow a cat to be returned to a colony one time after it is impounded on another person's private property
 - Have a microchip placed in the community cat while it is in possession of the shelter to allow it to be tracked for future encounters
 - Allow a cat to be released to an alternate colony if it does not meet the criteria to be returned to the original colony

Community Cats

4

- Consensus was not reached by the committee on limiting the number of cats in a residential colony to six cats at any given time
- Staff feels this limitation will alleviate some of the nuisance concerns that frequently occur when community cat colonies are established in residential areas
- Frequently receive complaints about nuisances and property damage when large numbers of community cats are fed in residential areas
- A two-year stay was placed on enforcement of the community cat ordinance leaving many unresolved nuisance issues in residential neighborhoods

Administrative Amendments

5

- ▣ Aggressive Dogs
 - Change compliance timeline from 10 to 15 days in accordance with State Law
- ▣ Wild Animals
 - Clarify that is unlawful to breed wild animals within the City Limits

Alternatives

6

- ❑ Do not approve the amendments to the ordinance
- ❑ Make changes to the proposed amendments to the ordinance
 - ▣ Remove the limit on the number of community cats allowed in a colony located in a residential area
- ❑ Approve the amendments to the ordinance as written

Recommendation

7

- On February 9, 2023 the Animal Advisory Committee recommended approval of the majority of the ordinance amendments
 - ▣ The committee did not reach a consensus on limiting the number of community cats in a residential area
- Staff recommends the City Council adopt the ordinance as written



City of Killeen

Staff Report

File Number: RS-23-042

1	City Council Workshop	02/21/2023	Reviewed and Referred	City Council	02/28/2023	
1	City Council	02/28/2023	Tabled	City Council Workshop	04/04/2023	Pass
1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023	

Consider a memorandum/resolution authorizing a Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc., for a needs assessment and conceptual layout of a new Killeen City Hall and Municipal Court Complex, in the amount of \$108,295. (Tabled from 2/28/23 Regular City Council Meeting)

DATE: February 21, 2023

TO: Kent Cagle, City Manager

FROM: Danielle Singh, Assistant City Manager

SUBJECT: Authorize a Professional Service Agreement with Brinkley Sargent Wiginton Architects, Inc. in the amount of \$108,295 for a needs assessment and conceptual layout of a new Killeen City Hall and Municipal Court Complex.

BACKGROUND AND FINDINGS:

City Council directed City Staff to look into a Bond Election in 2023. In order to get accurate cost estimates for this type of project, a needs assessment and conceptual design by an architectural firm is necessary.

City Staff negotiated a professional services agreement with Brinkley Sargent Wiginton Architects, Inc. (BSW) to conduct a needs assessment and develop a conceptual layout and project phasing of a new City Hall and Municipal Court Complex.

Total Fees and Reimbursable Costs Breakdown:

Brinkley Sargent Wiginton Architects (Exhibit A)	\$ 87,070
CP&Y Engineers (Exhibit B)	\$ 17,225
Reimbursables (Exhibit B)	<u>\$ 4,000</u>
Total	\$108,295

BSW will provide the following scope of Services:

- Kickoff Meeting/Project Start-Up
- Tour existing facilities to determine goals and expectations of the project
- New facility needs assessment
- Initial Concept Layout
- Initial Concept Project Budget
- Revised Project Budget/Initial Exterior Design
- Final Project Budget/Final Exterior Design
- Presentation to City Council
- Final Deliverable

THE ALTERNATIVES CONSIDERED:

1. Do not authorize a Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc., for a needs assessment and conceptual layout of a new Killeen City Hall and Municipal Court Complex.
2. Reject the Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc. and select another architectural firm.
3. Authorize a Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc. for a needs assessment and conceptual layout of a new Killeen City Hall and Municipal Court Complex.

Which alternative is recommended? Why?

Staff recommends alternative 3, which is to authorize the City Manager to execute a Professional Services Agreement with Brinkley Sargent Wiginton Architects.

CONFORMITY TO CITY POLICY:

This item confirms to state and local policies.

FINANCIAL IMPACT:

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

The fee for services is \$108,295.

Is this a one-time or recurring expenditure?

This is a one-time expenditure.

Is this expenditure budgeted?

Yes, funds are available in the Governmental CIP Fund account 349-8932-493.69-01.

If not, where will the money come from?

N/A

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

Yes

RECOMMENDATION:

Staff recommends that the City Council authorize the City Manager or his designee to enter into a Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc., in an amount of \$108,295 for a needs assessment and a conceptual layout of a new Killeen City Hall and Municipal Court Complex and that the City Manager or his designee, is expressly authorized to execute any

and all change orders with the amounts set by State and Local Law.

DEPARTMENTAL CLEARANCES:

Finance

Legal

ATTACHED SUPPORTING DOCUMENTS:

Agreement

Certificate of Interested Parties

Contract Verification

CITY OF KILLEEN
NEW CITY HALL AND MUNICIPAL COURT
ARCHITECTURAL PROGRAMMING, CONCEPTUAL LAYOUT AND PHASING DESIGN

CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT made and entered into on the date last stated below between the **City of Killeen** hereinafter called "**CLIENT**", acting by and through Kent Cagle, City Manager, duly authorized to act on behalf of the CLIENT and **Brinkley Sargent Wiginton Architects, Inc.**, hereinafter called "**ARCHITECT**", acting by and through Denny Boles, Principal, duly authorized to so act on behalf of the ARCHITECT.

WHEREAS, the CLIENT desires PROFESSIONAL CONSULTING services in connection with the **NEW CITY HALL AND MUNICIPAL COURT** of Killeen, Texas, hereinafter called the "**PROJECT**"; and

WHEREAS, the CLIENT has determined that the ARCHITECT has experience in the area involved in the Project and is qualified to perform the work, and the ARCHITECT is willing to enter into a contract with the CLIENT to perform the SERVICES desired by the CLIENT connection with the PROJECT.

THE CLIENT AND ARCHITECT AGREE AS FOLLOWS:

The CLIENT hereby retains the ARCHITECT and ARCHITECT's subconsultants to perform PROGRAMMING, CONCEPTUAL DESIGN and PHASING services in connection with the PROJECT described above.

1. SCOPE OF SERVICES

The scope of ARCHITECTURAL PROGRAMMING, CONCEPTUAL LAYOUT AND PHASING DESIGN services to be performed by the ARCHITECT shall be as follows:

Task 1.A Kick-Off Meeting / Project Start-Up Meeting #1

The general approach to the project will be to involve all stakeholders as determined by the City's Project Management Team. This includes dialogue during the programming process, as well as recommendations coming out of this process. The process will be one of forecasting future needs, cost projections and recommendation for the PROJECT. This will outline a long-range plan for the PROJECT for the next 20 years. This will begin with a kickoff meeting as outlined below:

Meeting between ARCHITECT and CLIENT. Below is an outline of topics to be covered:

- A. Team introduction and roles
- B. Confirm project understanding and scope of services
- C. Project coordination for scheduling departmental meetings
- D. Discuss other relevant reports and clarify as needed (if applicable)
- E. Confirm Facilities and Departments included in report

- F. Review draft schedule
- G. Identify goals and objectives and how report will be used
- H. Identify City participants and decision makers
- I. Review decision making process
- J. Review of Peer Cities to be used for bench-marking purposes

The GOAL of this project is to provide options for maximizing the benefit of improvement dollars through careful analysis of present and future needs.

**Task 1.B Tour Existing City Halls and Municipal Courts
Meeting #2**

- A. Site Visits - ARCHITECT will tour existing City Halls and Municipal Courts with the CLIENT. These observations will assist the City to determine the goals and expectations for the PROJECT. Observations will be documented and forwarded to the City for review.
- B. Meeting #1 – Observations will be discussed and reviewed with the City to assist the CLIENT and ARCHITECT. This discussion will allow the CLIENT and ARCHITECT to better understand the City’s expectations and scope of work for the PROJECT.

**Task 1.C Needs Assessment
Meeting #3
Meeting #4**

ARCHITECT will project needs based upon City growth for a 20-year milestone. ARCHITECT will review and organize this information in preparation for conducting staff interviews. These interviews with Key Staff members will review data collected concerns, and review questionnaire information and adjust as needed. CLIENT and ARCHITECT will also use these interviews to observe department’s location, physical and function condition, and assess the utilization of their current facilities as it relates to the PROJECT. This information will be updated during subsequent visits with Departments.

- A. Data Collection – This phase is centered on information/data collection from departments included in the Study. A **Questionnaire** will be developed to assist in creating this baseline information. Items included in questionnaire shall include:
 - 1. Mission Statement
 - 2. Departmental Function
 - 3. Current and Historic staffing patterns
 - 4. Current space allocation
 - 6. Challenges and needs of departments
 - 7. Functional relationship within department
 - 8. Desired adjacencies to other City departments
 - 9. Amount and type of Citizen/Visitor Interaction
 - 10. Storage needs
 - 11. Thoughts on impact of population growth on staffing
 - 12. Current technology utilized in operations

13. Parking needs (Staff, City owned and visitor)

- B. Meeting #3 – CLIENT and ARCHITECT will discuss observations from Meeting #2. This discussion will allow the CLIENT and ARCHITECT better understand the City’s expectations and scope of work for the PROJECT.
- C. Meeting #3 – ARCHITECT will conduct an on-site meeting to review responses received from the departmental questionnaires.
- D. Meeting #4 - ARCHITECT will provide an initial program that incorporates the City’s comments. Input will be sought from the City to better define the PROJECT’s scope of work.

**Task 1.D Needs Assessment / Initial Conceptual Layout
Meeting #5**

- A. ARCHITECT will present final needs assessment.
- B. ARCHITECT will present initial Conceptual Layout for City review and comments. Conceptual Layout will incorporate future phases as necessary. Conceptual Layout will consist of block diagram plans of the programmed square footage and site elements.
 - Conceptual Layout will not consist of detailed floor plans.

**Task 1.E Conceptual Layout / Initial Conceptual Project Budget
Meeting #6**

- A. ARCHITECT will present updated Conceptual Layout incorporating City comments. Conceptual Layout will incorporate future phases as necessary. Conceptual Layout will consist of block diagram plans of the programmed square footage and site elements.
 - Conceptual Layout will not consist of detailed floor plans.
- B. ARCHITECT will present an initial Conceptual Project Budget for City review and comment.

**Task 1.F Revised Project Budget / Initial Exterior Design
Meeting #7**

- A. ARCHITECT will present a revised Project Budget that has incorporated City comments.
- B. ARCHITECT will present initial Exterior Design for City review and comment.

**Task 1.G Final Project Budget / Final Exterior Design
Meeting #8**

- A. ARCHITECT will present final Project Budget to City.
- B. ARCHITECT will present final Exterior Design to City.

**Task 1.H Presentation
Meeting #9**

ARCHITECT will present the results of the Study, in conjunction with City staff to City Leadership (maximum of one presentation).

Task 1.I Final Deliverables

- A. City expectations and goals of the project
 - 1. Project summary
 - 2. Summarize scope of work
- B. Observations and results of touring existing City Halls and Municipal Courts
- C. Program
- D. Site master plan
 - 1. Phasing plans as necessary
- E. Floor plans (block diagrams)
 - 1. Phasing plans as necessary
- F. Exterior Design Renderings
- G. Project schedule
- H. Project budget

Task 1.H Optional Services

As required or upon request, the ARCHITECT shall provide additional services including, but not limited to, the following in conjunction with this PROJECT. This work would be performed on an hourly basis after approval of CLIENT.

- A. Detailed investigations of existing building conditions and/or as-built drawings.
- B. Site Analysis and budgeting for existing buildings to meet City needs.
- C. Other approved specialized Professional Services as required in conjunction with this PROJECT.

2. CLIENT'S RESPONSIBILITIES

So as not to delay the services of the ARCHITECT, the CLIENT shall do the following in a timely manner:

2.1 Provide Existing Data

- A. Organizational chart for all departments involved with Task 1.C Programming and overall City organizational chart
 - 1. City to confirm city departments to be included in study
- B. Electronic file(s) for the proposed site
- C. Count of city and staff cars
- D. Future population projections of City
- E. Zoning map and thoroughfare plans
- F. Any goals statement for the City

2.2 Provide Access

Arrange for access to, and make all provisions for, ARCHITECT or ARCHITECT's subconsultants to perform services under this AGREEMENT.

2.3 CLIENT Representative

CLIENT shall designate a representative to act as a contact person on behalf of the CLIENT.

3. SCHEDULE

3.1 Schedule

The ARCHITECT's services shall be performed in a timely manner consistent with sound professional practices. Based upon timely response by the CLIENT to required information, availability of meeting times and review time, the ARCHITECT will confirm to a reasonable schedule mutually agreed upon by ARCHITECT and CLIENT. Schedule will proceed upon receipt from City of all Task 1.C Questionnaires.

The time limits set forth in the schedule includes allowances for reasonable and expected review times by the CLIENT and authorities having jurisdiction over the PROJECT, and shall not be allowed as cause for delay or adjustments to the schedule. Delays in the critical path caused by review times by the CLIENT or authorities having jurisdiction over the PROJECT exceeding those anticipated by the CLIENT/ARCHITECT mutually agreed upon schedule are cause for adjustments in the schedule. Any adjustments made to the agreed upon schedule shall be made in writing and acceptable to both parties.

ARCHITECT shall issue Task 1.C Department Questionnaires within 10 days of receipt of the executed CONTRACT.

A schedule of completed work showing hourly progression of each of the items of the scope of work will be submitted each month to the CLIENT.

3.2 Completion of Services

ARCHITECT's services under each item of the finalized Scope of Work shall be considered complete on the date when the Final Report has been accepted by the CLIENT.

4. ADJUSTMENTS TO PROJECT SCOPE OF WORK

4.1 Changes

If the CLIENT requests significant modifications or changes in the Scope of Services, general scope, extent or character of the PROJECT, the time of performance of ARCHITECT's and ARCHITECT's subconsultants services, the various rates of compensation and schedule shall be adjusted equitably.

4.2 Written Authorization for Additional Work

Any provision in this CONTRACT notwithstanding, it is specifically understood and agreed that the ARCHITECT or ARCHITECT’s subconsultants shall not authorize or undertake any work pursuant to this CONTRACT which would require the payment of any fee, expense, or reimbursement in addition to the fees stipulated in Section 5 (Payment for Services) of this CONTRACT, without first having obtained the specific authority to do so from the CLIENT.

5. PAYMENT FOR SERVICES

5.1 Basis and Amount of Compensation for Basic Services

Architectural Services and Compensation as well as Consultant Compensation are attached in **Exhibit A**. Architectural services will be billed hourly per **Exhibit A** to a maximum fee as established in these Exhibits.

Reimbursable Expenses shall mean the actual expenses incurred by ARCHITECT and ARCHITECT’s subconsultants in the interest of the PROJECT for communications, travel, reproduction of reports, drawings, and similar PROJECT-related items. Refer to **Exhibit A** for estimated reimbursable expenses.

CLIENT will provide required draft and final hard copies of the reports.

Expenses include printing, photographs, facsimile transmissions, copies, and travel related to the PROJECT. These costs shall be reimbursed at 1.10 times direct expenses and shall be established at a maximum as shown on **Exhibit B**. Budget will not be modified without written approval of CLIENT.

Total Fees and Reimbursable Costs for the Project shall not exceed:

Brinkley Sargent Wiginton Architects	\$ 87,070
CP&Y Civil Engineers (Exhibit B)	\$ 17,225
Reimbursables	<u>\$ 4,000</u>
Total	\$108,295

5.2 Basis and Amount of Compensation for Additional Services Additional scope to be identified and a fixed fee developed for that scope.

5.3 Partial Payments for Services

Partial fee payments may be applied for on monthly intervals, based upon statements, which reflect the hours spent during that month for the various items listed under Scope of Services, Reimbursable Expenses, and Additional Services. These statements shall be prepared by the ARCHITECT and must be verified and approved by the CLIENT.

5.4 Delay

If ARCHITECT's design services are delayed or suspended in whole or in part by the CLIENT for more than one year for reasons beyond ARCHITECT's control the various rates of compensation, including Additional Services, provided for elsewhere in this CONTRACT shall be subject to equitable adjustment.

6. TERMINATION, SUSPENSIONS OR ABANDONMENT

6.1 Termination

The CLIENT or the ARCHITECT may terminate this CONTRACT for reasons identified elsewhere in this CONTRACT. In the event such termination is justified, the party effecting termination shall so notify the other party, and termination will become effective thirty (30) calendar days after receipt of the termination notice. Irrespective of which party shall affect termination or the cause therefor, the CLIENT shall within thirty (30) calendar days of termination remunerate ARCHITECT and ARCHITECT's subconsultants for services rendered and costs incurred, in accordance with the ARCHITECT's prevailing fee schedule and expense reimbursement policy. Services shall include those rendered up to the time of termination. All forwarded information from the CLIENT related to the PROJECT shall become the property of the CLIENT upon termination of the CONTRACT and shall be promptly delivered to the CLIENT in a reasonably organized form. Work generated by the ARCHITECT and ARCHITECT's subconsultants shall remain the property of the ARCHITECT and ARCHITECT's subconsultants. No amount shall be due for lost or anticipated profits.

6.2 Suspension

If the PROJECT is suspended by the CLIENT for more than 30 consecutive days, the ARCHITECT and ARCHITECT's subconsultants shall be compensated for services performed prior to notice of such suspension. When the PROJECT is resumed, the ARCHITECT and ARCHITECT's subconsultants compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the ARCHITECT's and ARCHITECT's subconsultants services.

6.3 Abandonment

This CONTRACT may be terminated by the CLIENT upon not less than seven (7) days written notice to the ARCHITECT in the event that the PROJECT is permanently abandoned. If the PROJECT is abandoned by the CLIENT for more than ninety (90) consecutive days, the ARCHITECT or the CLIENT may terminate this CONTRACT by giving written notice.

6.4 Failure to Pay

Failure of the CLIENT to make payments to the ARCHITECT in accordance with this CONTRACT shall be considered substantial nonperformance and cause for termination.

If the CLIENT fails to make payment to ARCHITECT within thirty (30) days of a statement for services properly performed, the ARCHITECT may, upon fourteen (14) days written notice to the

CLIENT, suspend performance of services under this CONTRACT. Unless ARCHITECT receives payment in full within fourteen (14) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services under this section, the ARCHITECT shall have no liability to the CLIENT for delay or damage caused the CLIENT because of such suspension of services.

7. GENERAL CONSIDERATIONS

7.1 Professional Standards

Services performed by the ARCHITECT under this CONTRACT will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the location of the Project under similar conditions. The CLIENT's approval, acceptance, use of or payment for all or any part of the ARCHITECT's services herein under or of the PROJECT itself shall in no way alter the ARCHITECT's obligations or the CLIENT's rights thereunder.

7.2 Progress and Performance

The provisions of this CONTRACT and the compensation to ARCHITECT have been agreed to in anticipation of continuous and orderly progress through the completion of the ARCHITECT's services. Time for performance shall be extended to the extent necessary for delays due to circumstances over which the ARCHITECT has no control. If the ARCHITECT's services are suspended or delayed the times of performance shall be extended to the extent of such delay or suspension. If a delay or suspension extends for a period of greater than one year for reasons beyond the control of the ARCHITECT, the fees and rates of compensation set forth in Section 5 shall be subject to renegotiating.

7.3 CLIENT Control

It is understood and agreed that no work shall be done under this CONTRACT until the ARCHITECT is instructed to proceed with the work.

7.4 Independent Agent

ARCHITECT and CLIENT agreed that ARCHITECT and any officer, employee or agent of ARCHITECT, in the performance of this CONTRACT shall act in an independent capacity and not as an officer, agent or employee of the CLIENT.

7.5 Compliance with Laws

ARCHITECT shall comply with all Federal, State, and local laws and ordinances in the execution of all work in connection with this PROJECT.

7.6 No Additional Work Without Authorization

Any provision in the CONTRACT notwithstanding, it is specifically understood and agreed that the ARCHITECT shall not authorize or undertake any work pursuant to this CONTRACT, which would

require the payment of any fee, expense or reimbursement in addition to the fee stipulated in Article 5 of this CONTRACT, without having first obtained specific written authority therefor from the CLIENT.

7.7 Assignment & Subcontracting

This CONTRACT shall not be assigned or subcontracted in whole or part without the written consent of the CLIENT.

8. INSURANCE

ARCHITECT will provide a \$2,000,000 per claim and \$2,000,000 aggregate professional liability E & O policy.

ARCHITECT shall also maintain insurance that will protect him from claims under the Worker's Compensation Act (statutory amounts).

8. INSURANCE

ARCHITECT will provide a \$2,000,000 professional liability E & O policy.

ARCHITECT shall also maintain insurance that will protect him from claims under the Worker's Compensation Act (statutory amounts).

ARCHITECT shall furnish CITY with copies of said policies or certificates evidencing such coverage.

9. PROPERTY

All documents, shall become the property of the CITY. The ARCHITECT may retain copies of all documents. Any reuse of the documents shall conform to The Texas ARCHITECTURAL Practice Act.

10. GOVERNING LAW

This CONTRACT has been made under and shall be governed by the laws of the State of Texas. The parties agree that the performance and all matters related thereto shall be in Johnson County, Texas.

11. COMPLAINTS AND GRIEVANCES

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as Architects in Texas. Texas Board of Architectural Examiners, P. O. Box 12337, Austin, Texas 78711-2337, telephone (512) 305-9000, fax (512) 305-8900, internet web site: www.tbae.state.tx.us.

12. SCOPE OF THE AGREEMENT

This Agreement represents the entire and integrated Agreement between the CITY and the ARCHITECT and supercedes all prior negotiations, representations, or Agreements, either written or oral. This Agreement may be amended only by written instrument signed by CITY and ARCHITECT.

IN WITNESS WHEREOF, the parties have executed this CONTRACT the _____ day of _____, 2023.

CITY OF KILLEEN

BRINKLEY SARGENT WIGINTON ARCHITECTS, INC.

By: _____
Kent Cagle, City Manager

By: _____
Denny Boles, Senior Principal

Title: _____

Date: _____

Attest: _____

Title: _____

Exhibit A

City of Killeen City Hall and Court Study

Project Task Plan & Compensation

Professional Fees										
Item No.	Task		Principal	Principal	Senior Programmer	Arch Designer	Admin	Civil Engineer	Total Cost	
			\$260	\$260	\$185	\$120	\$85			
1	1.A	Kick-Off Meeting Preparation			2				\$ 370	
2	1.A	Meeting #1: Kick-Off Meeting	8		8				\$ 3,560	
3	1.B	Meeting #2: Tour Existing Facilities	8		8				\$ 3,560	
4	1.C	Prepare for Meeting #3			10				\$ 1,850	
5	1.C	Meeting #3: Needs Assessment	8		8				\$ 3,560	
6	1.C	Document Meeting #3 and Generate Meeting #4 Data	2		30	8			\$ 7,290	
7	1.C	Meeting #4: Needs Assessment	8		8				\$ 3,560	
8	1.C	Document Meeting #4 and Generate Meeting #5 Data			28	16			\$ 7,100	
9	1.D	Develop (3) Conceptual Options	12		2	24	4		\$ 6,710	
10	1.D	Meeting #5: Needs Assessment and Initial Conceptual Layouts	8		8				\$ 3,560	
11	1.D	Finalize Needs Assessment			4				\$ 740	
12	1.E	Finalize Preferred Conceptual Layout	8			16	2		\$ 4,170	
13	1.E	Develop Initial Project Budget	8				2		\$ 2,250	
14	1.E	Meeting #6: Conceptual Layout and Initial Project Budget	8						\$ 2,080	
15	1.F	Revise Project Budget	4				2		\$ 1,210	
16	1.F	Develop Initial Exterior Design	4	32					\$ 9,360	
17	1.F	Meeting #7: Project Budget and Initial Exterior Design	8	8					\$ 4,160	
18	1.G	Revise Exterior Design	2	24					\$ 6,760	
19	1.G	Meeting #8: Exterior Design	8	8					\$ 4,160	
20	1.H	Compile Summary Report and Develop Council Presentation	2		32	6	2		\$ 7,330	
21	1.H	Meeting #9: Council Presentation	8				2		\$ 2,250	
22	1.H	Complete Report per Council Comments			8				\$ 1,480	
23		Civil Engineer Due Diligence	Refer to Exhibit B						\$17,225	\$ 17,225
Total Professional Fees									\$ 104,295	
Reimbursable Costs									\$ 4,000	
Total Fees and Reimbursables									\$ 108,295	



January 20, 2023

Brinkley Sargent Wiginton Architects
1005 E St. Elmo Road, Bldg 8
Austin, TX 78745
Attn: Denny Boles

Re: Proposal for Professional Services – Relocation of Utilities to Support Redevelopment of City Services

Dear Denny:

CP&Y, a STV Company (CPY) is pleased to present this proposal to you for services related to assisting Brinkley Sargent Wiginton Architects (CLIENT) in an effort to determine anticipated construction costs. We have received correspondence that redevelopment of city services may result in a need to redevelop the blocks bounded by N 2nd Steet and N 4th Street and W Avenue B and W Avenue D. This redevelopment may potentially see the elimination of E Avenue C as well as two alleys. From limited research, there are significant overhead electrical and communication utilities within the alleys as well as a water line within Avenue C.

From our discussion, we understand that our Scope will include the following:

- Participation in Project Meeting: CPY anticipates being required to attend Project Meetings with the entire design group to provide input and feedback. We are assuming five (5) two hour meetings.
- Development of a base map for the existing utilities within the limits of the Project. We understand that field surveying is not authorized in this task. We will rely on the City's base maps for development of the public water and wastewater infrastructure. We will be contacting franchise utilities to obtain information on any utilities within the project limits. The deliverable will be a digital base file for use in the design of the relocation.
- CPY will provide concept level alignments for the relocation of public water and waste water that will be impacted by the redevelopment. Upon completion of the alignments and CLIENT corroboration, CPY will conduct a meeting with the City's Utility department to discuss the potential realignments. Any requested revisions will be incorporated into the final layout.
- During the above item of work, CPY will be coordinating with any impacted franchise utilities to discuss the potential realignment of their utilities. CPY will rely upon the impacted franchise utilities to determine their anticipated relocation limits. CPY will coordinate the final location to minimize interruptions.
- Upon completion of the above items, CPY will prepare an exhibit map accompanied by an Opinion of Probable Construction Cost for the public water and wastewater utilities. CPY will rely upon the franchise utilities to provide estimates of any necessary relocations that the City would be required to fund.

To complete the above listed items, CPY requests compensation in the amount of \$17,225.00. A breakdown of the fees is provided in Attachment "A".

Please review this proposal and if acceptable, please submit a subconsultant agreement for review and execution. We understand that this entire project will be submitted to the City for their approval. We look forward to working together on this exciting Project for the City of Killeen and hope that this is the first of many projects together.

Sincerely,



David L. Marek, P.E.
CP&Y, a STV Company

DLM:dlm

cc: File – 23BSWA00249

ATTACHMENT 'A'

City of Killeen

Concept Utility Relocation Project

20-Jan-23

Fee Schedule/Budget for CP&Y, Inc WO#23BSWA00249

Work Item	Description	PIM/Senior Engineer	Project Engineer	EIT 1	Senior Cad Technician 1	Senior Cad Technician 2	Admin. Support	Total Hours	Surveying/Engineering/Professional Services Fees	Engineering Fees as Percent of Basic Services Fee	Work Item as Percent of Total Fee
	Schematic Engineering Design (30%):										
	Project Meetings (5)	10.00						10.00	\$ 2,150.00	12.48%	12.48%
	Development of Base Map (Water/Sewer)	3.00			16.00			19.00	\$ 2,661.00	15.45%	15.45%
	Development of Base Map (Franchise Utility)				12.00			12.00	\$ 1,512.00	8.78%	8.78%
	Development of Anticipated W/WW Relocation Corridor	8.00			20.00			28.00	\$ 4,240.00	24.62%	24.62%
	Meet to discuss W/WW with City Staff	4.00						4.00	\$ 860.00	4.99%	4.99%
	Revised Alignments	2.00			4.00			6.00	\$ 934.00	5.42%	5.42%
	Coordination with franchise Utilities (Relocation Alignment/Costs)										
	Development of Exhibits	2.00			8.00			10.00	\$ 1,438.00	8.35%	8.35%
	Development of OPCC	8.00					8.00	16.00	\$ 2,392.00	13.89%	13.89%
	QA/QC	3.00						6.00	\$ 1,038.00	6.03%	6.03%
	HOURS SUB-TOTALS	\$ 8,600.00	\$ 383.00	\$ -	\$ 7,560.00	\$ -	\$ 8.00	111.00	\$ 17,225.00	100.0%	100.0%
	FEES SUBTOTAL						\$ 672.00				

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Brinkley Sargent Wiginton Architects, Inc.
 Dallas, TX United States

Certificate Number:
 2023-983635

Date Filed:
 02/15/2023

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Killeen Texas

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

Killeen City Hall & Municipal
 Architectural Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Boles, Denny	Austin, TX United States	X	
	Springs, Stephen	Dallas, TX United States	X	
	Read, Greg	Dallas, TX United States	X	
	Sargent, Harold	Dallas, TX United States	X	
	Goodman, Charles	Dallas, TX United States		X
	Greer, Donald	Austin, TX United States		X
	Irwin, Gina	Austin, TX United States		X

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is Denny Boles, and my date of birth is 06/01/1965.

My address is 1005 St. Elmo, Suite #8, Austin, TX, 78745, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 15 day of February, 2023.
(month) (year)



Signature of authorized agent of contracting business entity
 (Declarant)



Contract Verification

Texas law provides that a governmental entity may not enter into certain contracts for goods and services with a company unless the company provides written verification regarding aspects of the company’s business dealings.

- Texas Government Code, Chapter 2271 – the company must verify that it does not boycott Israel and will not boycott Israel during the term of the contract. *Boycott Israel is defined in Government Code Chapter 808.*
- Texas Government Code, Chapter 2274 – the company must verify that it does not boycott energy companies and will not boycott energy companies during the term of the contract. *Boycott energy company is defined in Government Code Chapter 809.*
- Texas Government Code, Chapter 2274 – the company must verify that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. Verification is not required from a sole source provider. *Discriminate, firearm entity and firearm trade association are defined in Government Code Chapter 2274.*

Affected by the above statutes are contracts 1) with a company with ten (10) or more full-time employees, and 2) valued at \$100,000 or more to be paid wholly or partly from public funds. A contract with a sole proprietorship is not included.

By signing below, I verify that the company listed below does not boycott Israel, does not boycott energy companies, and does not discriminate against firearms entities or firearm trade associations and will not do so during the term of the contract entered into with the City of Killeen. I further certify that I am authorized by the company listed below to make this verification.



Signature

Leann Phipps

Printed Name

02/15/2023

Date

Brinkley Sargent Wiginton Architects, Inc.

Company Name

Office Manager/HR

Title



PROFESSIONAL SERVICES FOR KILLEEN CITY HALL & MUNICIPAL COURT COMPLEX

RS-23-042

February 21, 2023

Background

2

- City Council directed City Staff to begin discussions on a potential Bond Election for November 2023
- Among the potential projects is a City Hall and Municipal Court Complex
 - ▣ Projects of this scope require a needs assessment and conceptual design in order to accurately project costs
- Staff negotiated a professional services agreement with Brinkley Sargent Wiginton Architects, Inc, in the amount of \$108,295

Scope of Services

3

- Kickoff Meeting/Project Start-Up
- Tour existing facilities to determine goals and expectations of the project
- New facility needs assessment
- Initial Concept Layout
- Initial Concepts Project Budget
- Revised Project Budget/Initial Exterior Design
- Final Project Budget/Final Exterior Design
- Presentation to City Council
- Final Deliverable

Alternatives

4

- ❑ Do not authorize a Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc., for a needs assessment and conceptual layout of a new Killeen City Hall and Municipal Court Complex
- ❑ Reject the Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc. and select another architectural firm
- ❑ Authorize a Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc., for a needs assessment and conceptual layout of a new Killeen City Hall and Municipal Court Complex

Recommendation

5

Authorize the City Manager or his designee to enter into a Professional Services Agreement with Brinkley Sargent Wiginton Architects, Inc. in an amount of \$108,295 for a needs assessment and a conceptual layout of a new Killeen City Hall and Municipal Court Complex and to execute any and all change orders with the amounts set by State and Local Law.



City of Killeen

Staff Report

File Number: PH-23-018

1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023
---	-----------------------	------------	-----------------------	--------------	------------

HOLD a public hearing and consider an ordinance requested by Vernon Hood (**Case #Z23-04**), to the rezone Lots 24-29, Block 3, Western Oaks, from "UD" (University District) to "UD" (University District) with a Conditional Use Permit (CUP) to allow single-family residential use on six (6) existing lots. The property is locally addressed as 505 Reese Creek, Killeen, Texas.

DATE: April 4, 2023

TO: Kent Cagle, City Manager.

FROM: Edwin Revell, Executive Director of Development Services.

SUBJECT: Zoning Case #23-04: "UD" (University District) to "UD" (University District) with a Conditional Use Permit (CUP).

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Vernon Hood

Current Zoning: "UD" (University District)

Proposed Zoning: "UD" (University District) with Conditional Use Permit (CUP) to allow a single-family residential use on six (6) existing lots.

Current FLUM Designation: 'Residential Mix'

Summary of Request:

Vernon Hood has submitted a request to rezone Lots 24-29, Block 3, Western Oaks from "UD" (University District) to "UD" (University District) with a Conditional Use Permit (CUP) to allow a single-family dwelling as a permitted use. If approved, the applicant intends to build an approximate 1,400 square foot single-family home on the property.

Killeen Code of Ordinances Chapter 31 Compliance:

The subject property is currently zoned "UD" (University District). In accordance with Killeen Code of Ordinances Sec. 31-440, single-family dwellings are not permitted by-right in the "UD" district. However, Sec. 31-441 provides that: "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 [University District] overlay district and may impose appropriate conditions and safeguards to assure that these land uses are compatible with and appropriate for locations adjacent to the future four-year university. Conditional use permits granted shall be considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed."

Zoning/Plat Case History:

On January 27, 2008, (Ordinance# 07-110) the City annexed 1,195 acres of land encompassing the existing Western Oaks subdivision (filed for record August 8, 1972).

On June 28, 2016, City Council approved the "UD" (University District) (Ordinance #16-028).

In December of 2021, the applicant purchased the property legally known as Western Oaks Subdivision, Lots 24-29. The property was used as a single-family residence with a mobile home that was deemed unlivable prior to purchase. There is currently City water, sewer, and trash available on the property. The applicant's intent is to build one single-family dwelling on the subject property.

Character of the Area:

North: Residential lot zoned "UD" (University District)

South: Vacant lot zoned "A" (Agricultural District)

West: Residential lot zoned "UD" (University District)

East: Vacant residential lots zoned "CUP" (Conditional Use Permit)

Future Land Use Map Analysis:

This property is located within the 'Controlled Growth' area on the Growth Sector Map and is designated as 'Residential Mix' on the Future Land Use Map (FLUM) of the 2022 Comprehensive Plan.

'Residential Mix' place type creates neighborhoods built with a traditional walkable block/street grid network that allows a flexible mix of residential building typologies. Aside from large multiplex garden apartments, most housing types should be allowed here. This place type encourages most residential uses such as single-family detached, townhouses, small-plex (2-4 units), etc.

In the 'Controlled Growth' growth sector proposed development will be evaluated for adherence to the Big Ideas and Recommendations of the plan, particularly those related to housing and neighborhood options and improvement of the fiscal health and sustainability of Killeen.

The request supports or furthers the following 2022 Comprehensive Plan recommendations:

- NH3 - Diversify housing mix (types and price points)
- NH4 - Build complete neighborhoods

The Comprehensive Plan emphasizes place-based economic development and an increase in demand for "complete" neighborhoods which may include large lot rural estate development that provides more "move-up" opportunities for those who can afford this option.

Neighborhood Analysis:

- This property is located within Killeen Development Zone #5 (Exhibit A).
- Current land use mix within this area comprises approximately:
 - 3% non-residential
 - 97% residential

Zoning district breakdown in Development Zone 5:

- 20% agricultural,

- 18% non-residential zoning districts
- 62% residential zoning districts.

*These numbers exclude a breakdown of special districts such as conditional or special use permits and planned unit developments.

The '**Residential Mix**' land use designation promotes:

Use Mix: up to 25% non-residential, 95% residential uses

Primary Uses: Single-Family, Accessory Dwelling Unit (ADU), Townhouses, Smallplex (2-4 Units), Live-work

Secondary Uses: Small Office, Small Retail, Restaurant, Accessory Commercial Unit (ACU), School, House of Worship

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer, and drainage utility service is located within the City of Killeen municipal utility service area and is available to the subject tract

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from Reese Creek Rd., which is classified as a 70' wide Collector on the City of Killeen Comprehensive Plan. Staff estimates that there will be 9 trips per day with 1 peak hour trip generated and has determined that a Traffic Impact Analysis is not required for the proposed land use.

Environmental Assessment:

The property is within Zone AE, a FEMA regulatory Special Flood Hazard Area (SFHA). There are other known wetland areas (PFO1A), (PUBFh), (R5UBH), (R45SBC), and (R4SBC) on or adjacent to the property as identified on the National Wetlands Inventory.

Public Notification:

Staff notified twenty-seven (27) surrounding property owners regarding this request. Of those property owners notified, thirteen (13) reside outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and four (4) reside outside of Killeen.

As of date of this staff report, staff has received zero (0) written responses regarding the request.

Staff Findings:

Please see the Future Land Use Map Analysis and Neighborhood Analysis sections.

THE ALTERNATIVES CONSIDERED:

The City Council may:

- Disapprove the applicant's CUP request; or
- Approve the applicant' CUP request as presented.

Which alternative is recommended? Why?

Staff recommends approval of the applicant's request for Conditional Use Permit (CUP) to allow single-family residential use with the condition that the six (6) existing lots shall not be further subdivided.

This recommendation will allow the applicant to develop up to six (6) single-family dwellings - one on each of the six (6) existing platted lots. Staff finds that this recommendation is necessary in order to maintain the existing character of the area. Further, staff is of the determination that approval of a Conditional Use Permit for residential use on the existing lots is consistent with the policies and principles of the 2022 Comprehensive Plan, as indicated in the Comprehensive Plan Analysis. Staff finds that the request is compatible with the existing land uses and prevailing community character. Further, staff finds that approval of this request would not negatively affect the surrounding community.

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:

At their regular meeting on March 6, 2023, the Planning and Zoning Commission recommended approval of the request, as recommended by staff, by a vote of 7 to 0.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the Planning and Legal staff.

ATTACHED SUPPORTING DOCUMENTS:

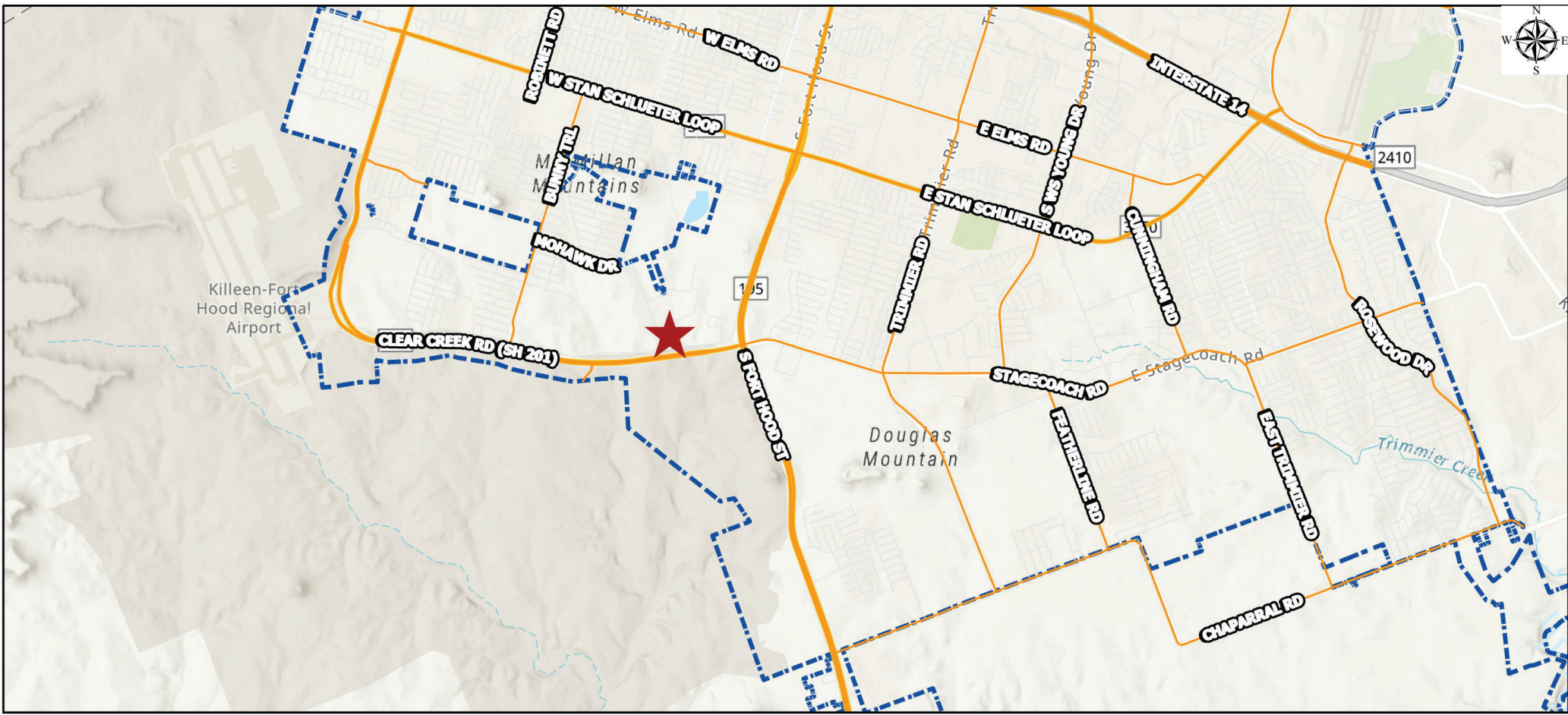
- Exhibits
- Maps
- Site Photos
- Site Plan / Survey
- Minutes
- Ordinance
- Considerations

Exhibits

Case #Z23-04: "UD" to "UD" w/ CUP

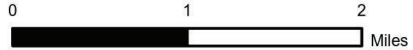


Exhibit A. Killeen Development Zones map. The property is located within the Killeen Development Zone #5.



LOCATION MAP

Council District: 4



Subject Property Legal Description: WESTERN OAKS, BLOCK 003, LOT 24-29, ACRES 9.882, MH LABEL# TEX0279970
 SN1 1183SB456S49611; TITLE # 00137909

Zoning Case 2023-04
 UD TO UD W/CUP

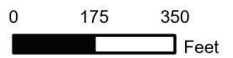
Legend

-  MajorRoads
-  Citylimits
-  Zoning Case Location



AERIAL MAP

Council District: 4



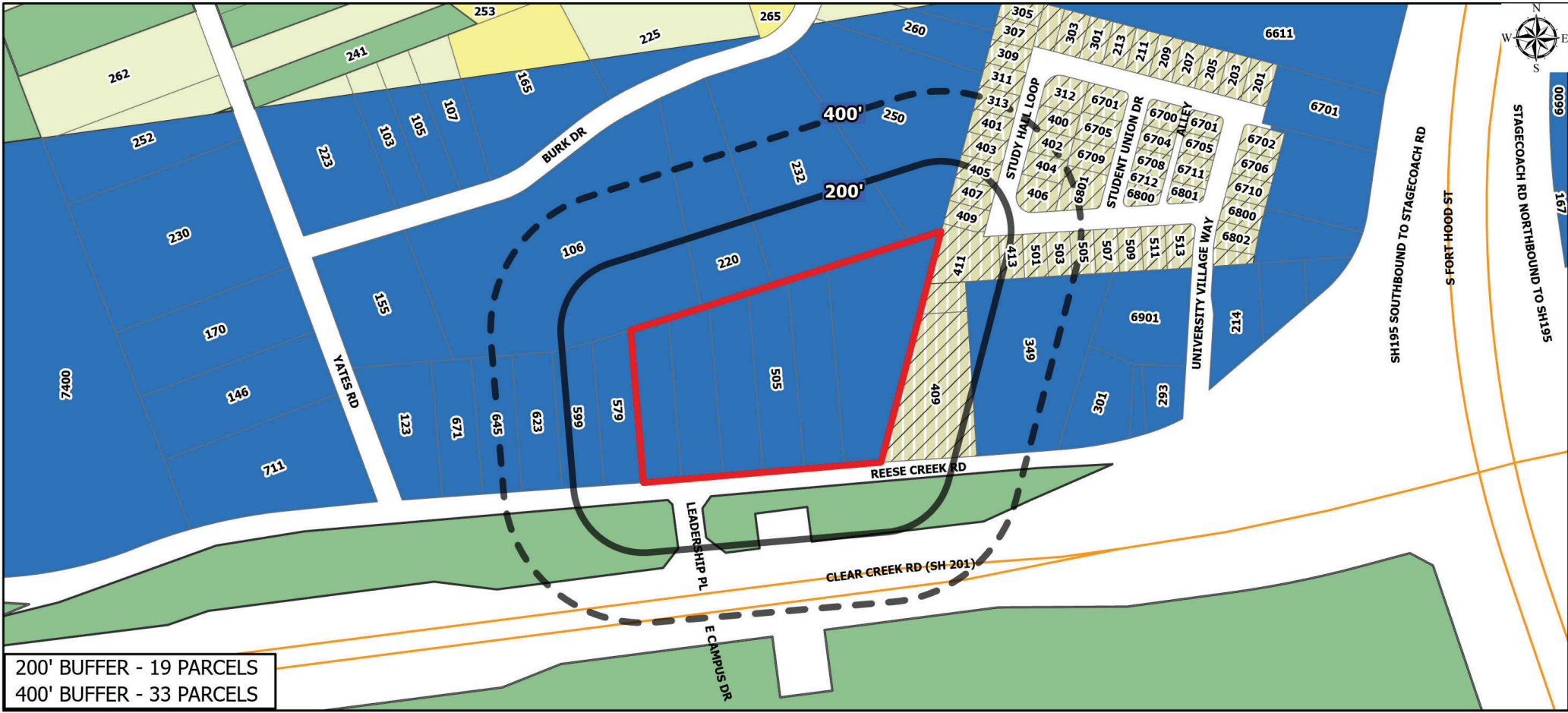
Subject Property Legal Description: WESTERN OAKS, BLOCK 003, LOT 24-29, ACRES 9.882, MH LABEL# TEX0279970 SN1 1183SB456S49611; TITLE # 00137909

Zoning Case 2023-04

UD TO UD W/CUP

Legend

-  Citylimits
-  Zoning Case



200' BUFFER - 19 PARCELS
 400' BUFFER - 33 PARCELS

NOTIFICATION MAP
 Council District: 4
 0 212.5 425 Feet

Zoning Case 2023-04
 UD TO UD W/CUP

Subject Property Legal Description: WESTERN OAKS, BLOCK 003, LOT 24-29, ACRES 9.882, MH LABEL# TEX0279970 SN1 1183SB456S49611; TITLE # 00137909

Legend	Current Zoning	 A-R1	 R-1
		 A	 CUP
		 UD	

SITE PHOTOS

Case #Z23-04: "UD" to "UD" w/ CUP for Residential Use

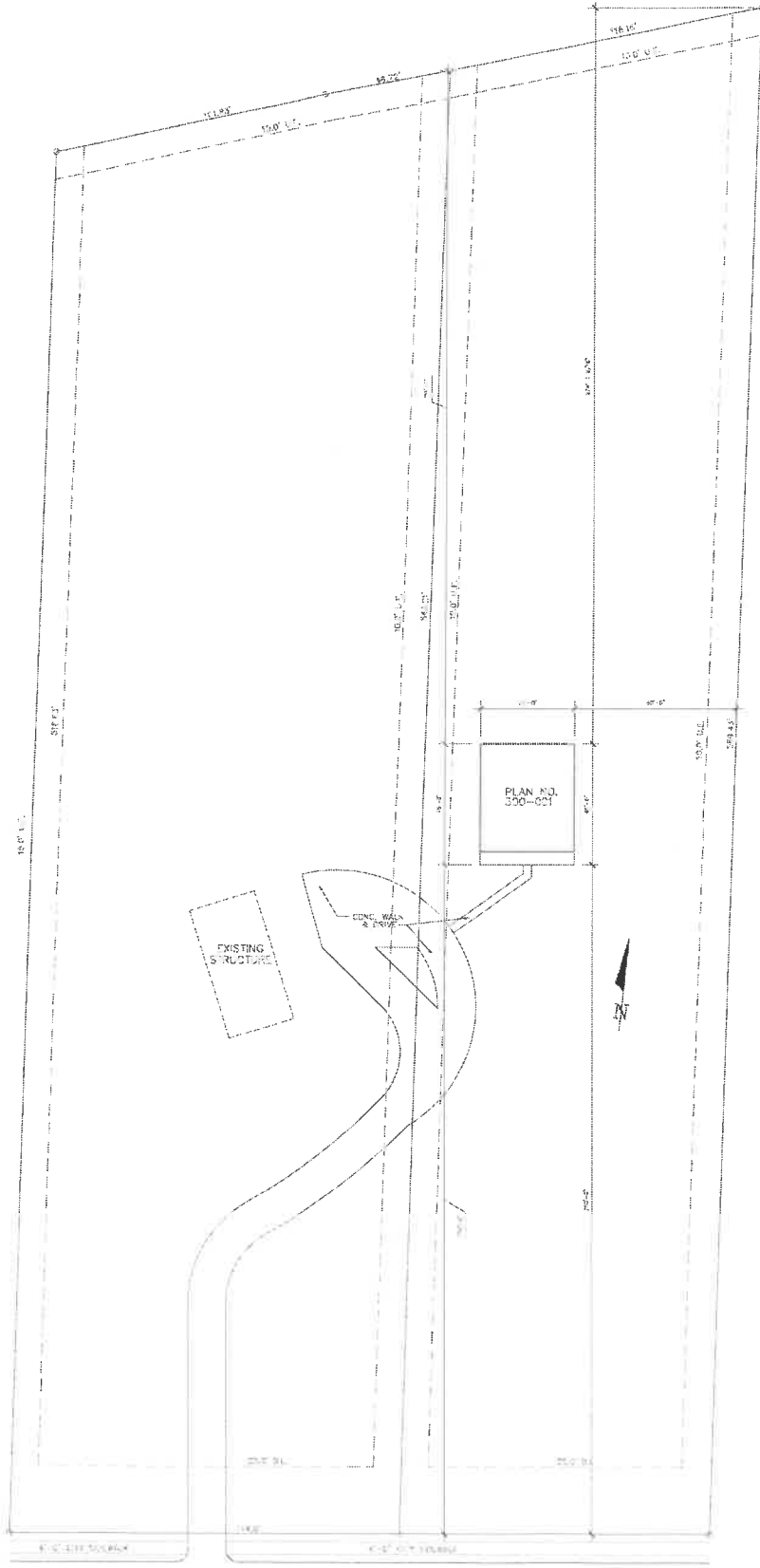


View of the subject property looking north:



View of the Reese Creek Road looking east:





S/S BEESE CREEK ROAD
 13-18-03
 BLOCK 42, LOT 1
 WESTERN OAKS



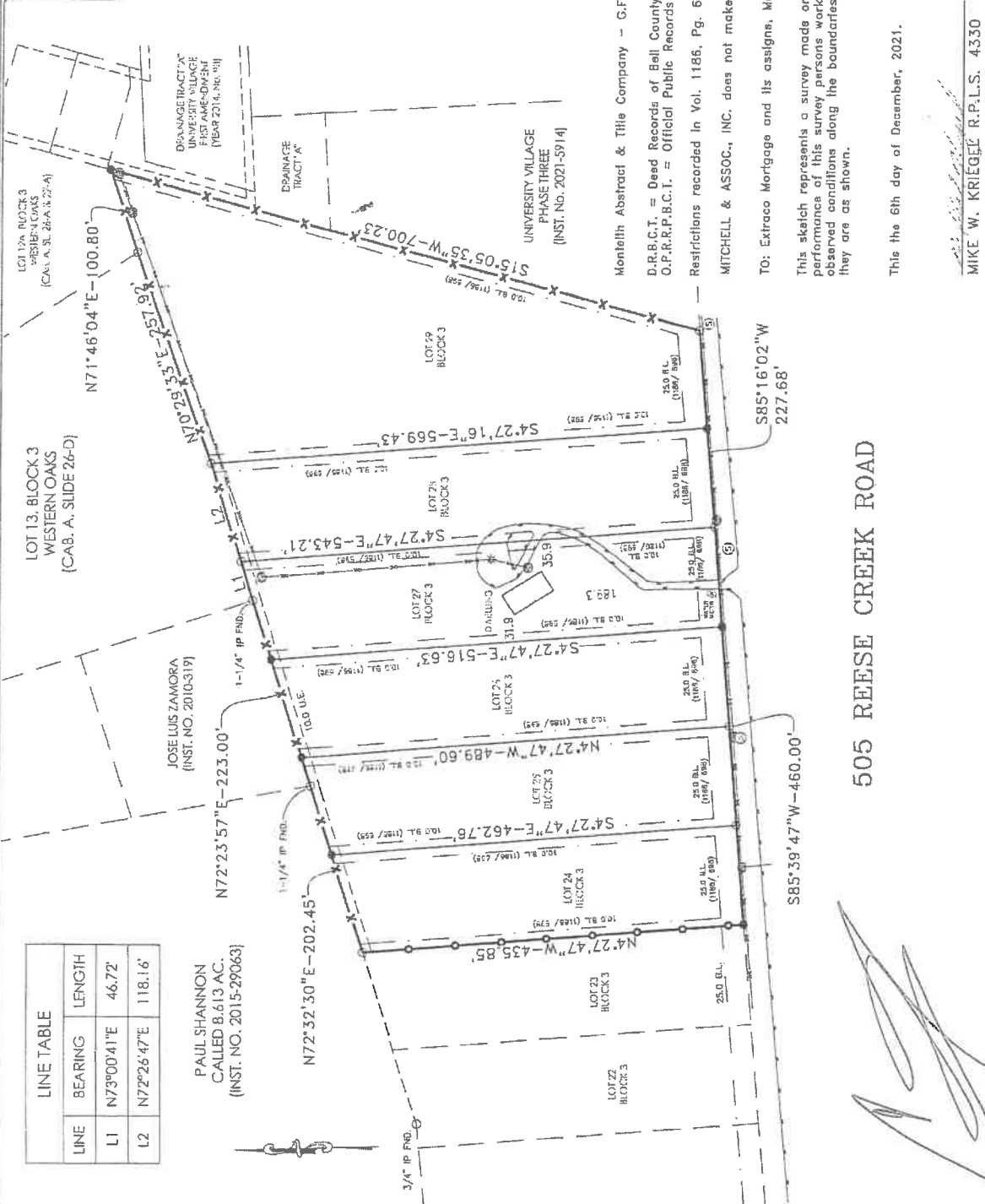
15 J.E. WILLIAMS ARCHITECT 11111 WESTERN OAKS WESTERN OAKS, TEXAS 75166 TEL: (972) 123-4567 FAX: (972) 123-4568 WWW: WWW.JEWILLIAMS.COM	PROJECT NO. 15-001 SHEET NO. 15-001-01 DATE: 10/15/03 DRAWN BY: J.E.W. CHECKED BY: J.E.W. APPROVED BY: J.E.W.	15 J.E. WILLIAMS ARCHITECT 11111 WESTERN OAKS WESTERN OAKS, TEXAS 75166 TEL: (972) 123-4567 FAX: (972) 123-4568 WWW: WWW.JEWILLIAMS.COM	15 J.E. WILLIAMS ARCHITECT 11111 WESTERN OAKS WESTERN OAKS, TEXAS 75166 TEL: (972) 123-4567 FAX: (972) 123-4568 WWW: WWW.JEWILLIAMS.COM	15 J.E. WILLIAMS ARCHITECT 11111 WESTERN OAKS WESTERN OAKS, TEXAS 75166 TEL: (972) 123-4567 FAX: (972) 123-4568 WWW: WWW.JEWILLIAMS.COM
--	--	--	--	--

LOTS 24-29, BLOCK 3, WESTERN OAKS, OF BELL COUNTY, TEXAS, ACCORDING TO THE PLAT OF RECORD IN CABINET A, SLIDE 306-A PLAT RECORDS OF BELL COUNTY, TEXAS

NOTE:

Bearings are based on the Texas Coordinate System, Central Zone, NAD 83 (CORSS 98), as determined by Leica Texas SmartNet GPS observations.
 All distances are surface distances.
 Combined scale factors=1.0001168.

● - CORNERS ARE 1/2" IR. SET W/ 3/4" CAP & 1/8" BUSH OTHER PINS - RE-POLED
 ○ - CORNERS ARE 1" PINS FOUND UNLESS OTHERWISE NOTED.



LINE TABLE	
LINE	BEARING LENGTH
L1	N73°00'41"E 46.72'
L2	N72°26'47"E 118.16'

PAUL SHANNON
 CALLED 8.613 AC.
 (INST. NO. 2015-29063)

JOSE LUIS ZAMORA
 (INST. NO. 2010317)

LOT 13, BLOCK 3
 WESTERN OAKS
 (CAB. A, SLIDE 26-D)

LOT 17A BLOCK 3
 WESTERN OAKS
 (CAB. A, SLIDE 306-A)

DRAINAGE TRACT A
 31.9 AC
 (YEAR 23) (A, PLAT 10)

UNIVERSITY VILLAGE
 PHASE THREE
 (INST. NO. 2021-5914)

Month Abstract & Title Company - G.F. No. 21-7715 - Effective Date: November 15, 2021

D.R.B.C.T. = Deed Records of Bell County, Texas.
 O.P.R.R.P.B.C.T. = Official Public Records of Real Property, Bell County, Texas.

Restrictions recorded in Vol. 1186, Pg. 698 in the D.R.B.C.T.

MITCHELL & ASSOC., INC. does not make or warrant any flood zone designation.

To: Extraco Mortgage and its assigns, Montleith Abstract & Title Company, and Vernon Hood.

This sketch represents a survey made on the ground. During the performance of this survey persons working under my supervision observed conditions along the boundaries and to best of my knowledge they are as shown.

This the 6th day of December, 2021.

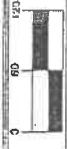
MIKE W. KRIEGER R.P.L.S. 4330

505 REESE CREEK ROAD

MITCHELL & ASSOCIATES, INC.
 ENGINEERING & SURVEYING
 102 N. COLLEGE ST., ARLING, TEXAS 75204 817-434-9341
 S. L. P. L. S. 4330 (REGISTRATION NO. 100000000)



(IN FEET)
 1 inch = 120 ft.



DR. W. BY: FRED	FIELD BOOK: 1993/57-6B	R/W/CM/ID: 1993/57-6B	FIELD CREW: 1993/57-6B	DIGITAL FILE: S:\Certs\505 Reese Creek\dwg\505 Reese Creek Road.dwg	TAX I.D. NO: 53684	REQUESTED BY: VERNON HOOD
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SURVEY COMPLETED 11/17/2021

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
MARCH 6, 2023**

**CASE #Z23-04
“UD” to “UD” W/ “CUP”**

HOLD a public hearing and consider a request submitted by Vernon Hood (**Case #Z23-04**) to the rezone Lots 24-29, Block 3, Western Oaks, from “UD” (University District) to “UD” (University District) with a Conditional Use Permit (CUP) to allow single-family residential use on six (6) existing lots. The property is locally addressed as 505 Reese Creek, Killeen, Texas.

Mr. Larsen presented the staff report for this item. She stated that the applicant intends to build one single-family dwelling on the subject property.

Ms. Larsen stated that the request is consistent with the ‘Residential Mix’ designation of the Future Land Use Map (FLUM).

Staff notified twenty-seven (27) surrounding property owners regarding this request. Of those notified, thirteen (13) reside outside of the 200-foot notification boundary required by the State, and within the 400-foot notification boundary required by Council; and four (4) property owners reside outside of Killeen. To date, staff has received zero (0) written responses regarding this request.

Mr. Larsen stated that staff finds that the request is consistent with the policies and principles of the 2022 Comprehensive Plan. Therefore, staff recommends approval of the applicant’s request for a CUP (Conditional Use Permit) to allow single-family residential use with the condition that the six (6) existing lots shall not be further subdivided.

Commissioner Jones asked if each house would be 1,400 sq. ft. Ms. Larsen stated that the applicant intends to construct only one home at this time. However, there are six (6) platted lots within the subject area. Ms. Meshier stated that the intent of the recommended condition is to attach a limitation to the permitted residential density within the subject area. The recommended condition is intended to allow the remaining five (5) lots to be developed as contemplated on the plat, but also to ensure that the area cannot be replatted into more than six (6) lots without requesting an amendment to the Conditional Use Permit.

Chairman Minor asked Mr. Zagars what the plan is for Reese Creek Rd. Mr. Zagars stated that there are no current plans to improve Reese Creek Rd. at this time.

Mr. Vernon Hood was present to represent the request.

Chairman Minor asked Mr. Hood if he was aware that the property was within the University District when he purchased it. Mr. Hood stated that he was not aware of the zoning when he purchased the property.

Commissioner Jones asked the applicant if the proposed 1,400 sq. ft. home would be big enough. Mr. Hood stated that building plans have already been submitted and that the house would not include a garage. Chairman Minor stated that the Conditional Use Permit would not place any limitations on the size of the home.

Chairman Minor opened the public hearing at 5:29 p.m.

With no one wishing to speak, the public hearing was closed at 5:30 p.m.

Commissioner Jones moved to approve the request as recommended by staff. Commissioner Marquez seconded, and the motion passed by a vote of 7 to 0.

ORDINANCE _____

AN ORDINANCE AMENDING THE CITY OF KILLEEN ZONING ORDINANCE BY CHANGING THE ZONING OF THE PROPERTY BEING LOTS 24-29, BLOCK 3, WESTERN OAKS, FROM “UD” (UNIVERSITY DISTRICT) TO “UD” (UNIVERSITY DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP) TO ALLOW SINGLE-FAMILY RESIDENTIAL USE ON SIX (6) EXISTING LOTS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code and Section 31-39 of the City of Killeen Code of Ordinances, the City Council, upon application, may amend the City of Killeen Zoning Ordinance following a recommendation by the Planning and Zoning Commission and a public hearing;

WHEREAS, Vernon Hood, has presented to the City of Killeen, a request for amendment of the City of Killeen Zoning Ordinance by changing the classification of the property being lots 24-29, Block 3, Western Oaks, from “UD” (University District) to “UD” (University District) with a Conditional Use Permit (CUP) to allow for single-family residential use on the six (6) existing lots,

WHEREAS, the Planning and Zoning Commission of the City of Killeen, following a public hearing on March 6, 2023, duly recommended approval of the request for a Conditional Use Permit (CUP) to allow single-family residential use with condition that the six (6) existing lots shall not be further subdivided;

WHEREAS, 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 11th day of April 2023, 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 applicant's zoning request should be approved as recommended by the Planning and Zoning Commission.

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

SECTION I. That the zoning classification of the property being lots 24-29, Block 3, Western Oaks, from "UD" (University District) to "UD" (University District) with a Conditional Use Permit (CUP) to allow single-family residential use on six (6) existing lots with condition that the six (6) existing lots shall not be further subdivided, said request having been duly as recommended by the Planning and Zoning Commission, for the property locally addressed as 505 Reese Creek Road, 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 11th day of April 2023, 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:

Debbie Nash-King, MAYOR

ATTEST:

Laura J. Calcote, CITY SECRETARY

APPROVED AS TO FORM

Holli C. Clements, CITY ATTORNEY

Case #23-04

Ord. #23-__

CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2nd 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

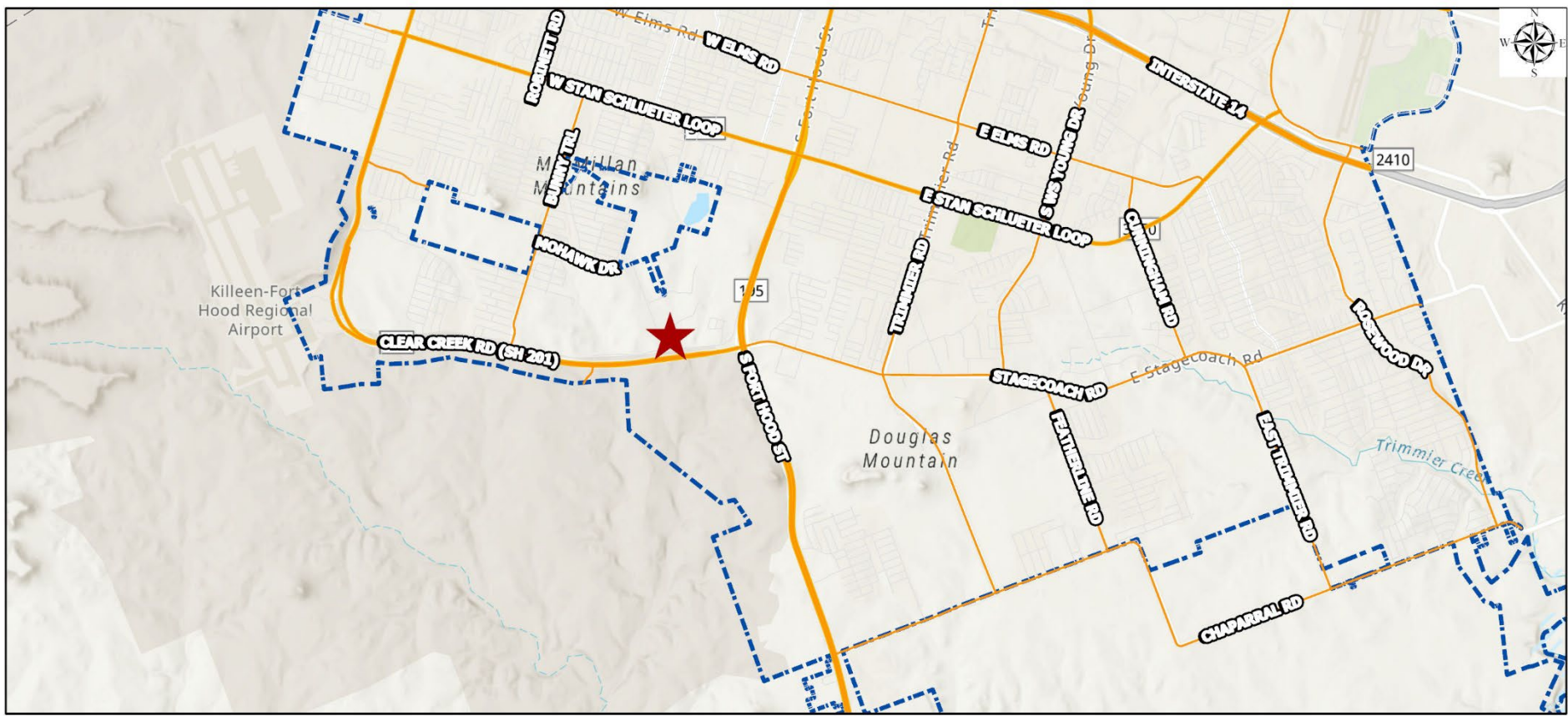
1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
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.



CASE #Z23-04:
“UD” TO “UD” W/ CUP

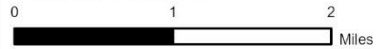
Case #Z23-04: “UD” to “UD” w/ CUP

- ❑ **HOLD** a public hearing and consider a request submitted by Vernon Hood (**Case #Z23-04**), to the rezone Lots 24-29, Block 3, Western Oaks, from “UD” (University District) to “UD” (University District) with a Conditional Use Permit (CUP) to allow single-family residential use on six (6) existing lots.
- ❑ The property is locally addressed as 505 Reese Creek Road, Killeen, Texas.



LOCATION MAP

Council District: 4



Subject Property Legal Description: WESTERN OAKS, BLOCK 003, LOT 24-29, ACRES 9.882, MH LABEL# TEX0279970
 SN1 1183SB456S49611; TITLE # 00137909

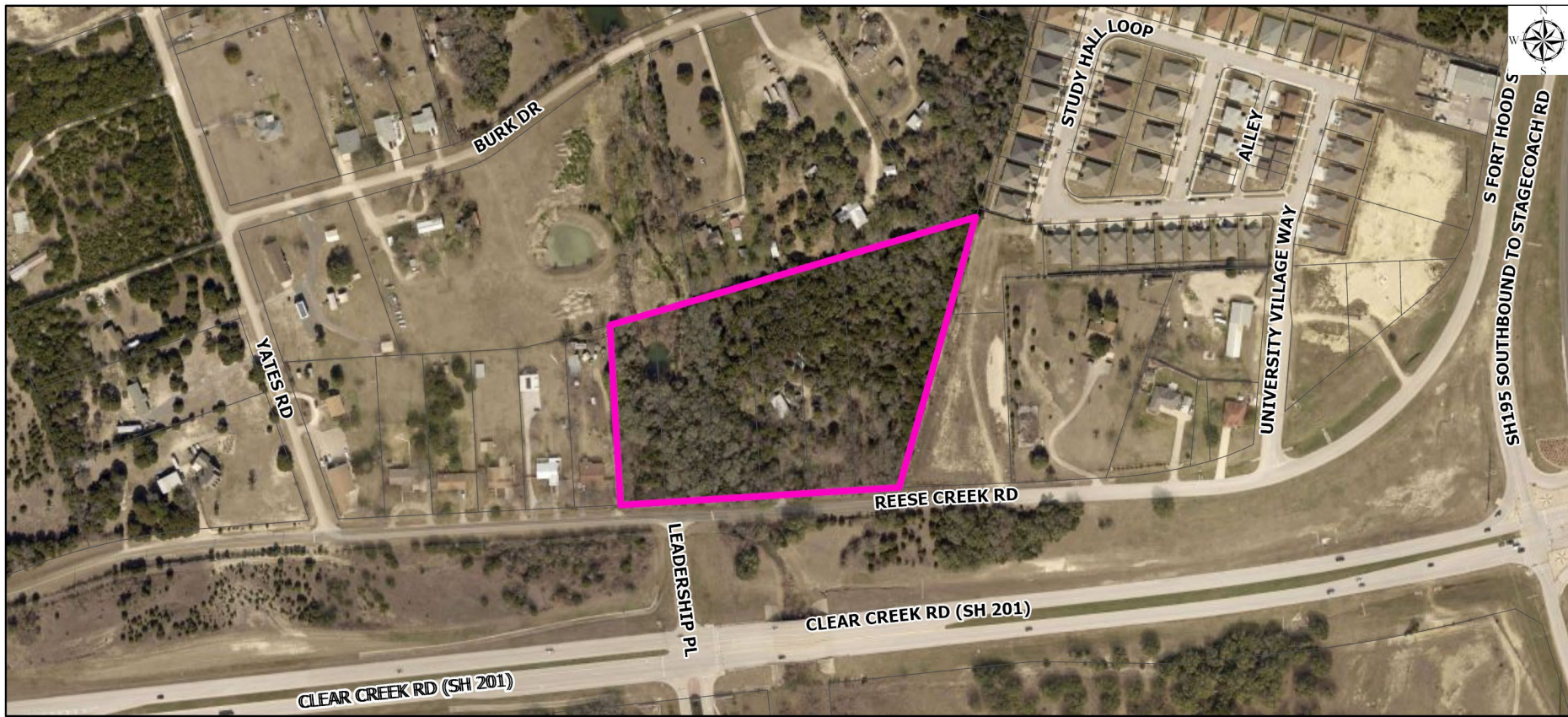
Zoning Case 2023-04
 UD TO UD W/CUP

Legend

 Major Roads

 City Limits

 Zoning Case Location



AERIAL MAP

Council District: 4



Subject Property Legal Description: WESTERN OAKS, BLOCK 003, LOT 24-29, ACRES 9.882, MH LABEL# TEX0279970 SN1 1183SB456549611; TITLE # 00137909

Zoning Case 2023-04

UD TO UD W/CUP

Legend

 Citylimits

 Zoning Case

Case #Z23-04: “UD” to “UD” w/ CUP

5

- The subject property is currently zoned “UD” (University District).
- The property was platted in 1972 into six (6) residential lots (Western Oaks Subdivision).
- In accordance with Killeen Code of Ordinances Sec. 31-440, single-family dwellings are not permitted by-right in the “UD” district.
- If approved, the applicant intends to build a 1,400 square foot single-family home on one of the existing lots.

Case #Z23-04: "UD" to "UD" w/ CUP

LINE TABLE		
LINE	BEARING	LENGTH
L1	N73°00'41"E	46.72'
L2	N72°26'47"E	118.16'

PAUL SHANNON
CALLED B.613 AC.
(INST. NO. 2015-29063)

JOSE LUIS ZAMORA
(INST. NO. 2010-319)

LOT 13, BLOCK 3
WESTERN OAKS
(CAB. A, SLIDE 26-D)

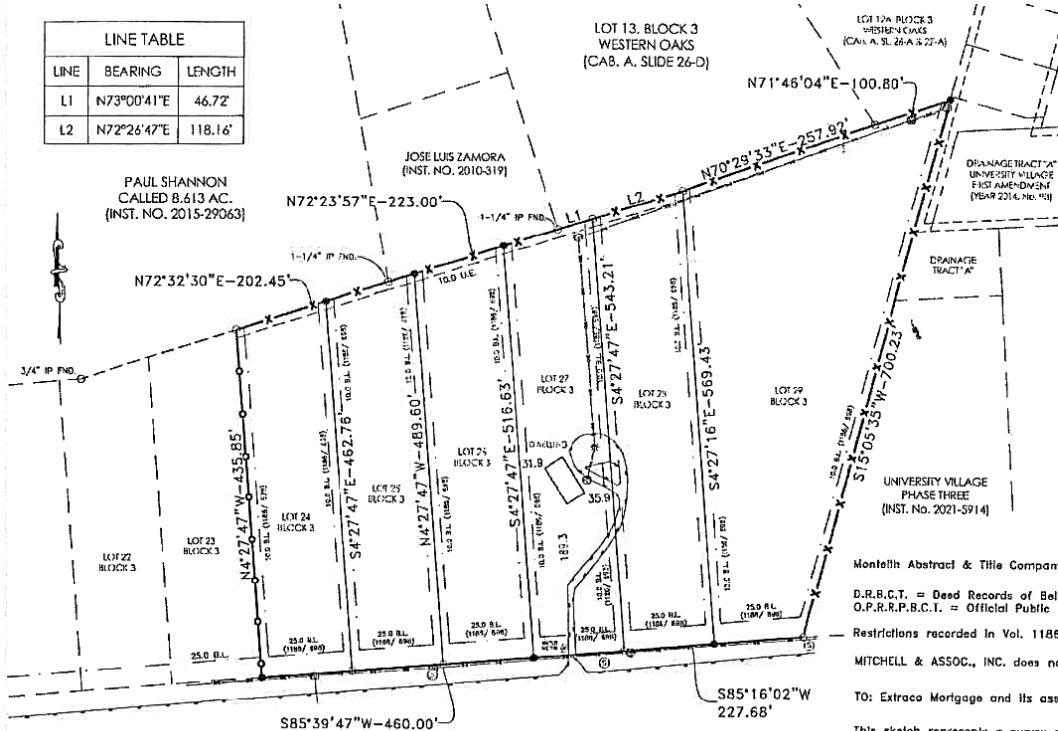
LOT 12A, BLOCK 3
WESTERN OAKS
(CAB. A, SL. 26-A & 27-A)

LOTS 24-29, BLOCK 3, WESTERN OAKS, OF BELL COUNTY, TEXAS, ACCORDING TO THE PLAT OF RECORD IN CABINET A, SLIDE 306-A PLAT RECORDS OF BELL COUNTY, TEXAS

NOTE:

Bearings are based on the Texas Coordinate System, Central Zone, NAD 83 (CORS 96), as determined by Leica Texas SmartNet GPS observations.
All distances are surface distances.
Combined scale factor=1.0001168.

● - CORNERS ARE SET BY SET WITH A CAP OR LESS OTHERWISE NOTED
○ - CORNERS ARE 1" PIPE FOUND UNLESS OTHERWISE NOTED



Month Abstract & Title Company - G.F. No. 21-7715 - Effective Date: November 15, 2021

D.R.B.C.T. = Deed Records of Bell County, Texas.
O.P.R.R.P.B.C.T. = Official Public Records of Real Property, Bell County, Texas.

Restrictions recorded in Vol. 1185, Pg. 698 in the D.R.B.C.T.

MITCHELL & ASSOC., INC. does not make or warrant any flood zone designation.

TO: Extraco Mortgage and its assigns, Month Abstract & Title Company, and Vernon Hood.

This sketch represents a survey made on the ground. During the performance of this survey persons working under my supervision observed conditions along the boundaries and to best of my knowledge they are as shown.

ALL RIGHTS RESERVED
DATE: 11/15/21 BY: [Signature]

Case #Z23-04: “UD” to “UD” w/ CUP

7

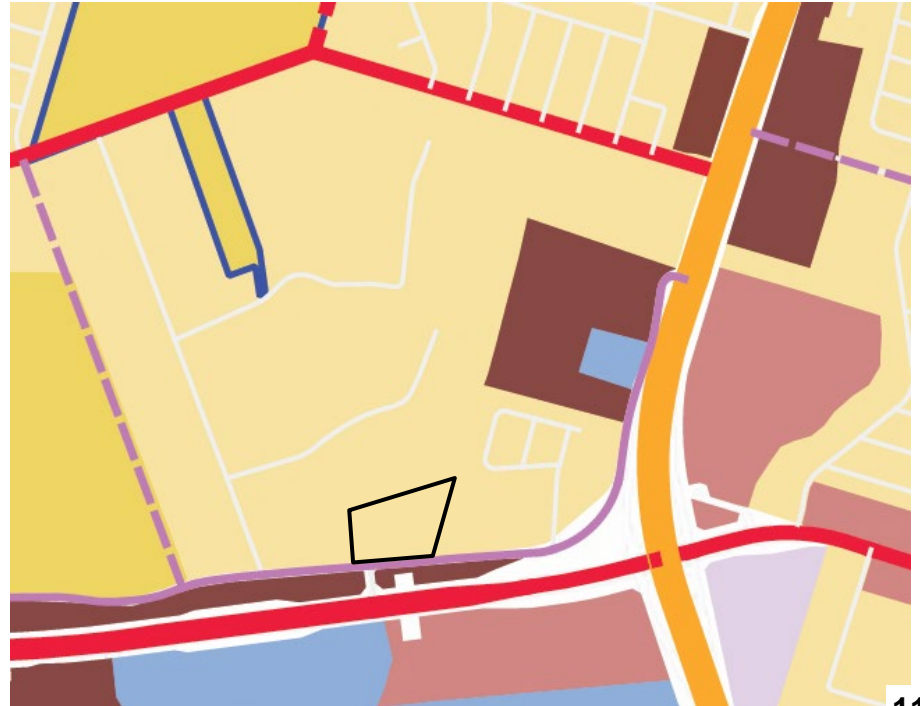
- Killeen Code of Ordinances Sec. 31-441 states:

“The City Council by an affirmative majority vote may by ordinance grant a Conditional Use Permit [...] for any residential or business land use for a specific parcel in the [University District] overlay district, and may impose appropriate conditions and safeguards to assure that these land uses are compatible with and appropriate for locations adjacent to the future four-year university.”

Comprehensive Plan Analysis

8

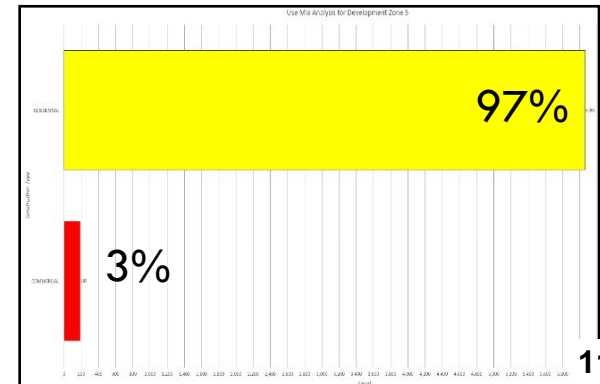
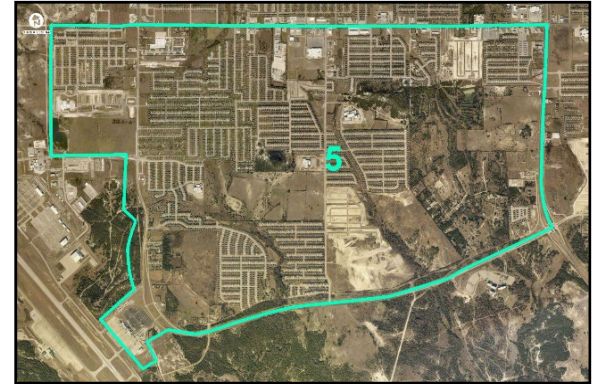
- The subject property is designated as 'Residential Mix' on the FLUM, which promotes a use mix of up to 25% non-residential and 95% residential uses.



Comprehensive Plan Analysis

9

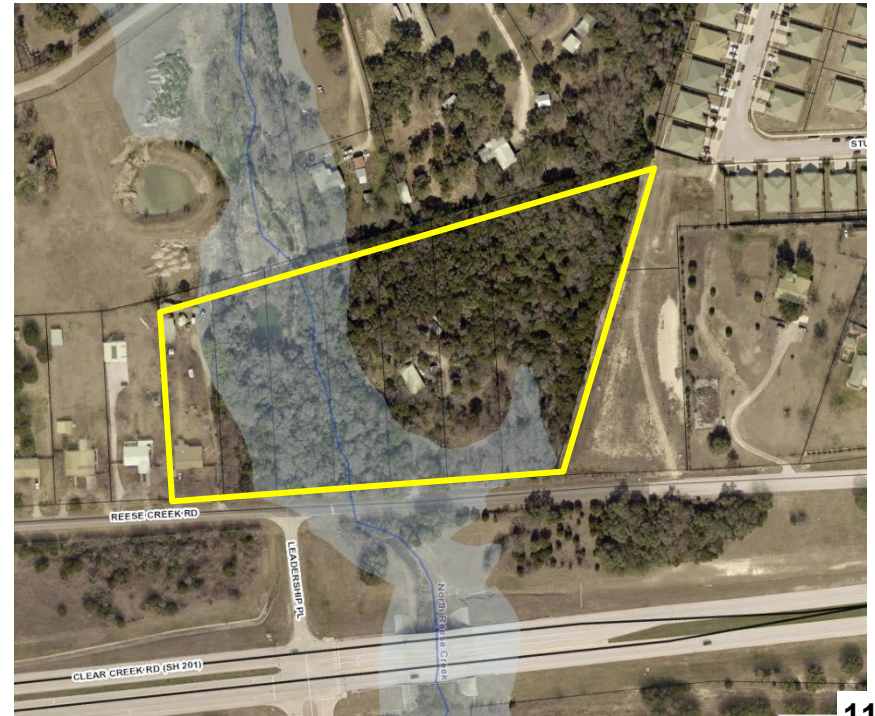
- ❑ Located within Development Zone #5
- ❑ Approximate current land use mix:
 - ▣ 20% agricultural
 - ▣ 18% non-residential zoning districts
 - ▣ 62% residential zoning districts
- ❑ Zoning districts (excluding special districts)
 - ▣ 97% residential zoning districts
 - ▣ 3% non-residential zoning districts



Environmental Assessment

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- A large portion of the property is located within a FEMA regulatory Special Flood Hazard Area (Zone AE)



Case #Z23-04: “UD” to “UD” w/ CUP

11

View of the subject property looking north:



Case #Z23-04: “UD” to “UD” w/ CUP

12

View of Reese Creek looking east:



Public Notification

- Staff notified twenty-seven (27) surrounding property owners regarding this request.
- Of those notified, thirteen (13) reside outside of the 200-foot notification boundary required by the State, and within the 400-foot notification boundary required by Council; and four (4) property owners reside outside of Killeen.
- To date, staff has received zero (0) written response regarding this request.

Alternatives

14

- ❑ The City Council has two (2) alternatives. The Council may:
 - ❑ Disapprove the applicant's CUP request; or
 - ❑ Approve the applicant's CUP request as presented.

Staff Recommendation

- ❑ Staff recommends approval of the applicant's request for Conditional Use Permit (CUP) to allow single-family residential use with the condition that the six (6) existing lots shall not be further subdivided.
- ❑ This recommendation will allow the applicant to develop up to six (6) single-family dwellings – one on each of the six (6) existing platted lots.
- ❑ Staff finds that this recommendation is necessary in order to maintain the existing character of the area.

Commission Recommendation

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- At their regular meeting on March 6, 2023, the Planning and Zoning Commission recommended approval of the request, as recommended by staff, by a vote of 7 to 0.



City of Killeen

Staff Report

File Number: PH-23-019

1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023
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HOLD a public hearing and consider an ordinance approving a written service agreement and the annexation of approximately 221.272 acres of land lying contiguous to the existing city limits, generally located on the west side of Bunny Trail, north of the Goodnight Ranch subdivision, south of Haynes Elementary School, and east of Dr. Joseph A. Fowler Elementary School, Killeen, Texas.

DATE: April 4, 2023

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Exec. Dir. of Planning & Dev. Services

SUBJECT: Consider an ordinance approving a written service agreement and the annexation of approximately 221.272 acres of land lying contiguous to the existing city limits, generally located on the west side of Bunny Trail, north of the Goodnight Ranch subdivision, south of Haynes Elementary School, and east of Dr. Joseph A. Fowler Elementary School, Killeen, Texas.

BACKGROUND AND FINDINGS:

Annexation Process:

Sec. 43.0672 of the Texas Local Government Code: The City Council must enter into a written agreement with the owners of land in the area for the provision of services in the area. The agreement must include a list of each service the municipality will provide on the effective date of the annexation, and a schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation. The City is not required to provide services that are not included in the agreement. [Note: there is no statutory time period in which to complete this action.]

Sec. 43.0673 of the Texas Local Government Code: Before a municipality may adopt an ordinance annexing an area under this subchapter, the City Council must conduct one public hearing. Notice of the public hearing must be published in the newspaper on or after the 20th day, but before the 10th day before the date of the public hearing; and posted on the City’s website on or after the 20th day but before the 10th day before the date of the hearing, and must remain posted until the date of the hearing.

Notice of the Public Hearing was published in the Killeen Daily Herald on March 26, 2023, and posted on the City’s website on March 22, 2023.

Sec. 43.905 of the Texas Local Government Code: The City must provide written notice of the proposed annexation to the Killeen Independent School District during the notification period. The notice to the School District must contain a description of the area within the District proposed for annexation; any financial impact on the district resulting from the annexation, including any changes in utility costs; and any proposal the City has to abate, reduce, or limit any financial impact on the district.

Written notice to the Killeen Independent School District was provided in accordance with these requirements on March 22, 2023.

Sec. 43.9051 of the Texas Local Government Code: The City must provide written notice of the proposed annexation to each public entity that provides services to the area proposed for annexation during the notification period. "Public entity" includes Bell County, fire protection service providers, volunteer fire departments, emergency medical services providers, or special districts.

Written notice was provided to Bell County on March 22, 2023, in accordance with this requirement.

THE ALTERNATIVES CONSIDERED:

The City Council has two (2) alternatives:

- Disapprove the written service agreement and annexation ordinance; or
- Approve the written service agreement and annexation ordinance.

Which alternative is recommended? Why?

Staff recommends approval of the written service agreement and the annexation ordinance as presented.

CONFORMITY TO CITY POLICY:

The request for voluntary annexation conforms with City policy and State law.

FINANCIAL IMPACT:

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

There are no expenditures expected in the current fiscal year.

Is this a one-time or recurring expenditure?

Municipal expenditures would be a recurring cost.

Is this expenditure budgeted?

It is not budgeted within the current fiscal year.

If not, where will the money come from?

Future expenditures will come from the General Fund, Water & Sewer, Solid Waste, Drainage, and Street Maintenance funding sources as necessary.

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

This is not applicable.

RECOMMENDATION:

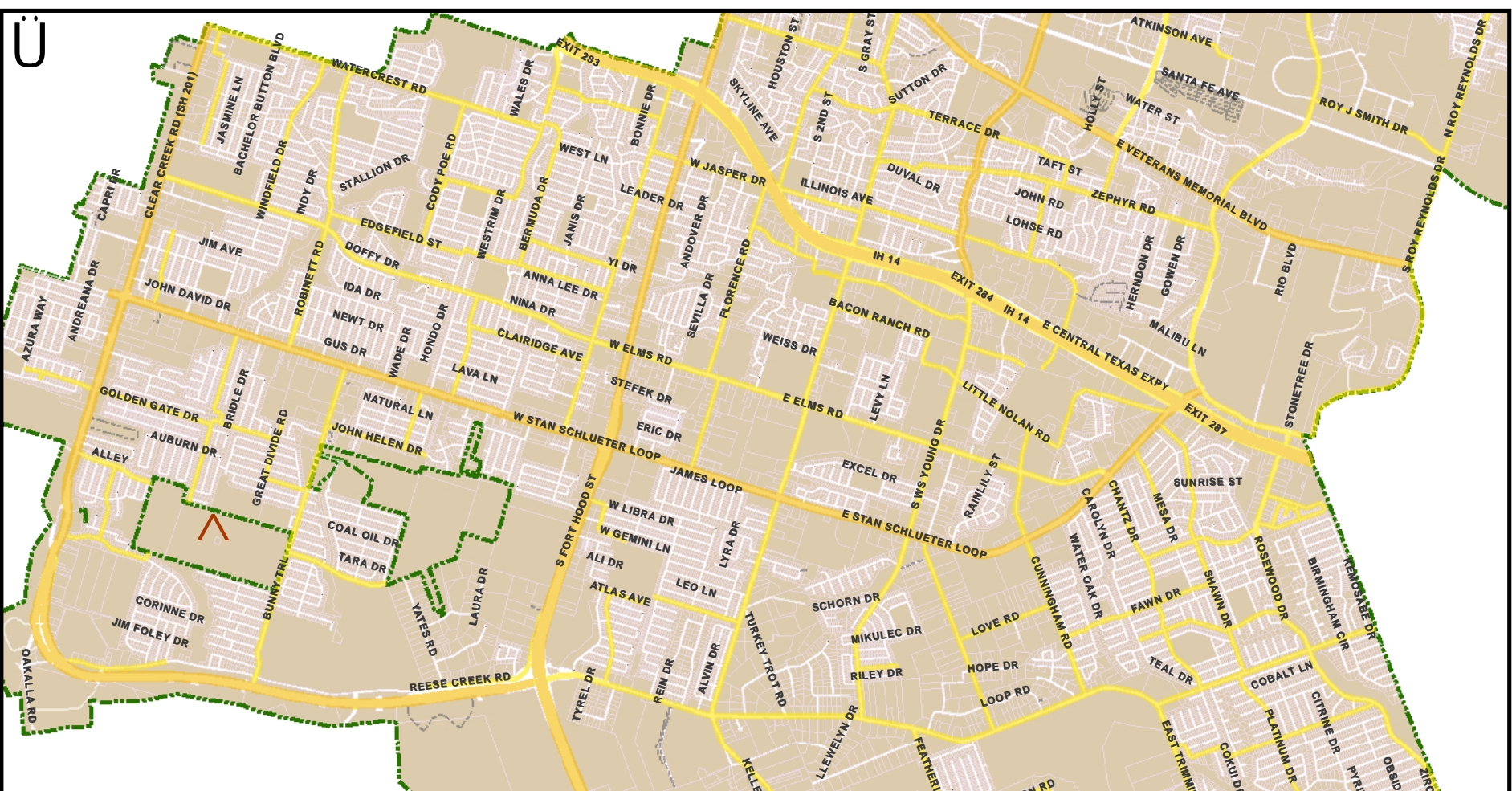
Staff recommends approval of the annexation ordinance and written service agreement as presented.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by Development Services and Legal

ATTACHED SUPPORTING DOCUMENTS:

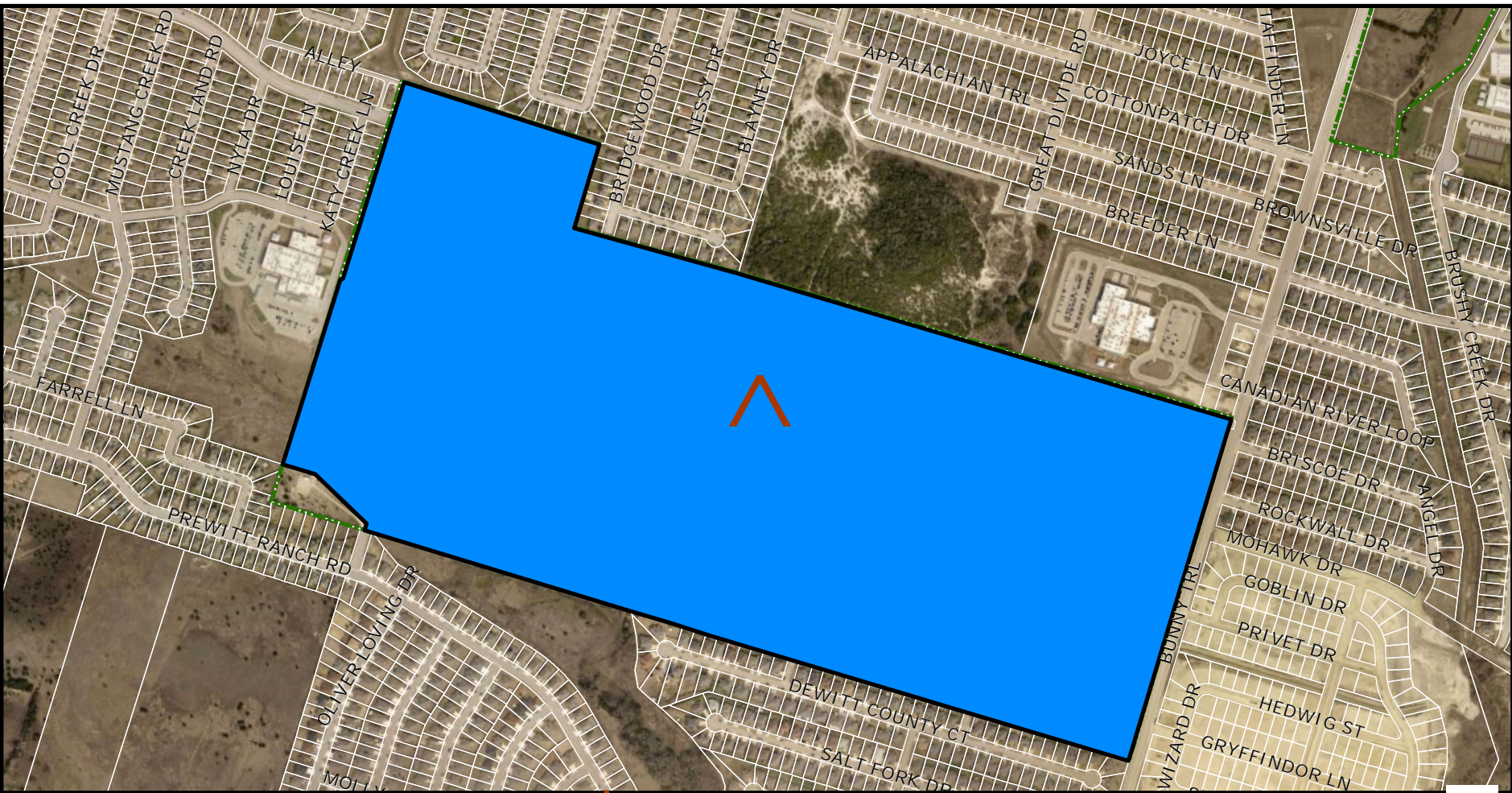
Maps
Ordinance
Written Service Agreement





 Killdeer City Limits |
  Annexation Location


VA23-01 Location Map


1 inch = 5, **126**

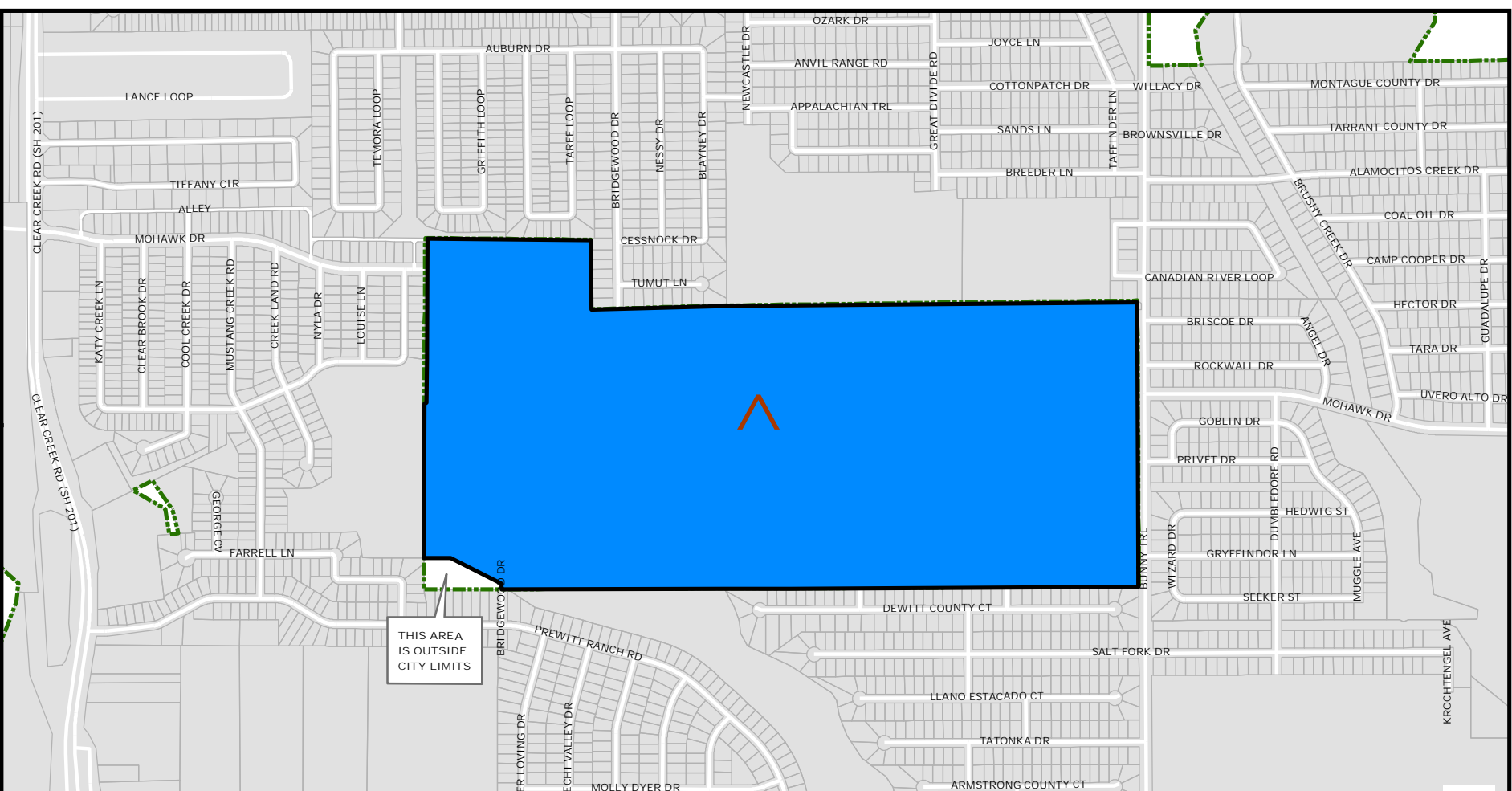


Legend

-  Killen City Limits
-  Annexation Location

 VA23-01 Aerial Map


 1 inch = 127'



THIS AREA IS OUTSIDE CITY LIMITS

Legend

-  Killen City Limits
-  Annexation Location

 VA23-01 Annexation Map

1 inch = 1/4 mile

AN ORDINANCE OF THE CITY OF KILLEEN EXTENDING THE CORPORATE LIMITS OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, TO INCLUDE LAND LYING ADJACENT TO THE PRESENT CITY LIMITS, BEING APPROXIMATELY 221.272 ACRES OF LAND OUT OF THE JOHN E. MADDERA SURVEY, ABSTRACT NO. 600; DECLARING SAID LAND TO BE A PART OF SAID CITY; DECLARING SAID LAND AND ITS INHABITANTS AND ANY FUTURE INHABITANTS OF SAID LAND TO BE ENTITLED TO ALL THE RIGHTS AND PRIVILEGES OF OTHER LANDS AND CITIZENS OF THE CITY AND TO BE BOUND BY THE ACTS AND ORDINANCES OF THE CITY; EXTENDING DISTRICT BOUNDARIES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Killeen, pursuant to Article II, Section 7 of the Charter, is authorized to extend the boundary lines of the City and annex additional territory adjacent to the City of Killeen upon petition; and

WHEREAS, the City has received a petition for voluntary annexation for an area being approximately 221.272 acres in size lying contiguous to the existing city limits, generally located on the west side of Bunny Trail, north of the Goodnight Ranch subdivision, south of Haynes Elementary School, and east of Dr. Joseph A. Fowler Elementary School, Killeen, Texas; and

WHEREAS, the area to be annexed, as described in this ordinance, is within the extraterritorial jurisdiction of the City of Killeen; and is adjacent to and contiguous with the existing boundary limits; and

WHEREAS, in compliance with the Local Government Code section 43.0672, a written service plan has been prepared prior to the publication of the notice for the first hearing and, required newspaper publications have been given and, public hearings conducted;

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

SECTION I: That on and after the effective date of this ordinance, the city limits of the City of Killeen, Texas, shall be and they are hereby extended to include certain lands lying adjacent and contiguous to the city limits of said City of Killeen as they existed prior to the effective date of this ordinance; such land being more particularly described as approximately 221.272 acres out of the John E. Maddera Survey, Abstract No. 600, lying contiguous to the existing city limits, and generally located on the west side of Bunny Trail, north of the Goodnight Ranch subdivision, south of Haynes Elementary School, and east of Dr. Joseph A. Fowler Elementary School, Killeen, Texas.

SECTION II: It is declared that the lands thereby annexed and described in Section I hereof are and shall hereafter be a part of the City of Killeen, Bell County, Texas and it is hereby further declared that said lands and the present and future inhabitants thereof are hereafter entitled to all the rights and privileges as other lands and other citizens of the City of Killeen which are similarly situated and shall be bound by the acts and ordinances of the City of Killen, Texas.

SECTION III: It is further declared that the above-described properties shall be zoned "A" Agriculture on the effective date of this ordinance, pursuant to Section 31-124(a) of the Code of Ordinances of the City.

SECTION IV: That the written service plan for the annexed area is hereby adopted as a part of this ordinance.

SECTION V: It is further declared that the boundary of the City of Killeen City Council District 4 be extended by the land contained within the annexation tract.

SECTION VI: That all ordinances or resolutions or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict or amended as specified herein to the extent of any conflict.

SECTION VII: That should any section or part of any 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 section or part of a section or paragraph of this ordinance.

SECTION VIII: That the ordinances and resolutions of the City of Killeen, Texas, and 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 IX: That this ordinance shall be effective on April 11, 2023, after its passage and publication according to the Killeen City Charter and State Law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 11th day of April 2023, at which meeting a quorum was present, held in accordance with the provisions of the Texas Open Meetings Act, Texas Government Code Chapter 551, as amended.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Laura Calcote, CITY SECRETARY

APPROVED AS TO FORM:

Holli C. Clements, CITY ATTORNEY

**MUNICIPAL SERVICES AGREEMENT
BETWEEN THE CITY OF KILLEEN, TEXAS AND
BUNNY TRAIL REAL ESTATE, LP**

This Municipal Services Agreement (“Agreement”) is entered into on the 11th day of April 2023, by and between the City of Killeen, Texas, a home-rule municipality of the State of Texas (“City”), and Bunny Trail Real Estate, LP (“Owner”).

RECITALS

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement.

WHEREAS, Section 43.0671 of the Local Government Code permits the City to annex an area if each owner of land in an area requests the annexation;

WHEREAS, the City elects to annex such an area, the City is required to enter into a written agreement with the property owner(s) that sets forth the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, Owner owns certain parcels of land situated in Bell County, Texas, which consists of approximately 221.171 acres of land in the City's extraterritorial jurisdiction, such property being more particularly described and set forth in Exhibit A attached and incorporated herein by reference (“Property”);

WHEREAS, Owner has filed a written request with the City for full-purpose annexation of the Property, identified as Annexation Case No. VA-23-01 (“Annexation Case”);

WHEREAS, the City and Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, the Annexation Case and execution of this Agreement are subject to approval by the Killeen City Council; and

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

- 1. PROPERTY.** This Agreement is only applicable to the Property, which is the subject of the Annexation Case. The property is proposed to consist of approximately 800 multi-family residential units, 600 single-family townhouse units, and 300 single-family detached units.
- 2. INTENT.** It is the intent of the City that this Agreement provide for the delivery of full, available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.
- 3. MUNICIPAL SERVICES.** Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, “providing

services” includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances, rules, regulations, and policies.

Fire Protection – The City’s Fire Department will provide emergency and fire protection services in the annexation area, commencing on the effective date of the annexation. These services include:

- fire suppression and rescue;
- emergency medical services;
- hazardous materials mitigation and regulation;
- emergency prevention and public education services;
- construction plan review;
- inspections; and
- emergency management planning.

These services are provided on a citywide basis and the Killeen Fire Department will provide fire protection and prevention services to the annexation area with the same level of service being provided to other comparable areas of the City. The National Fire Protection Association creates and maintains private, copyrighted standards and codes for usage and adoption by local governments. Standards pertinent to the referenced annexations are as follows:

Standard 1710

5.2.4.1: Initial Arriving Company:

“The fire department’s fire suppression resources shall be deployed to provide for the arrival of an engine company within a 240-second travel time to 90 percent of the incidents as established in Chapter 4.”

5.2.4.2: Initial Full Alarm Assignment Capability:

“The Fire Department shall have the capability to deploy an initial full alarm assignment within a 480-second travel time to 90 percent of the incidents as established in Chapter 4.”

The annexation area will fall within the response area of Fire Station 9 which is located at 5400 Bunny Trail Road and houses one paramedic equipped EMS unit, one paramedic equipped fire aerial/pumper unit, one paramedic equipped heavy rescue/pumper unit, and one EMS Supervisor response unit. With response from a Station 9 unit, the estimated response time to the entry of the annexed property would be 4 minutes. Should an in-house unit be on another call, a secondary unit will be dispatched from another fire station with an average estimated arrival time of 7 to 9 minutes after dispatch from Killeen Fire Station 7, Killeen Fire Station 6 and/or Killeen Fire Station 5.

Police Protection – The City’s Police Department will provide protection and law enforcement services in the annexation area, commencing on the effective date of annexation. These services include:

- normal patrols and responses;

- handling of complaints and incident reports; and
- special units, such as traffic enforcement, criminal investigations, narcotics and gang suppression, and special weapons tactics team.

The City's Police Department will provide service to the annexation area with the same level of service now being provided to other comparable areas of the City. The Department anticipates that this department will have a slight impact on patrol calls for service, criminal investigations, etc. at full build-out. During the building process, there would be a minor increase in patrols, a minimal increased use of fuel, and possibly calls for property crime investigations. The department expects to request an additional three sworn officers when the project is completely built out based on anticipated calls for service.

Development Services – The City's Development Services Department will provide Planned Unit Development compliance monitoring services, comprehensive planning, land use, and development services, building permit review and inspection services, code enforcement services, engineering permit review and inspection services, and post construction stormwater management services in accordance with all applicable laws, rules, and regulations.

Publicly Owned Parks, Facilities, and Buildings – Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities (including, community service facilities, libraries, swimming pools, etc.), and buildings throughout the City. Any private parks, facilities, and buildings will be unaffected by the annexation; provided, however, that the City will provide for maintenance and operation of the same upon acceptance of legal title thereto by the City and appropriations therefor. In the event the City acquires any other parks, facilities, or buildings necessary for City services within the Property, the appropriate City department will provide maintenance and operations of the same.

Drainage Utility Services – Drainage utility services provided by the City of Killeen's Public Works Department will begin immediately upon annexation for developed parcels and after platting for undeveloped parcels. The drainage utility services provided to the annexation area will be equal to the service being provided to other areas of the City. The annexation area will be provided maintenance service for public rights of ways, public drainage easements and public drainage tracts at the same frequency of service as other areas of the City.

Drainage Utility services shall be provided in accordance with the City of Killeen Code of Ordinances, Chapter 32, for drainage utility customers:

- Drainage maintenance – in accordance with City of Killeen's Drainage Master Plan and Chapters 8 and 32 of the Killeen Code of Ordinances;
- Inspection and permit previews – in accordance with City of Killeen's Drainage Design Manual (DDM), Infrastructure Design and Development Standards Manual (IDDSM) and Chapters 26, 31, and 32 of the Killeen Code of Ordinances;
- Public education and outreach – in accordance with the City of Killeen's Municipal Separate Storm Sewer (MS4) Permit;
- Emergency response – in accordance with City of Killeen's Drainage Master Plan and Chapter 32 of the Killeen Code of Ordinances; and
- Right-of-way (R-O-W) Maintenance to include Street Sweeping within public rights-of-way – in accordance with Chapter 8 of the Killeen Code of Ordinances and the City of Killeen's MS4.

Street Services – The Street Operations Division of the Public Works Department will maintain public streets over which the City has jurisdiction. These services include:

- emergency pavement repair;
- ice and snow monitoring of major thoroughfares;
- repair maintenance of public streets on an as-needed basis;
- traffic control signals; and
- right-of-way maintenance.

Public roads and streets in the annexation area will be included in the City’s preventive maintenance program. Preventive maintenance projects are prioritized on a citywide basis and scheduled based on a variety of factors, including surface condition, age, traffic volume, functional classification, and available funding. The Streets Operations Division will also provide regulatory traffic signage. Engineering studies to determine if traffic control devices are warranted will be conducted as needed, in conjunction with growth and increased traffic volumes. Anticipated future development within the annexation area will generate the requirement to construct streets in compliance with the City of Killeen development standards and requirements published in the Killeen Code of Ordinances and Public Works Department practices, as may be amended. Street lighting will be installed by property developers as development in the area warrants. Upon development of the annexation area, street maintenance fees will be charged in accordance with City of Killeen Code of Ordinances Chapter 25.

Water and Wastewater Services – The City of Killeen strives to provide comparable levels of service in all areas of the City, allowing for differences in population density, land use, and topography. The annexed area is currently undeveloped. However, the proposed zoning would allow for approximately 1,700 dwelling units. As the population density increases and land use patterns change, the City will provide comparable water and sewer services as in other comparable areas of the City.

Water and wastewater utility availability addresses the accessibility to a sufficient supply of water and the capacity of the wastewater system to accept and treat wastewater. The extension of utilities to any area of the City, to include the annexation area, is based on the Water and Wastewater Master Plan and the utility extension policy contained in Chapter 26, Article IV, Division 3, Section 26-111, of the Killeen Code of Ordinances as amended. Developers of property in the annexation area will be required to extend necessary utilities to support their development in accordance with the Killeen Code of Ordinances and Public Works Department practices, as may be amended.

The following is a summary of the City of Killeen Water and Wastewater Utility Service Extension Policy.

1. The intent and purpose of the water and wastewater extension policy is to provide equitable charges for water and sewer connections as a proportionate distribution of the cost of the water and sewer main extensions to serve property within the city.
2. If the existing city utility facilities are not within or adjacent to the development, the developer shall construct the necessary extension of water and sewer mains, force mains,

and lift stations, including all valves, manholes, and piping necessary to serve any future development of abutting property.

3. The developer's engineer shall prepare a proposed plan of service for the subdivision and property along the extension, which shall be reviewed by the plat review committee. These facilities shall be constructed in accordance with the Water and Wastewater Master Plan (as amended).
4. It is the general policy of the city that water and sewer mains should be large enough to serve all the lots platted and, should the city determine oversizing is necessary, the city may participate in those lines greater than 8" for water and greater than 10" for sewer.
5. All utilities shall be required to extend across the full width of the last lot platted on each street proposed within the development, in such an alignment that it can be extended to the next property in accordance with the master sewer and water plans for the city, provided such plan(s) exist.
6. Properties already served by water and sewer shall not be required to install additional facilities unless, the current lines are not of adequate capacity to serve the proposed development; in which case the applicant will be required to install adequate facilities.
7. Every lot of a plat shall have direct access to the water and sewer system. Utility service shall be from a water/sewer main located in an abutting right-of-way or through easements from the lot to a water/sewer main.
8. The City provides a "pro rata" program that in some instances allows a person to recover some costs of extending a line from the point of availability to the person's property, thereby reducing the economic impact on the person constructing the line.

Under limited circumstances, the City of Killeen Executive Director of Public Works may allow the continued use of or the establishment of an on-site sewage facility in locations where sanitary sewer service is not readily available. Such on-site sewage facilities must be permitted by the Bell County Health Department. Generally, sewer service shall be considered available when City owned infrastructure is located at a distance not to exceed 1,000 feet that can accept gravity flow.

Water Utilities – It is the intent of the City of Killeen to provide water utility services to the annexation area in an expedient and orderly manner. This plan provides continued quality service while minimizing the utility rate impact to both the newly acquired citizens as well as the existing customers of the City's utility system.

There is a 16-inch water line that parallels the east ROW of Bunny Trail, a 6-inch water line that ties into the property via Pointer Drive, a 6-inch water line that ties into the property via Kleberg Drive, a 6-inch water line that ties into the property via Mohawk Drive, and an 8-inch water line that ties into the property via Bridgewood Drive. The annexed area is located in the Upper Pressure Plane, which has an overflow elevation of 1,123 feet.

Sewer Utilities – It is the intent of the City of Killeen to provide sewer utility services to the annexation area in an expedient and orderly manner. This plan provides continued quality

service while minimizing the utility rate impact to both the newly acquired citizens as well as the existing customers of the City's utility system.

There is a 10-inch sewer line that crosses the western side of the property from north to south following the south property line for approximately 1,360-feet, and 6-inch sewer lines that tie into the property via Pointer Drive, Kleberg Drive, and Bridgewood Drive.

Solid Waste Services – Solid Waste services provided by the City of Killeen's Solid Waste Services Department will begin immediately upon annexation. The solid waste collection and disposal services provided to the annexation area will be equal to the service being provided to other areas of the City. The annexation area will be provided collection service at the same frequency of service as other areas of the City.

Services shall be provided in accordance with the City of Killeen Code of Ordinances, Chapter 24, for residential and commercial customers:

- Garbage collection – in accordance with City of Killeen “pay-as-you-throw” guidelines and Chapter 24 of the Killeen Code of Ordinances;
- Recycling – access to City of Killeen Recycling Center;
- Yard waste and brush collection;
- Special collection services;
- Commercial service is provided on subscription basis from the City.

Other Services – The City of Killeen will provide other City Services to the annexation area, such as animal services, library, municipal court and general administration services at the same level of service now being provided to other areas of the City with similar population density and land use. It is understood and agreed that the City is not required to provide a service that is not included in this Agreement. Owner understands and acknowledges that the City departments listed above may change names or be re-organized by the City Manager. Any reference to a specific department also includes any subsequent City department that will provide the same or similar services.

4. **AUTHORITY.** City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges that approval of the Annexation Case is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.
5. **SEVERABILITY.** If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
6. **INTERPRETATION.** The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.

7. **GOVERNING LAW AND VENUE.** Venue shall be in the state courts located in Bell County, Texas or the United States District Court for the Western District of Texas, Waco Division and construed in conformity with the provisions of Texas Local Government Code Chapter 43.
8. **NO WAIVER.** The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.
9. **GOVERNMENTAL POWERS.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.
10. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
11. **CAPTIONS.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
12. **AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND.** This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owner.
13. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between said parties. This Agreement shall not be amended unless executed in writing by both parties.

Executed as of the day and year first above written to be effective on the effective date of annexation of the Property.

CITY OF KILLEEN

A&T CONSTRUCTION, LLC

By: _____
 Kent Cagle
 City Manager

By: _____
 Rahul Kundavaram
 Bunny Trail Real Estate, LP

Approved as to Form and Legality:

 Holli C. Clements
 City Attorney

Ordinance No. _____

State of Texas §
County of Bell §

This instrument was acknowledged before me on the _____ day of _____, 2023,
by Kent Cagle, City Manager of the City of Killeen, a Texas municipal corporation, on behalf of
said corporation.

By: _____

Notary Public, State of Texas

State of Texas §
County of Bell §

This instrument was acknowledged before me on the _____ day of _____, 2023,
by _____ on behalf of said _____
_____.

By: _____

Notary Public, State of Texas

After Recording Return to:
City Secretary
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

EXHIBIT A – SURVEY

*** SEE FIELD NOTES ***

BEING A 221.272 ACRE TRACT OF LAND IN BELL COUNTY, TEXAS, BEING PART OF THE JOHN E. MADDERA SURVEY, ABSTRACT NO. 600, THE LAND HEREIN BEING ALL OF A 160 ACRE PARCEL DESIGNATED AS FIRST TRACT AND PART OF A 60 ACRE PARCEL DESIGNATED AS SECOND TRACT, BOTH CONVEYED IN A WARRANTY DEED TO BRADLEY NEWELL REAVIS AS TRUSTEE FOR THE BRADLEY NEWELL REAVIS TRUST, BOTH DESCRIBED IN EXHIBIT "A" BEING OF RECORD IN DOCUMENT NO. 2112-53725, AND ALSO BEING ALL OF A 0.835 ACRE TRACT ALONG WITH A 30.0 FOOT PASSAGE EASEMENT CONVEYED IN A SPECIAL WARRANTY DEED TO BRADLEY NEWELL REAVIS, DESCRIBED OF RECORD IN VOLUME 4601, PAGE 680, BOTH IN THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, BELL COUNTY, TEXAS

NOTE:

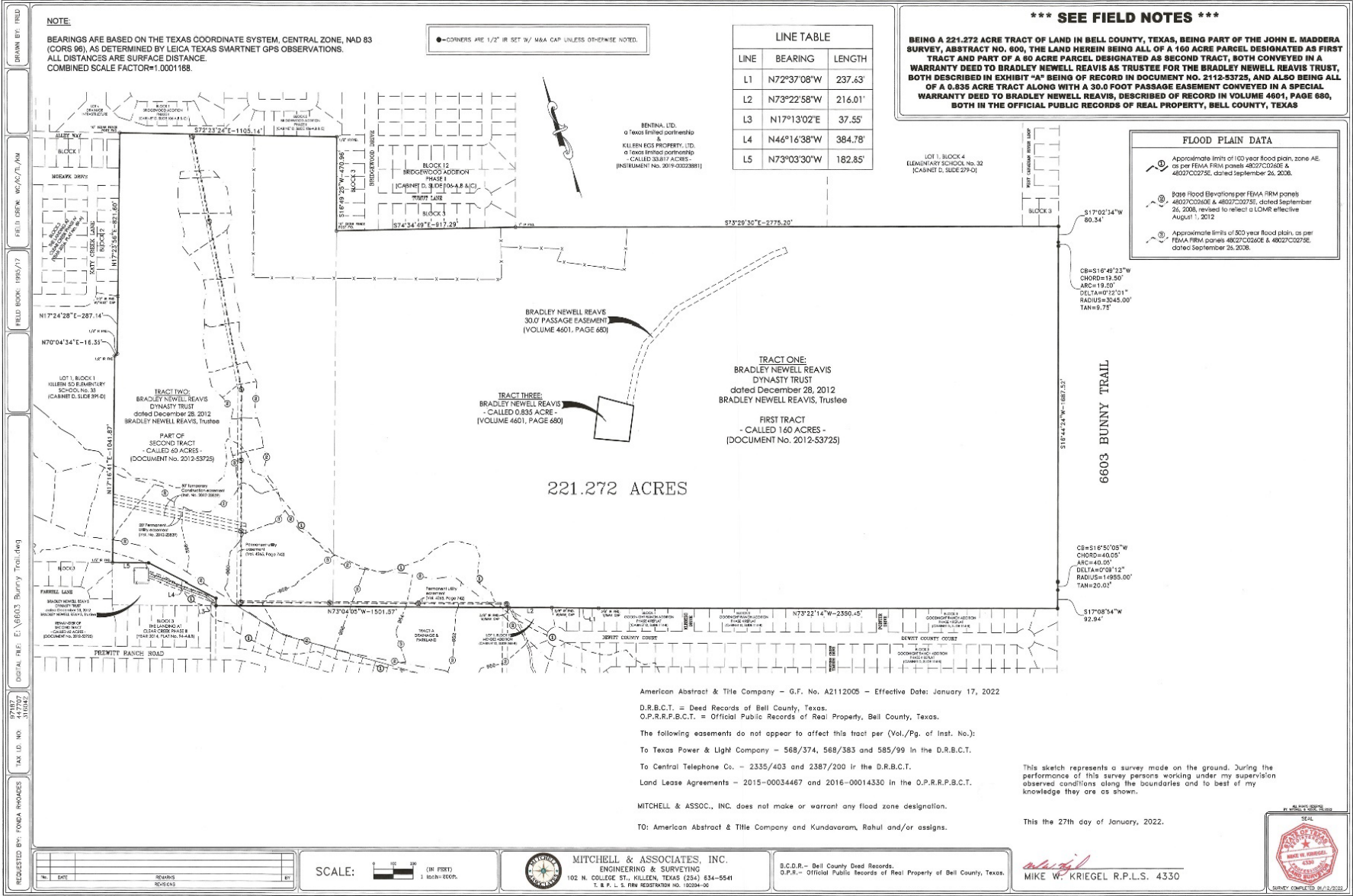
BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM, CENTRAL ZONE, NAD 83 (CORS 96), AS DETERMINED BY LEICA TEXAS SMARTNET GPS OBSERVATIONS. ALL DISTANCES ARE SURFACE DISTANCE. COMBINED SCALE FACTOR=1.0001168.

• CORNERS ARE 1/2" IR SET W/ M&A CAP UNLESS OTHERWISE NOTED.

LINE	BEARING	LENGTH
L1	N72°37'08"W	237.63
L2	N73°22'58"W	216.01
L3	N17°13'02"E	37.55
L4	N46°16'38"W	384.78
L5	N73°03'30"W	182.85

FLOOD PLAIN DATA

- ① Approximate limits of 100 year flood plain, zone AE, as per FEMA FIRM panels 48027C0246E & 48027C0275E, dated September 26, 2008.
- ② 90% Flood Elevations per FEMA FIRM panels 48027C0246E & 48027C0275E, dated September 26, 2008, revised to reflect a LOMR effective August 1, 2012.
- ③ Approximate limits of 500 year flood plain, as per FEMA FIRM panels 48027C0246E & 48027C0275E, dated September 26, 2008.



TRACT ONE:
BRADLEY NEWELL REAVIS
DYNASTY TRUST
dated December 28, 2012
BRADLEY NEWELL REAVIS, Trustee

FIRST TRACT
- CALLED 160 ACRES -
(DOCUMENT No. 2012-53725)

TRACT THREE:
BRADLEY NEWELL REAVIS
- CALLED 0.835 ACRE -
(VOLUME 4601, PAGE 680)

TRACT TWO:
BRADLEY NEWELL REAVIS
DYNASTY TRUST
dated December 28, 2012
BRADLEY NEWELL REAVIS, Trustee

PART OF
SECOND TRACT
- CALLED 60 ACRES -
(DOCUMENT No. 2012-53725)

BRADLEY NEWELL REAVIS
30.0 FOOT PASSAGE EASEMENT
(VOLUME 4601, PAGE 680)

221.272 ACRES

American Abstract & Title Company - G.F. No. A2112005 - Effective Date: January 17, 2022
D.R.B.C.T. = Deed Records of Bell County, Texas.
O.P.R.R.P.B.C.T. = Official Public Records of Real Property, Bell County, Texas.
The following easements do not appear to affect this tract per (Vol./Pg. of Inst. No.):
To Texas Power & Light Company - 568/374, 568/383 and 585/99 in the D.R.B.C.T.
To Central Telephone Co. - 2335/403 and 2387/200 in the D.R.B.C.T.
Land Lease Agreements - 2015-00034467 and 2016-00014330 in the O.P.R.R.P.B.C.T.
MITCHELL & ASSOC., INC. does not make or warrant any flood zone designation.
TO: American Abstract & Title Company and Kundavaram, Rahul and/or assigns.

This sketch represents a survey made on the ground. During the performance of this survey persons working under my supervision observed conditions along the boundaries and to best of my knowledge they are as shown.

This the 27th day of January, 2022.



DRAWN BY: FRED
FIELD BOOK: 1952/71
FIELD BOOK: 1952/71
DIGITAL FILE: E:\6603 Bunny Trail.dwg
DATE: 1/17/22
TAX ID NO: 447292
REQUESTED BY: TONGA PRODUCE

NO.	DATE	REVISIONS	BY



MITCHELL & ASSOCIATES, INC.
ENGINEERING & SURVEYING
102 N. COLLEGE ST., KILLEN, TEXAS (264) 634-5541
T. & F. L. S. FIRM REGISTRATION NO. 10294-00

B.C.D.R. - Bell County Deed Records.
O.P.R. - Official Public Records of Real Property of Bell County, Texas.

MIKE W. KRIEGL R.P.L.S. 4330

A stylized graphic consisting of a grey five-pointed star at the top right, with a curved grey line extending from its base towards the bottom left. The line is composed of two parallel segments, creating a sense of motion or a path. The background is white.

PETITION FOR VOLUNTARY ANNEXATION

PH-23-019

April 4, 2023

141

Voluntary Annexation Petition

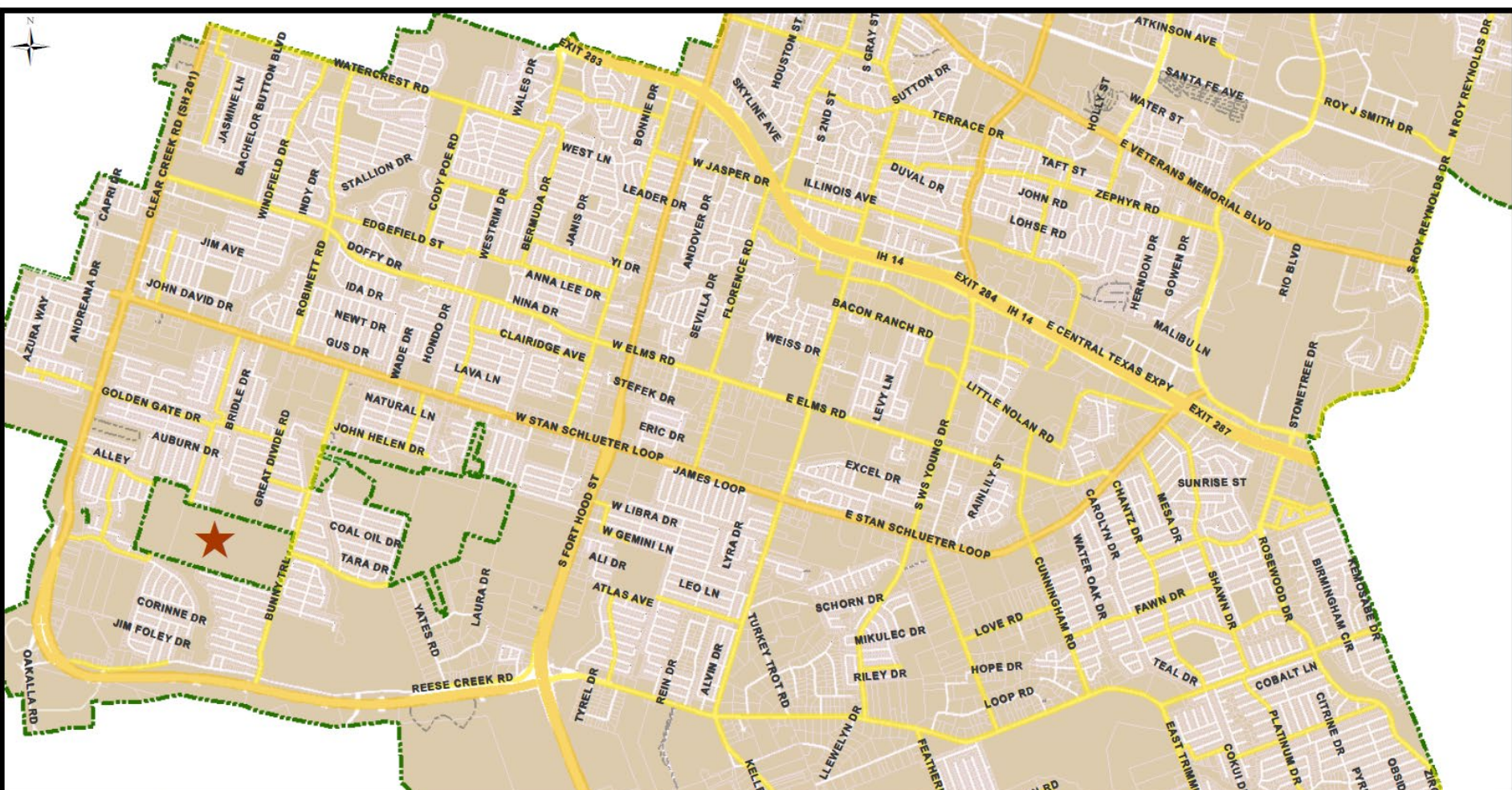
2

- **HOLD** a public hearing and consider an ordinance approving a written service agreement and the annexation of approximately 221.272 acres of land lying contiguous to the existing city limits, generally located on the west side of Bunny Trail, north of the Goodnight Ranch subdivision, south of Haynes Elementary School, and east of Dr. Joseph A. Fowler Elementary School.

Voluntary Annexation Petition

3

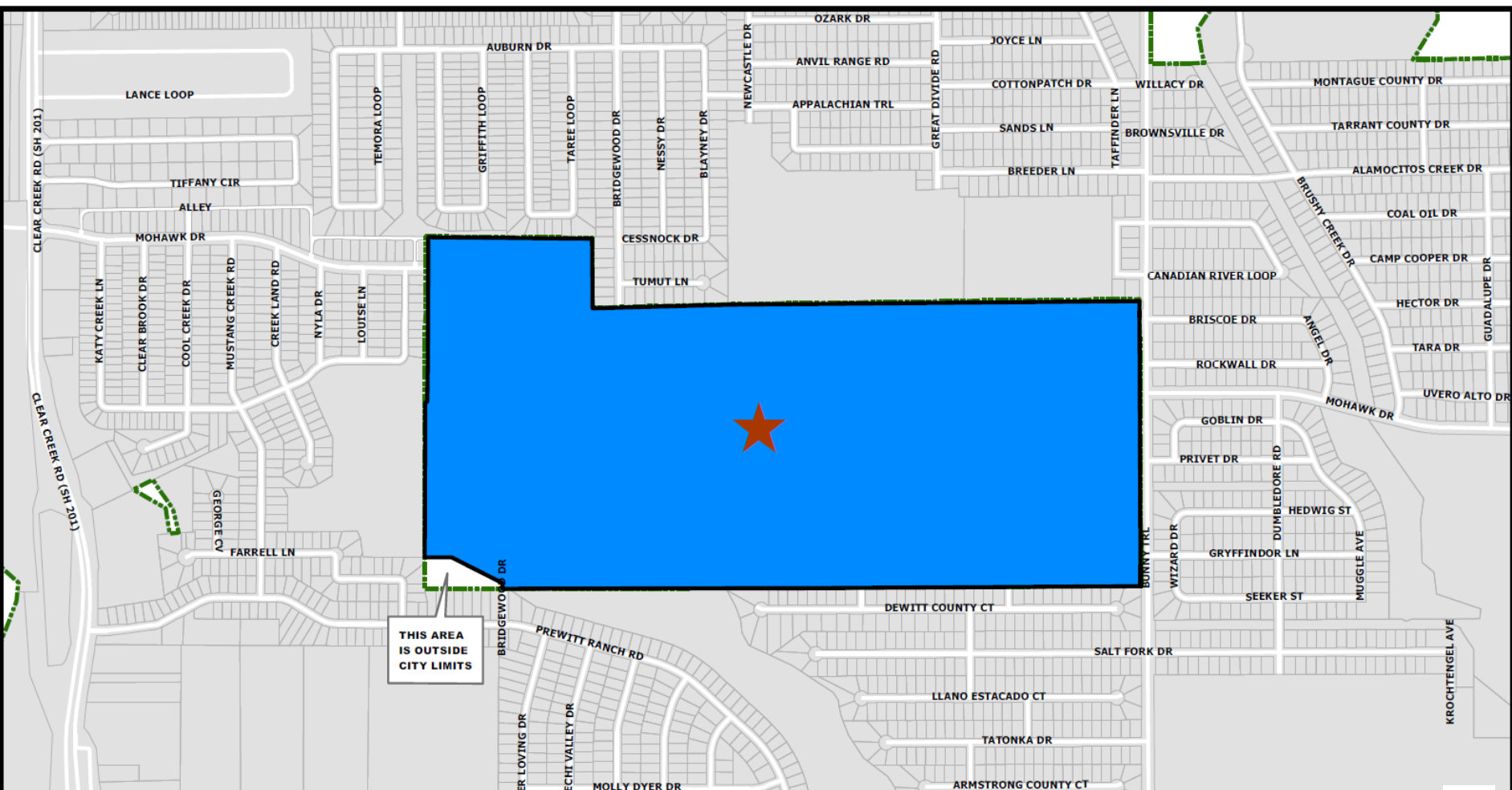
- On January 4, 2023, staff received a petition for voluntary annexation from Belton Engineering, Inc. on behalf of Bunny Trail Real Estate, LP for 221.272 acres.
- The property is generally located on the west side of Bunny Trail, south of Haynes Elementary School.





Legend

-  Killen City Limits
-  Annexation Location


VA23-01 Location Map

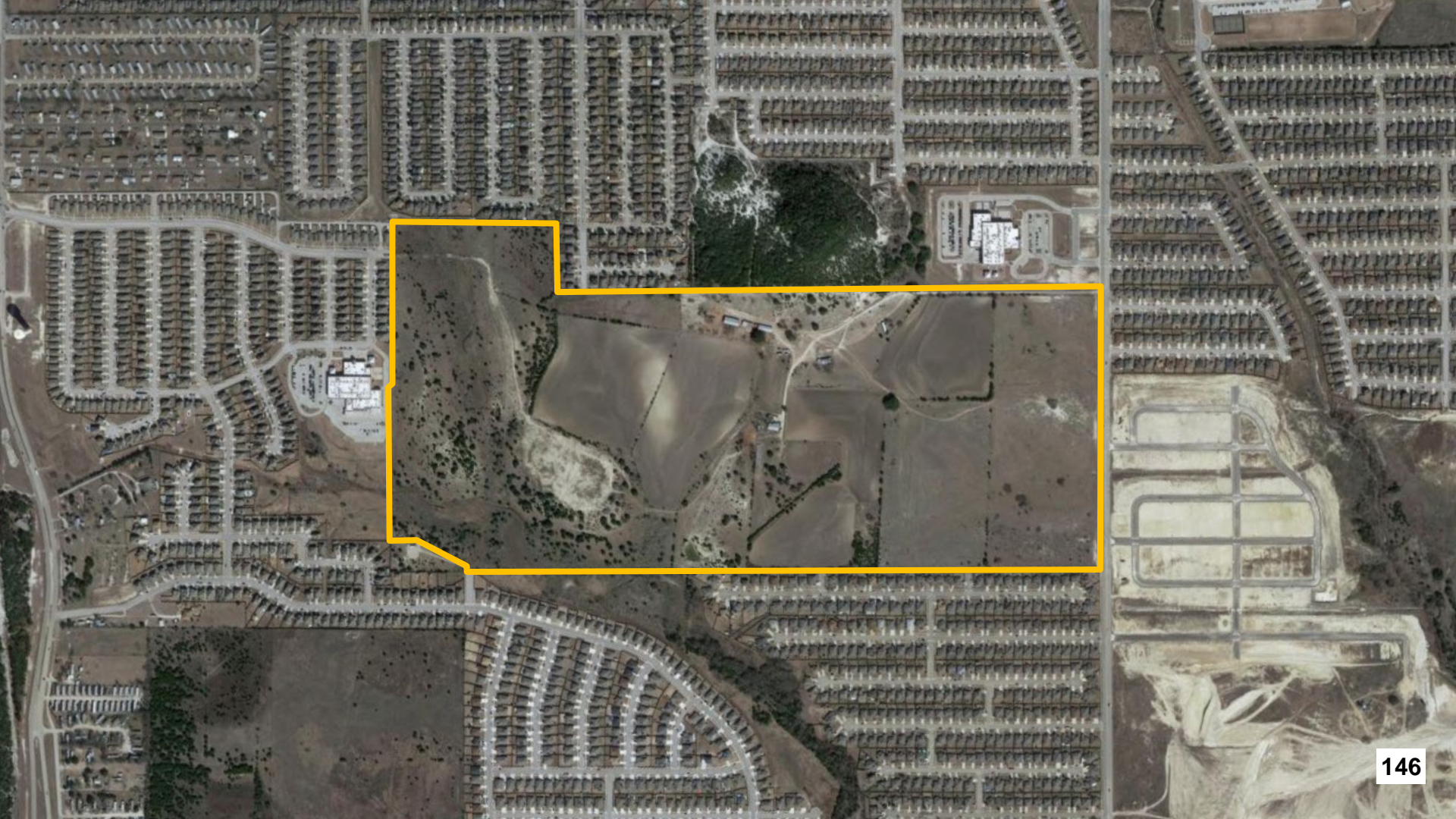


THIS AREA IS OUTSIDE CITY LIMITS

Legend
 Killen City Limits
 Annexation Location

 **VA23-01 Annexation Map**

 1 inch = 1,145 ft



Voluntary Annexation Process

7

- In accordance with LGC 43.0672, the written service agreement must include:
 - 1) A list of each service the municipality will provide on the effective date of the annexation; and
 - 2) A schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation.

Voluntary Annexation Process

- In accordance with Chapter 43 of the LGC, before the Council adopts an ordinance annexing an area, the Council must conduct one public hearing.
- At least 10 days and no more than 20 days in advance of the public hearing, the City must publish notice in the newspaper, post on the City's website, and send notice to the school district and each public entity that provides service to the area.

Voluntary Annexation Process

9

- All public notification requirements have been met.
- LGC 43.0673: Council may adopt an annexation ordinance at the conclusion of the public hearing.

Alternatives

- The City Council has two alternatives:
 - ▣ Disapprove the written service agreement and the annexation ordinance; or
 - ▣ Approve the written service agreement and the annexation ordinance.

Recommendation

11

- Staff recommends that the City Council approve the written service agreement and the annexation ordinance as presented.



City of Killeen

Staff Report

File Number: PH-23-020

1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023
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HOLD a public hearing and consider an ordinance requested by Belton Engineering, Inc. on behalf of Bunny Trail Real Estate, LP (**Case #Z22-59**) for the initial rezoning of approximately 221.272 acres of land out of the John E. Maddera Survey, Abstract No. 600, from "A" (Agricultural District) to Planned Unit Development (PUD) with "SF-2" (Single-Family Residential District), "R-3A" (Multifamily Residential District), "RT-1" (Residential Townhouse Single-Family District), and "NBD" (Neighborhood Business District) uses. The properties are locally addressed as 6603 Bunny Trail, Killeen, Texas.

DATE: April 4, 2023.

TO: Kent Cagle, City Manager.

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: Zoning Case #22-59: "A" (Agricultural District) to Planned Unit Development (PUD) with "SF-2" (Single-Family Residential District), "R-3A" (Multi-Family Residential District), "RT-1" (Residential Townhouse Single-Family District), and "NBD" (Neighborhood Business District) uses.

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Bunny Trail Real Estate, LP

Agent: Belton Engineering

Current Zoning: "A" (Agricultural District)

Proposed Zoning: "PUD" w/ "SF-2", "R-3A", "RT-1", and "NBD" uses

Current FLUM Designation: 'Traditional Neighborhood' and 'Neighborhood Commercial'

Summary of Request:

Belton Engineering, Inc., on behalf of Bunny Trail Real Estate, LP (**Case #Z22-59**), has submitted a request for the initial rezoning of approximately 221.272 acres of land out of the John E. Maddera Survey, Abstract No. 600, from "A" (Agricultural District) to Planned Unit Development (PUD) with "SF-2" (Single-Family Residential District), "R-3A" (Multifamily Residential District), "RT-1" (Residential Townhouse Single-Family District), and "NBD" (Neighborhood Business District) uses.

If approved, the applicant intends to develop the property into a mixed-use community with multiple types of single-family residential, apartments, townhomes, commercial, and open space uses as follows:

- 65.2 acres of "SF-2" (Single-Family Residential),
- 39.8 acres of "R-3A" (Multi-Family Residential),
- 58.2 acres of "RT-1" (Residential Townhouse Single-Family)
- 10.5 acres of "NBD" (Neighborhood Business District)

- 32.3 acres of Parkland/Open Space.

The applicant is proposing PUD standards as described in the attached PUD document and associated exhibits. Proposed standards include increased landscaping requirements and standards, architectural standards for single family, townhouse, and multifamily, a repetition standard, vehicular circulation, street trees, enhanced fencing standards, landscaping standards, and a provision for HOA maintained open spaces to include a playground, and trail area.

The applicant has submitted exhibits for the following:

- a) Concept plan
- b) Right-of-way cross section design
- c) Proposed elevations for townhouse residential areas
- d) Proposed elevations for multifamily apartment residential areas
- e) PUD Features and Requirements document

Zoning/Plat Case History:

The subject property is currently located outside of the City limits and is unzoned and unplatted. On December 30, 2022, the applicant submitted a petition for voluntary annexation concurrent with this PUD proposal.

Character of the Area:

North: Single-family lots and existing educational facility zoned "R-1" (Single-Family Residential District)

South: Single-family lots zoned "R-1" (Single-Family Residential District)

West: Single-family lots and existing educational facility zoned "R-1" (Single-Family Residential District)

East: Single-family lots zoned "R-1" (Single-Family Residential District)

Future Land Use Map Analysis:

This property is located within the 'Controlled Growth' area on the Growth Sector Map and is designated as 'Traditional Neighborhood' and 'Neighborhood Commercial' on the Future Land Use Map (FLUM) of the 2022 Comprehensive Plan.

The 'Traditional Neighborhood' place type recreates the pre-suburban development patterns with smaller lots and setbacks, diverse housing typologies, and a mix of uses which include residential uses such as single-family detached, accessory dwelling unit, bungalow courts, townhouses and small plex (2-6 units), non-residential uses such as small-scale and neighborhood scale commercial development, and mixed-use such as live-work or few overs.

The 'Neighborhood Commercial' place type is a predominantly commercial extension of a traditional neighborhood. These are placed along a corridor, often a higher traffic roadway that serves the edge of a neighborhood. This place type promotes residential uses such as townhouse and smallplex, non-residential uses such as small-scale and neighborhood scale commercial development, and mixed-use such as live-work or few overs.

This 'Controlled Growth' growth sector includes areas in the city limits and approved Municipal Utility Districts (MUDs) that have access to city infrastructure in close proximity. Development proposed in this sector will be evaluated for adherence to the Big Ideas and Recommendations of the plan, particularly those related to housing and neighborhood options and improve the fiscal health and sustainability of Killeen.

The request supports or furthers the following 2022 Comprehensive Plan recommendations:

- LU1 - Use place types and complete neighborhoods as building blocks
- LU3 - Encourage incremental evolution of neighborhoods
- NH3 - Diversify housing mix (types and price points)
- NH4 - Build complete neighborhoods
- MC1 - Adjust planning approach to consider non-vehicular trips.
- MC3 - Improve network connectivity
- MC4 - Design neighborhood streets to prioritize people, place, and fiscal productivity.

The Comprehensive Plan's Big Idea #5 promotes neighborhoods, not subdivisions, designed and built to intentionally mix housing and commercial opportunities together so that the majority of daily needs are accessible within a safe and walkable distance that fosters a unique sense of place. Neighborhoods are flexible places with a mixture of housing and services that provide value directly to the people who reside there. The Comprehensive Plan also emphasizes the need for expanding the variety of neighborhood styles, housing types and price points available in the city since affordability and quality of life mean different things to different people.

Additionally, the Comprehensive Plan highlights building a diverse mix of housing options in order to keep housing in a community affordable and to attract and retain people in different stages of life and different socioeconomic levels. Several elements that contribute to creating a neighborhood include housing and commercial options, parks and public spaces, and street design. The applicant's proposed PUD includes a mix of housing types including townhomes, single-family detached, and multifamily apartments. In addition to other neighborhood amenities such as open space with proposed playscapes, pavilion, and greenway trails, and streets that include sidewalks and bike lanes. In neighborhoods, not subdivisions, streets and public spaces are designed to prioritize walkability and human interaction over automobiles, often having narrower travel lanes and more sidewalks, trails, and bike paths.

Neighborhood Analysis:

- This property is located within the Killeen Development Zone #5 (Exhibit A).
- Current land use mix within this area comprises approximately:
 - 7% non-residential
 - 93% residential

Zoning district breakdown in DZ5:

- 20% agricultural,
- 18% non-residential zoning districts,
- 62% residential zoning districts

*These numbers exclude special districts such as conditional or special use permits and planned unit developments.

The '**Traditional Neighborhood**' land use designation promotes:

Use Mix: up to 50% non-residential, 80% residential uses

Primary Uses: Townhouses, Accessory Dwelling Unit (ADU), Smallplex (2-4 Units), Live-work, Residential Over, Neighborhood Commercial

Secondary Uses: Single Family, School, House of Worship

The '**Neighborhood Commercial**' land use designation promotes:

Use Mix: up to 100% non-residential, 25% residential uses

Primary Uses: Small Format Retail, Office

Secondary Uses: Home Based Businesses, Urban Residential

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer, and drainage utility service is located within the City of Killeen municipal utility service area and available to the subject tract.

Transportation and Thoroughfare Plan:

Ingress and egress to the property is as follows:

- From the east: Bunny Trail (110' wide Minor Arterial)
- From the north: Bridgewood Drive (70' wide Collector)
- From the west: Mohawk Drive (110' wide Minor Arterial)
- From the south: Kleberg Drive and Pointer Drive (60' Local Streets) and Bridgewood Drive (70' wide Collector)

Staff estimates that there will be 10,620 trips per day with 1009 peak hour trips generated by the proposed development. Therefore, a Traffic Impact Analysis (TIA) will be required.

Environmental Assessment:

The property has FEMA regulatory Zone A Special Flood Hazard Areas (SFHA) on it. There is a small freshwater pond, a small freshwater emergent wetland, and riverine habitats on the property as identified on the National Wetlands Inventory.

Public Notification:

Staff notified three-hundred and eighty-seven (387) surrounding property owners regarding this request. Of those property owners notified, one-hundred and ninety-one (191) reside outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and fifty-four (54) reside outside of Killeen.

As of date of this staff report, staff has received one (1) written responses regarding the request.

Staff Findings:

Please see the Future Land Use Map Analysis and Neighborhood Analysis sections.

THE ALTERNATIVES CONSIDERED:

The City Council may:

- Disapprove the applicant’s PUD request;
- Approve the proposed PUD with conditions; or
- Approve the PUD as presented by the applicant.

Which alternative is recommended? Why?

Staff recommends approval of the applicant’s request for Planned Unit Development (PUD) as presented.

Staff finds that the request is consistent with the policies and principles of the 2022 Comprehensive Plan, as indicated in the Comprehensive Plan Analysis. Staff finds that the request is compatible with the existing land uses and prevailing the community character.

CONFORMITY TO CITY POLICY:

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. However, long-term maintenance of all proposed municipal infrastructure will be the City’s responsibility.

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:

At their regular meeting on March 6, 2023, the Planning and Zoning Commission recommended approval of the applicant’s request, with the condition that lighting be added to the greenway trail segment, by a vote of 7 to 0.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the Planning and Legal staff.

ATTACHED SUPPORTING DOCUMENTS:

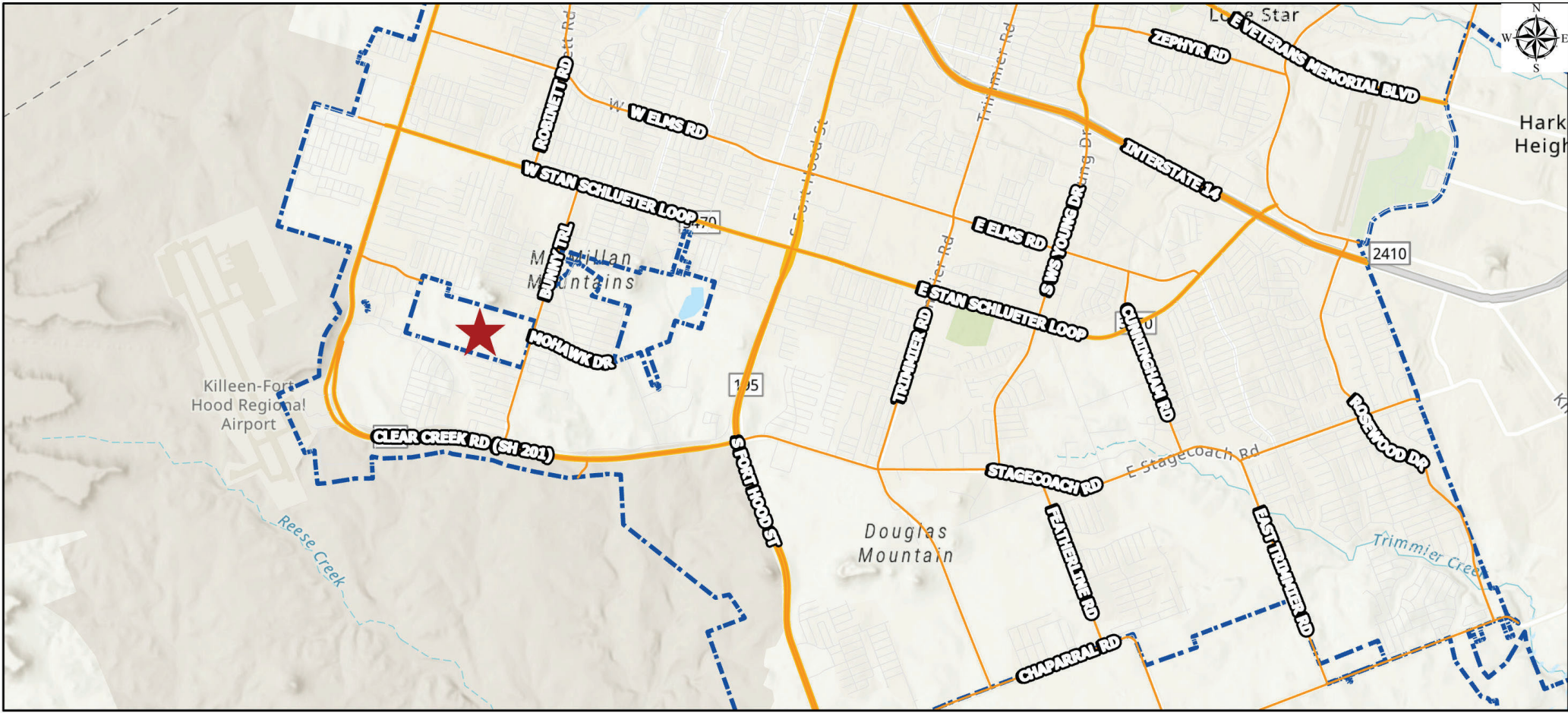
Exhibit
Maps
Site Photos
PUD Document
Response
Minutes
Ordinance
Considerations

Exhibits

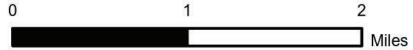
Case #Z22-59: "A" to "PUD" w/ "SF-2", "R-3A", "RT-1", and "NBD" uses



Exhibit A. Killeen Development Zones map. The property is located within the Killeen Development Zone #5.



LOCATION MAP
 Council District: 4



Subject Property Legal Description: A0600BC J E MADDERA, 1-1, ACRES 156.896; A0600BC J E MADDERA, 1-1, ACRES 60.000; A0600BC J E MADDERA, 1-1, ACRES .835

Zoning Case 2022-59

A to PUD w/ SF-2, R-3A, RT-1, and NBD

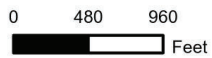
Legend

-  Major Roads
-  City Limits
-  Zoning Case Location



AERIAL MAP

Council District: 4



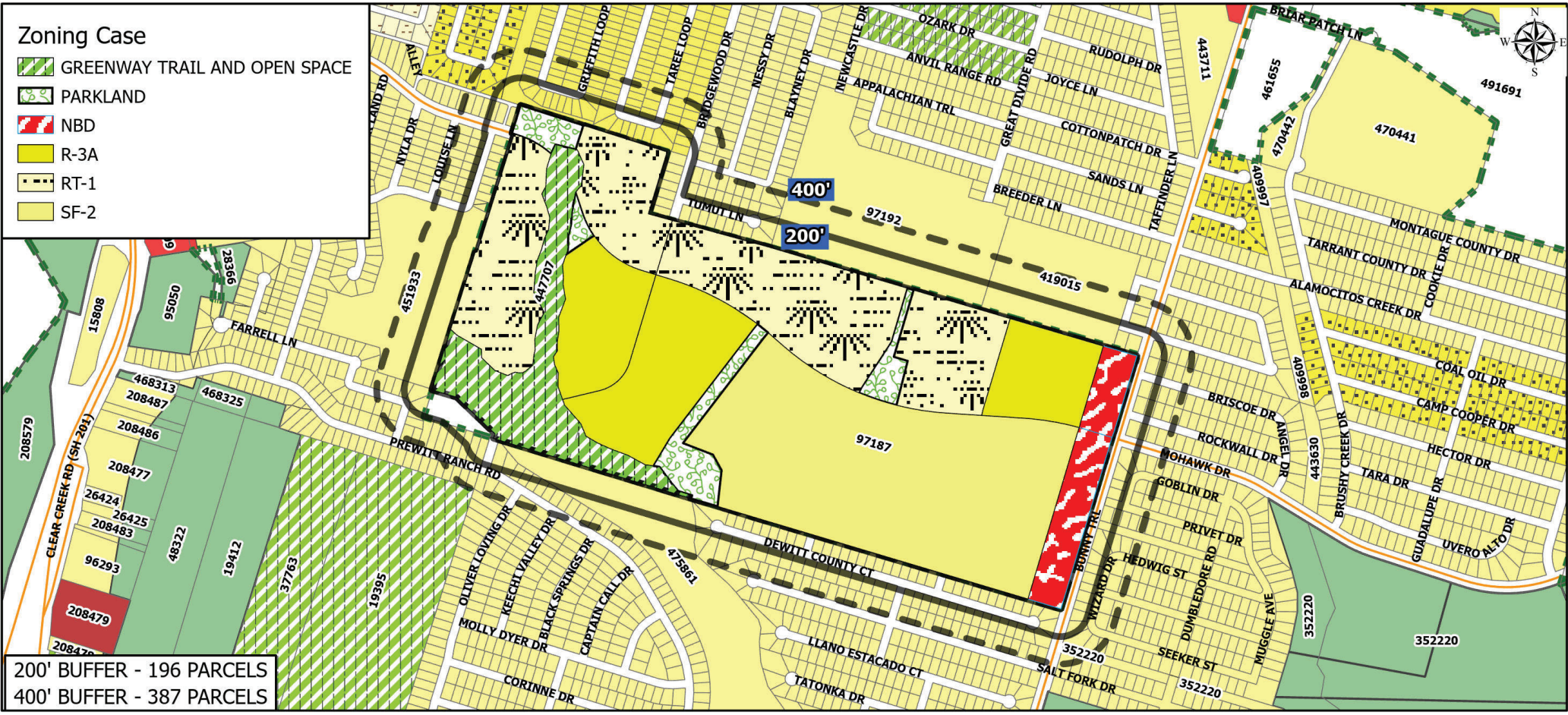
Subject Property Legal Description: A0600BC J E MADDERA, 1-1, ACRES 156.896; A0600BC J E MADDERA, 1-1, ACRES 60.000; A0600BC J E MADDERA, 1-1, ACRES .835

Zoning Case 2022-59

A to PUD w/ SF-2, R-3A, RT-1, and NBD

Legend

- Zoning Cases
- Citylimits



Zoning Case

- GREENWAY TRAIL AND OPEN SPACE
- PARKLAND
- NBD
- R-3A
- RT-1
- SF-2

200' BUFFER - 196 PARCELS
 400' BUFFER - 387 PARCELS

PROPERTY ID MAP
 Council District: 4
 0 500 1,000 Feet

Zoning Case 2022-59
 A to PUD w/ SF-2, R-3A, RT-1, and NBD

Legend

CurrentZoning	B-4	R-2	SF-2
A	PUD	R-MS	
B-3	R-1	R1-A	

Subject Property Legal Description: A0600BC J E MADDERA, 1-1, ACRES 156.896; A0600BC J E MADDERA, 1-1, ACRES 60.000; A0600BC J E MADDERA, 1-1, ACRES .835

SITE PHOTOS

Case #Z22-59: "A" to "PUD" w/ "SF-2", "R-3A", "RT-1", and "NBD" uses



View of the subject property looking south:



SITE PHOTOS

Case #Z22-59: "A" to "PUD" w/ "SF-2", "R-3A", "RT-1", and "NBD" uses



View of the subject property looking southwest:



View of the surrounding property to the north:



Bunny Trail Planned Unit Development (PUD) Standards

A. Purpose and Intent

The Bunny Trail Planned Unit Development (PUD) is composed of 221.3 acres as described in **Exhibit A**, Field Notes. The development of the Property is planned as a high-quality community comprised of commercial uses along Bunny Trail and a mix of residential products, parkland and open space set behind the commercial uses.

The contents of these dimensional standards further explain and illustrate the overall appearance and function desired for this community. **Exhibit B**, Concept Plan has been attached to this PUD to illustrate the design intent for the Property.

B. Land Uses

The Project shall be comprised of 10.5 acres of commercial along the Bunny Trail and 163.2 acres of residential on the interior portions of the Property. The commercial portions of the project shall have a base zoning of NBD Neighborhood Business District. The residential portions of the Project shall have the following base zoning as depicted in **Exhibit B**:

- R-3A Multi-Family Residential
- RT-1 Residential Townhouse Single-Family
- SF-2 Single-Family Residential

The development shall adhere to all provisions for each base zoning district unless otherwise addressed herein.

C. Homeowners' Association

A Homeowners' Association (HOA) shall be formed and responsible for the continuous and perpetual operation, maintenance, and/or supervision of all detention ponds, private park amenities, and monument signs, as applicable, within the development. The articles of incorporation of an owners' association shall be reviewed and approved by the City to ensure compliance with the provisions of the Killeen's Code of Ordinances.

A professional management company shall be hired and contracted with by the Developer for purposes of managing and administering the affairs of the HOA.

D. Non-Residential Development Standards

The NBD Neighborhood Business District area of the Property shall be developed in accordance with City standards.

1. Allowable / Prohibited Uses

The Property will serve both residential and non-residential uses, with strong interaction between the two through the integration of parks, trails and other pedestrian nodes. The non-residential uses on the Property shall provide services to the residential component of the Property as well as the general area. The list of non-residential allowed and prohibited uses on the Non-Residential area of the Property shall comply with the uses defined for NBD (Neighborhood Business District) in the Killeen UDC, Article IV, Division 12B with the following exceptions.

The following are allowed uses in this PUD:

- Restaurant or café with drive-in or drive-through service.

2. Buffers

The required buffer shall be thirty (30) feet when siding or backing on to all residential districts. This may be reduced to twenty (20) feet by planting trees in accordance with the following formula:

A minimum eight feet (8') tall canopy tree shall count for 200 sq. ft.

A minimum eight feet (8') tall non-canopy tree shall count for 100 sq. ft.

The reduction in buffer area shall be calculated based on total square footage of the additional landscaping.

For example:

Lot dimensions: 100' x 300'

Canopy trees proposed: 5

Credit for these trees: $5 \times 200 = 1,000$ sq ft.

Therefore reduction shall be:

1,000 sq. ft. divided by 100 (lot width) = ten feet (10'). and the net buffer required is Gross buffer required minus buffer reduction (30' minus 10' = 20').

No development shall be authorized within the buffer area except for required or permitted landscaping and screening, stormwater detention facilities, and pedestrian walkways. The increased setbacks, which are measured from the property line, shall be required on the property in the higher intensity zoning district, and shall be observed at the time of construction. These buffer requirements are in addition to the screening standards.

E. Residential Development Standards

1. Maximum Number of Units

The maximum number of residential units shall not exceed 1,700 units as described below:

- a. Multi-Family Residential (R-3A)
 - Maximum of 800 units.
- b. Residential Townhouse Single-Family (RT-1)
 - Maximum of 600 units.
- c. Single-Family Residential (SF-2)
 - Maximum of 300 units

2. Lot size and setbacks

The minimum lot width, depth, and setbacks shall be as follows:

	R-3A	RT-1	RT-1 (Alley Loaded)	SF-2
Minimum lot width ¹ :	80 ft.	24 ft.	24 ft.	40 ft.
Minimum lot depth:	100 ft.	100 ft.	100 ft.	110 ft.
Minimum lot area:	8,000 sq. ft.	2,400 sq. ft.	2,400 sq. ft.	4,400 sq. ft.
Front setback ⁵ :	Minimum ⁵ : 0 ft. Maximum: 15 ft.	Minimum: 10 ft. Maximum: 20 ft. Garage door minimum 20 ft.	Minimum: 10 ft. Maximum: 20 ft.	Minimum: 15 ft. Maximum: 20 ft. Garage door minimum 20 ft.
Side setback:	10 ft.	0 ft./7.5 ft. ^{2,3}	0 ft./7.5 ft. ^{2,3}	0 ft. ⁴ / 5 ft.
Rear setback:	10 ft.	15 ft.	15 ft. Garage door minimum 20 ft.	5 ft.
Corner Setback:	15 ft.	15 ft.	15 ft.	15 ft.
Building Height	Maximum: 3 story (35')	Minimum: 2 story Maximum: 3 story (35')	Minimum: 2 story Maximum: 3 story (35')	Maximum: 2 1/2 story (35')

¹ Measured at the front setback.

² Zero feet (0') setback for interior units. Minimum separation between townhouse building shall be 15 feet (15').

³ A 15 feet (15') sideyard shall be provided at the side property line of any townhouse subdivision.

⁴ Zero feet (0') setbacks on zero-lotline lots to allow for side access to rear garages.

⁵ No parking allowed in front setback. Front setback applies to any street facing portion of the site.

Single-Family Residential lot widths shall be measured at the front setback.

No more than 50 percent (50%) of the single-family (SF-2) lots shall be less than 50 feet (50') wide. Lots less than 50 feet (50') wide shall be alley loaded or have garages in rear.

3. Block Length

Residential Block Length (measured from curb to curb) shall not exceed 800' with the following exceptions.

1) Block length adjacent to Arterials shall not exceed 1,300'.

2) Pedestrian openings a minimum of 20 feet (20') wide shall be acceptable to meet the block length requirements of this section.

4. Townhouse Design Standards

The townhouse product may be constructed with each unit on an individually platted lot or constructed as a single lot condominium so long as the minimum building separation and lot area per unit requirement are met. A minimum of 50 percent (50%) of Townhomes shall be alley loaded. Final location of Alley Loaded townhomes to be determined at time of preliminary plat.

5. Townhouse Architectural Standards

The townhouse product shall be designed in compliance with City standards for the RT-1 architectural standards. Figures E.1, E.2 E.3 and E.4, Prototypical Townhouse Product graphically convey the prototypical building massing and form for the townhouse product. The elevations are conceptual only and not intended to specify or restrict the product to the prototypical product elevation.

Figure E.1 – Prototypical Townhouse Product



Figure E.2 – Prototypical Townhouse Product



Figure E.3 – Prototypical Townhouse Product



Figure E.4 – Prototypical Townhouse Product



6. Multi-Family Architectural Standards

The multi-family product shall be designed in compliance with City standards for the R-3A architectural standards. Figures E.4 and E.5, Prototypical Multi-Family Product graphically conveys the prototypical building massing and form for the multi-family product. The elevations are conceptual only and not intended to specify or restrict the product to the prototypical product elevation.

Figure E.4 – Prototypical Multi-Family Product



Figure E.5 – Prototypical Multi-Family Product



7. Single-Family Residential Architectural Standards

- a. All single-family structures shall include the following Architectural elements:
 - (1) Enhanced windows. At least one (1) window on the front elevation shall incorporate use of transoms, bay windows, shutters, dormers, and other similar window enhancements.
 - (2) Architectural details. The front elevation shall incorporate at least two (2) enhanced architectural details such as corbels, quoining, louvered vents, keystones, decorative railings, coach lights, or other architectural features as approved by the executive director of development services or his/her designee.
 - (3) Variable roof design. At least two (2) different roof types (e.g. hip and gable) or two (2) different roof planes of varying height, direction, or pitch shall be provided.
- b. All single-family structures shall also include at least three (3) of the following:
 - (1) Side or rear entry garage. No garage doors shall face the street on the primary elevation. This provision includes homes with side-entry, J-swing, detached, or rear-entry garages.
 - (2) Recessed garage. The exterior wall on either side of the garage door facing the street shall be recessed at least five (5) feet behind any other horizontal building plane on the front elevation.
 - (3) Vertical articulation. A minimum of three (3) wall planes shall be provided on the front elevation, with offsets being at least twelve (12) inches deep.

- (4) Covered front porch. A covered front porch at least sixty (60) square feet in area shall be provided on a single-family home; or at least forty (40) square feet in area per unit on a two-family dwelling. Such porch shall measure not less than five (5) feet in any direction.
- (5) Enclosed patio. A patio or outdoor seating area enclosed on at least three (3) sides by a fence or wall at least thirty-six (36) inches in height.
- (6) Enhanced garage doors. Garage doors shall have accent windows and decorative hardware.

8. Single-Family Residential Landscape Standards

Landscaping on all single-family residential lots within in the Project shall be provided as follows:

- a. A minimum of six (6) three-gallon shrubs shall be planted on each lot.
- b. All portions of the lot not covered by structures, paving, planting areas, or tree beds shall be fully sodded.
- c. Each house shall have either an irrigation system or hose bib attachment within 150 feet (150') of all landscaping required by this section.
- d. Approved non-vegetative ground cover materials (such as washed gravel, bark mulch, lava rock, or other decorative covers generally used in landscaping) may be used to meet the provisions of this section. Where approved, non-vegetative ground cover shall be porous and form a uniform appearance free from weeds and grasses.

F. Vehicular Circulation

1. Roadway Types

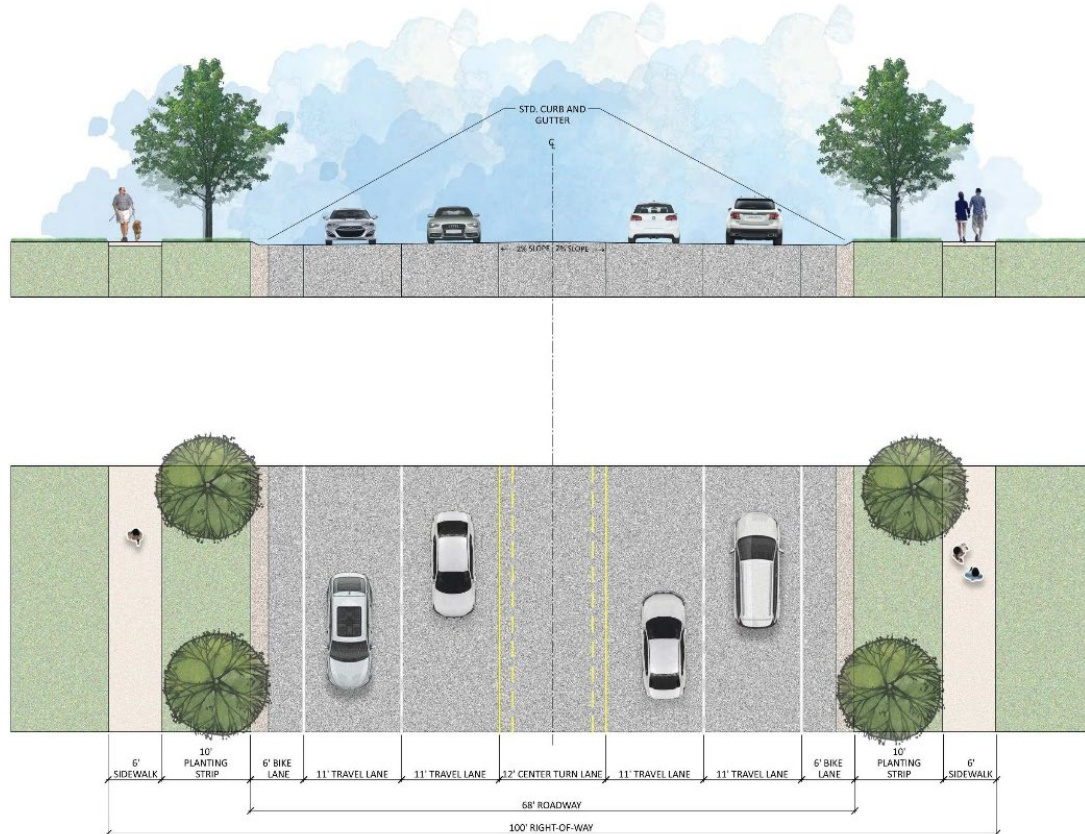
The Bunny Trail PUD vehicular circulation pattern provides access to all parts of the Property from Bunny Trail and the existing stub roadways at the Property boundary. The following roadway alternatives are used within the PUD:

- Minor Arterial Full Buildout (100' Right-of-Way) (see Figure F.1)
- Minor Arterial Initial 3 Lane (100' Right-of-Way) (see Figure F.1b)
- Collector (65' Right-of-Way) (see Figure F.2)
- Local Street (60' Right-of-Way) (see Figure F.3)
- Local Street Alley Loaded Townhomes (50' Right-of-Way) (see Figure F.4)
- Alley (see Figure F.5)

a. Minor Arterial

A Minor Arterial shall be installed from Bunny Lane to the existing terminus of Mohawk Drive as depicted on **Exhibit B**. The Minor Arterial shall have a 100 feet (100') wide right-of-way as depicted on **Figure F.1**. Residential driveways shall not be permitted along this roadway.

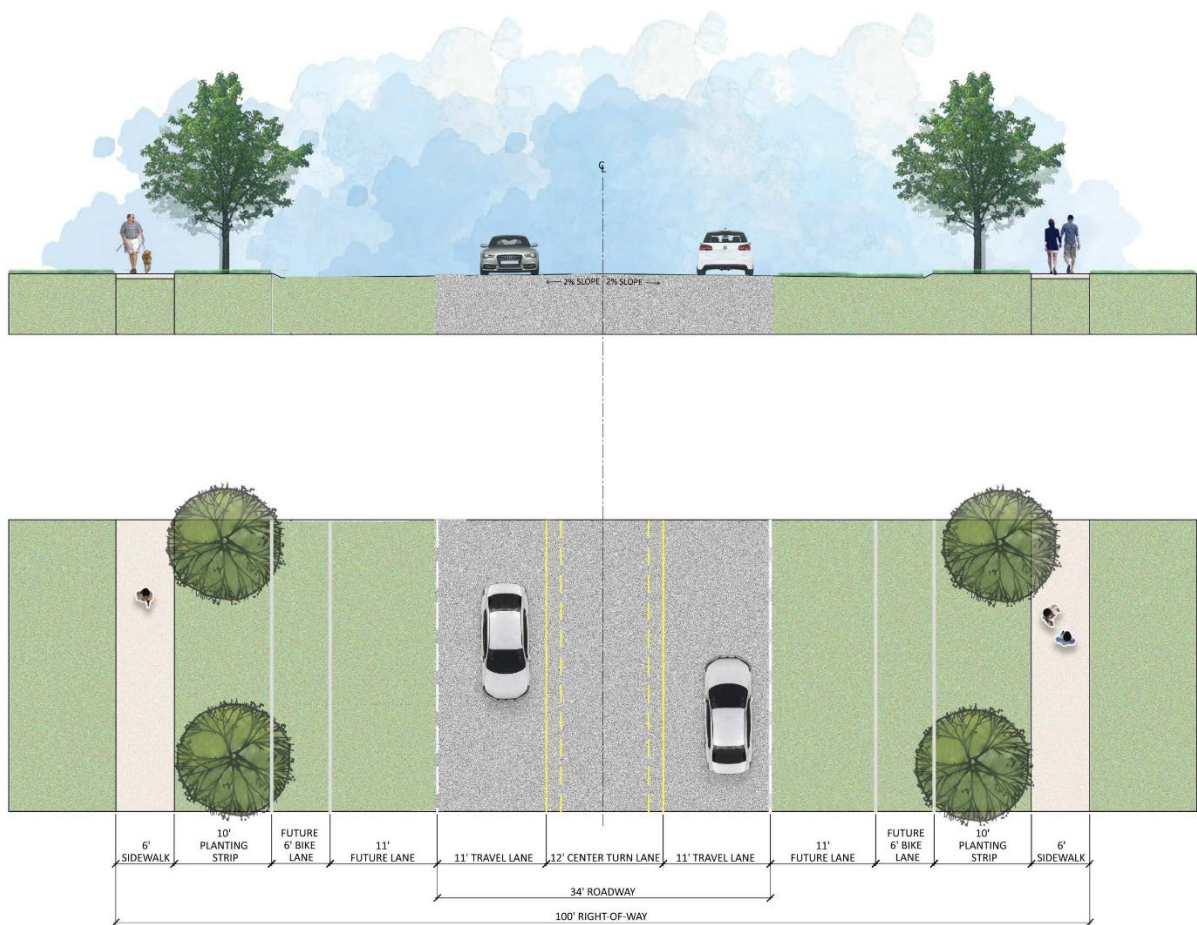
Figure F.1 – Minor Arterial – Full Buildout (100' ROW)



An initial 3 lane Minor Arterial shall be installed from Bunny Lane to the intersection with the future Bridgewood Drive as depicted on **Exhibit B**. The Minor Arterial shall have a 100 feet (100') wide right-of-way as depicted on Figure F.1b. Residential driveways shall not be permitted along this roadway.

The City may elect to widen the Minor Arterial in the future at its own discretion. In the event the City elects to widen the Minor Arterial, the City shall bear the responsibility for all costs incurred, including, but not limited to, the roadway, associated Stormwater systems, all utilities and all necessary landscape replacement resulting from construction.

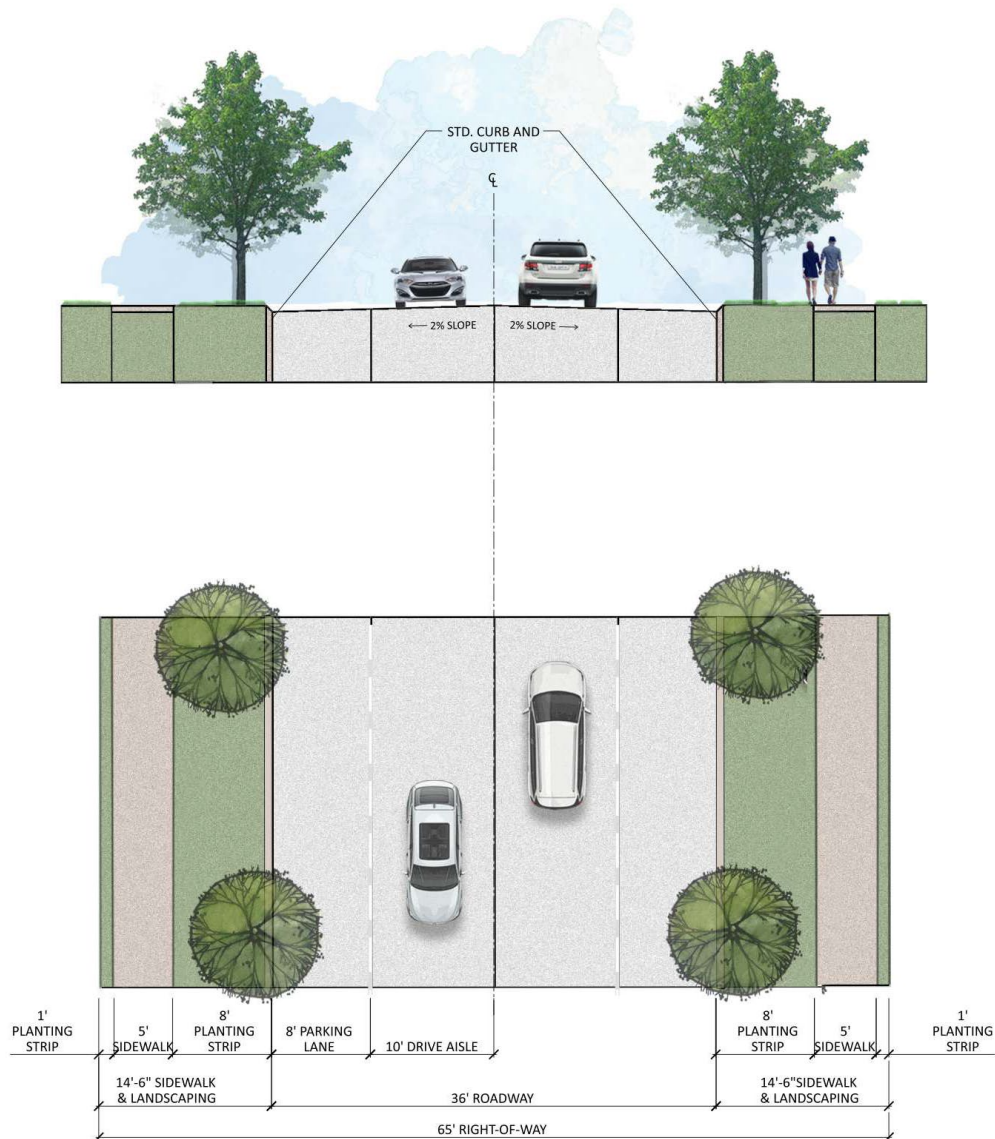
Figure F.1b – Minor Arterial Initial 3 Lanes (100' ROW)



b. Collector

A Collector shall be installed connecting the two existing segments of Bridgewood Drive that terminate at the Project boundary. The alignment of the Collector shall follow the general alignment indicated on **Exhibit B**. The Collector shall have a 65 feet (65') wide right-of-way as depicted on Figure F.2. Residential driveways shall be permitted along this roadway north of the Minor Arterial. Driveways along this roadway south of the Minor Arterial shall be spaced a minimum of 30' apart.

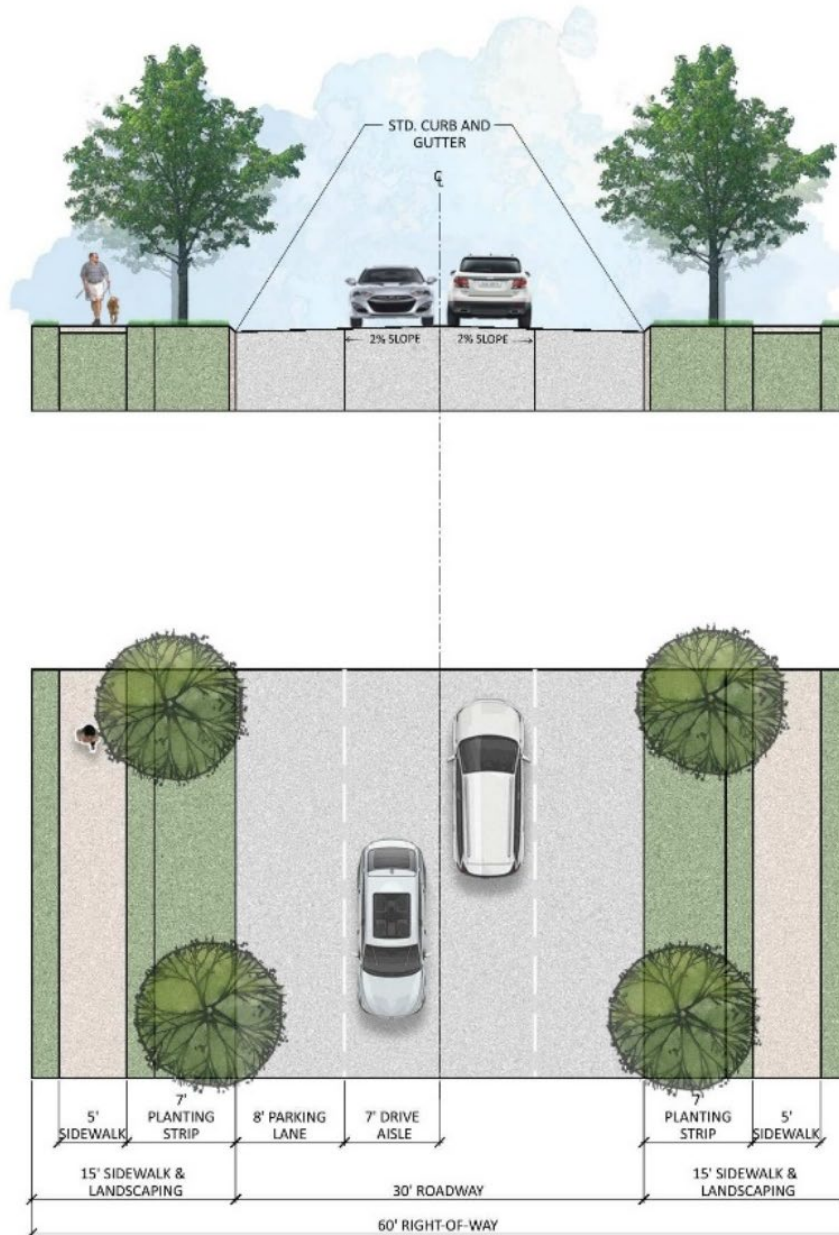
Figure F.2 - Collector (65' ROW)



c. Local Streets

Local streets shall include 30 feet (30') wide pavement located within a 60 feet (60') wide right-of-way as depicted on Figure F.3.

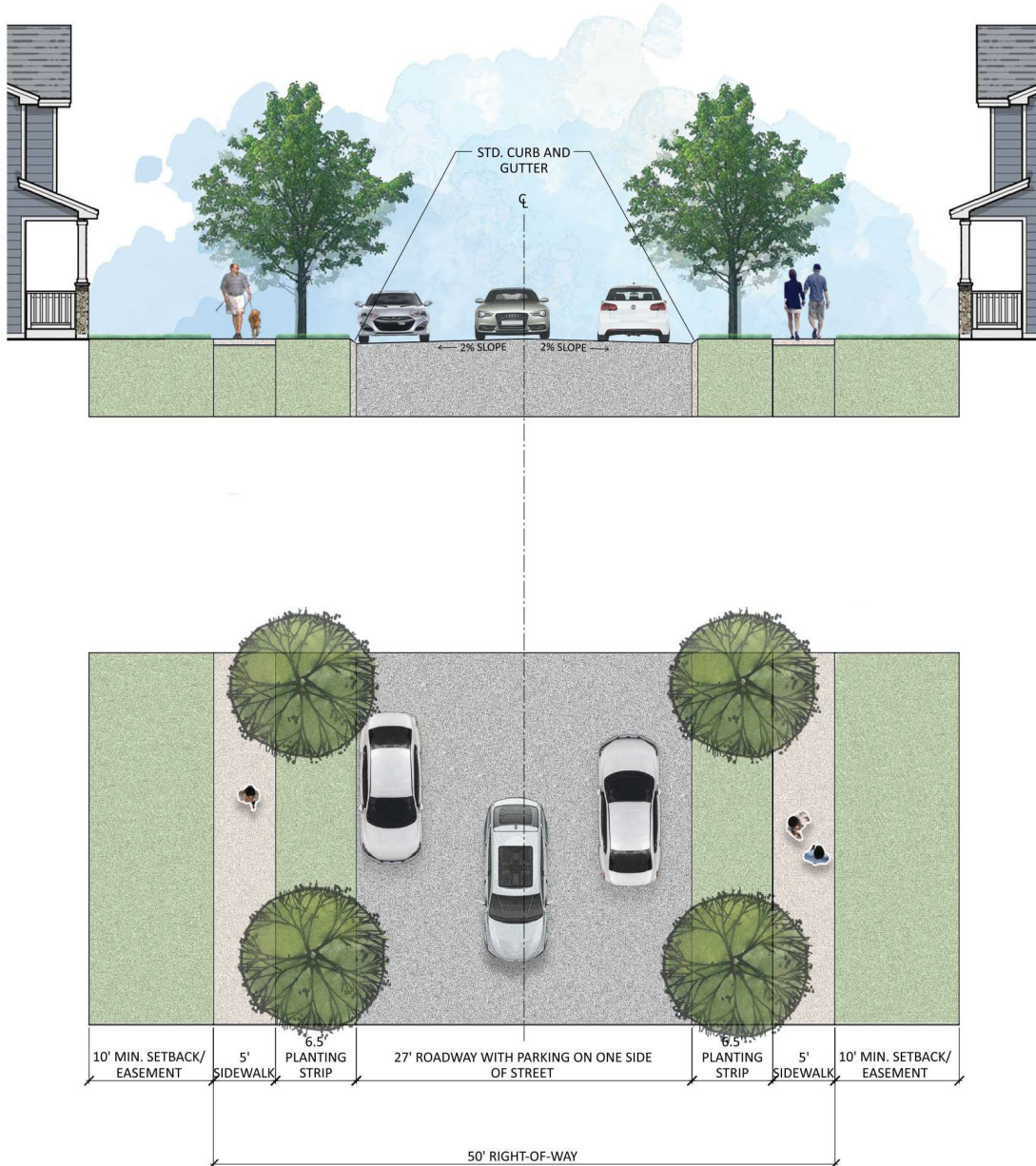
Figure F.3 - Local Street (60')



d. Local Streets - Alley Loaded Townhome

Local streets for Alley Loaded Townhome Parcels shall include 27 feet (27') wide pavement located within a 50 feet (50') wide right-of-way as depicted on Figure F.4.

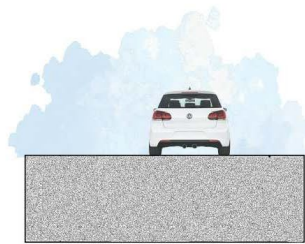
Figure F.4 - Local Street - Alley Loaded Townhomes (50')



e. Alley

Alley Roadways for Alley Loaded Residential Parcels shall include 20 feet (20') of pavement within a 20 foot (20') wide right-of-way as depicted on Figure F.5.

Figure F.5 - Alley



- NOTES:
1. ALLEYS SHALL HAVE AT LEAST TWO ACCESS POINTS TO PUBLIC STREETS
 2. ALL UTILITY ASSIGNMENTS IN THE ALLEYS AND PRIVATE DRIVES SHALL COMPLY WITH THE CITY'S CONSTRUCTION MANUAL AND TERMS FOR UTILITY EASEMENTS FOUND IN THE UDC

2. Street Trees

a. Street Tree Placement

Street trees shall be installed along all streets within the Project. Street streets shall be installed within four feet (4') of sidewalks as depicted on Figures F.1, F.2, F.3 & F.4. The Developer shall be responsible for installing street trees along the entire length of the Minor Arterial and Collector. Street trees along these roadways shall be installed every fifty (50) linear feet. All such street trees shall be installed prior to issuance of a certificate of occupancy for the first house in the Project. Placement of these street trees may be adjusted or modified by the City Engineer to avoid conflicts with site/visibility requirements, utilities or other public or private infrastructure. If solid rock makes planting of street trees impracticable, a comparable number of trees may be planted at an alternative location within the development, as approved by the City Engineer.

Street trees shall be installed along local streets by the homebuilder with the installation of landscaping for each residential house. At least one (1) street tree shall be provided within three feet (3') of the sidewalk (as depicted on Figure F.3) in front of each residential lot. For corner lots, the homebuilder shall be responsible for installing one (1) additional street tree along the side property lines.

Street trees shall be container grown and shall be at least one and one half (1½) inches in caliper and six feet (6') in height at the time of planting.

Root barriers shall not be required upon approval of proposed street tree species list.

b. Approved street tree species

Street tree species shall be selected from the following list:

- 1) Lacey Oak
- 2) Bur Oak
- 3) Chinquapin Oak
- 4) Live Oak
- 5) Shumard Oak
- 6) Texas Red Oak
- 7) Texas Pistache
- 8) Other species as approved by the City Engineer

c. Street Tree Staking

Once installed, street trees shall be staked with seven foot (7') steel posts and shall be painted dark green. Posts shall be driven into the ground a minimum two feet (2') with five feet (5') exposed above ground. Posts shall be consistent height and aligned parallel to adjacent curbs. Twelve-gauge (12-gauge) stranded cable with rubber hose shall be used to protect the tree trunk.

d. Street Tree Maintenance

The owner of any lot with frontage along a public street, including the HOA, shall maintain the street trees and other landscaping growing along the frontage or in the street right-of-way adjacent to the lot, including in any parkland, open space community greenspace lot.

If a street tree dies, the adjacent property owner shall also be responsible for replacing the tree with a new tree at least one and one half (1½) inches in caliper and six feet (6') in height at the time of planting.

G. Fencing Standards

1. Enhanced fencing along Minor Arterial and Collector streets

Enhanced fencing shall be provided by the Developer adjacent to Minor Arterial and Collector streets in those areas where the Minor Arterial or Collector street abuts any developed residential or non-residential property. The fencing shall be solid masonry walls with the following specifications:

- a. Masonry walls shall be constructed of native stone.
- b. Masonry columns shall be provided every one hundred (100) linear feet and at all turn points and corners.
- c. Walls shall be at least six feet (6'), but not more than eight feet (8') tall.
- d. Required walls along the Minor Arterial and Collector streets shall be fully constructed prior to issuance of a certificate of occupancy for the first home in the Project.

2. Fencing on Residential Lots

- a. All fencing on residential lots shall be wood privacy fencing or ornamental wrought iron fencing.
- b. Privacy and ornamental fencing shall not exceed six feet (6') in height.
- c. The finished side of the fence shall face the public right-of-way.
- d. The HOA shall designate a pre-approved fence stain color. All wood fences within the development shall be stained the same color.

H. Landscape Buffer

A minimum 35 feet (35') landscape buffer shall be provided as depicted on **Exhibit B**. A minimum five feet (5') wide sidewalk and landscaping shall be provided within the landscape buffer. Landscaping shall be provided within the landscape buffer at the ratio of two evergreen ornamental trees and four evergreen shrubs per each fifty (50) linear feet of landscape buffer.

I. Parkland and Common Open Space

The Project shall contain recreational and open space opportunities as depicted on **Exhibit B**.

1. Parkland

A minimum of ten (10.0) acres of parkland shall be developed in the Project. All parkland shall be maintained by the City of Killeen. The following amenities shall be provided within the community parks:

- a. *Playscape*. At least one (1) playscape shall be provided. Such playscape shall include at least two (2) slides and two (2) swings.

- b. *Covered pavilion.* A covered pavilion of at least one thousand five hundred (1,500) square feet shall be constructed by the Developer.
- c. *Picnic tables.* At least two (2) picnic tables shall be provided by the Developer within the park area.
- d. *Benches.* At least two (2) benches shall be provided by the Developer within the park area. At least one bench shall be located within ten feet (10') of the playscape.
- e. *Trash receptacle.* At least one (1) trash receptacle shall be provided by the Developer within the park area.
- f. *Pet waste stations.* At least two (2) pet waste stations shall be provided by the Developer within the park area.

2. Open Space

A minimum of twenty (20.0) acres of open space shall be provided within the Project. In conjunction with proposed Parkland, Open Space areas as depicted on **Exhibit B** shall fulfill any parkland dedication requirements of the city. All open space shall be maintained by the City of Killeen. The developer shall install 6' trail connections from residential development to proposed Greenway Trail as part of the plat process. Trails shown on approved **Exhibit B** shall be installed by Developer and maintained by the city. Such Greenway Trails will be twelve feet (12') in width and constructed out of concrete in accordance with the Parks, Open Space, and Trails Master Plan. Furthermore, any costs associated with construction of Trails shown on approved **Exhibit B** shall count towards Park Development Fees required by the City.

3. Drainage Tract

All drainage tracts and associated infrastructure within the development shall be owned and maintained by the HOA.

J. Subdivision Entry Signs

One (1) subdivision entry sign shall be constructed by the Developer at the intersection of Bunny Trail and Mohawk Drive. The subdivision entry sign and associated landscaping shall be owned and maintained by the HOA. The City shall require a right-of-way occupation license prior to the placement of any sign within a City right-of-way.

Exhibit A Field Notes

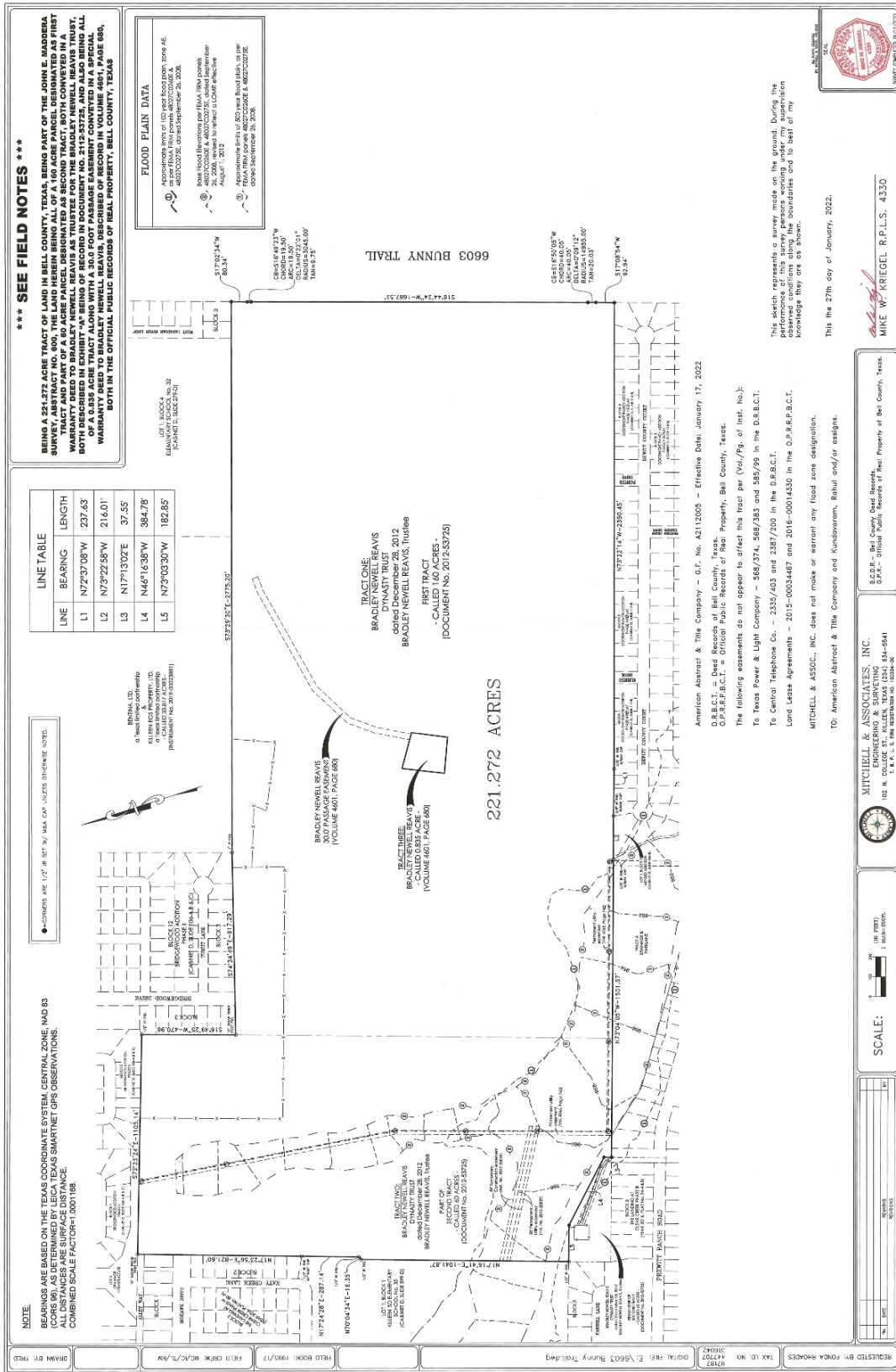


Exhibit B Concept Plan

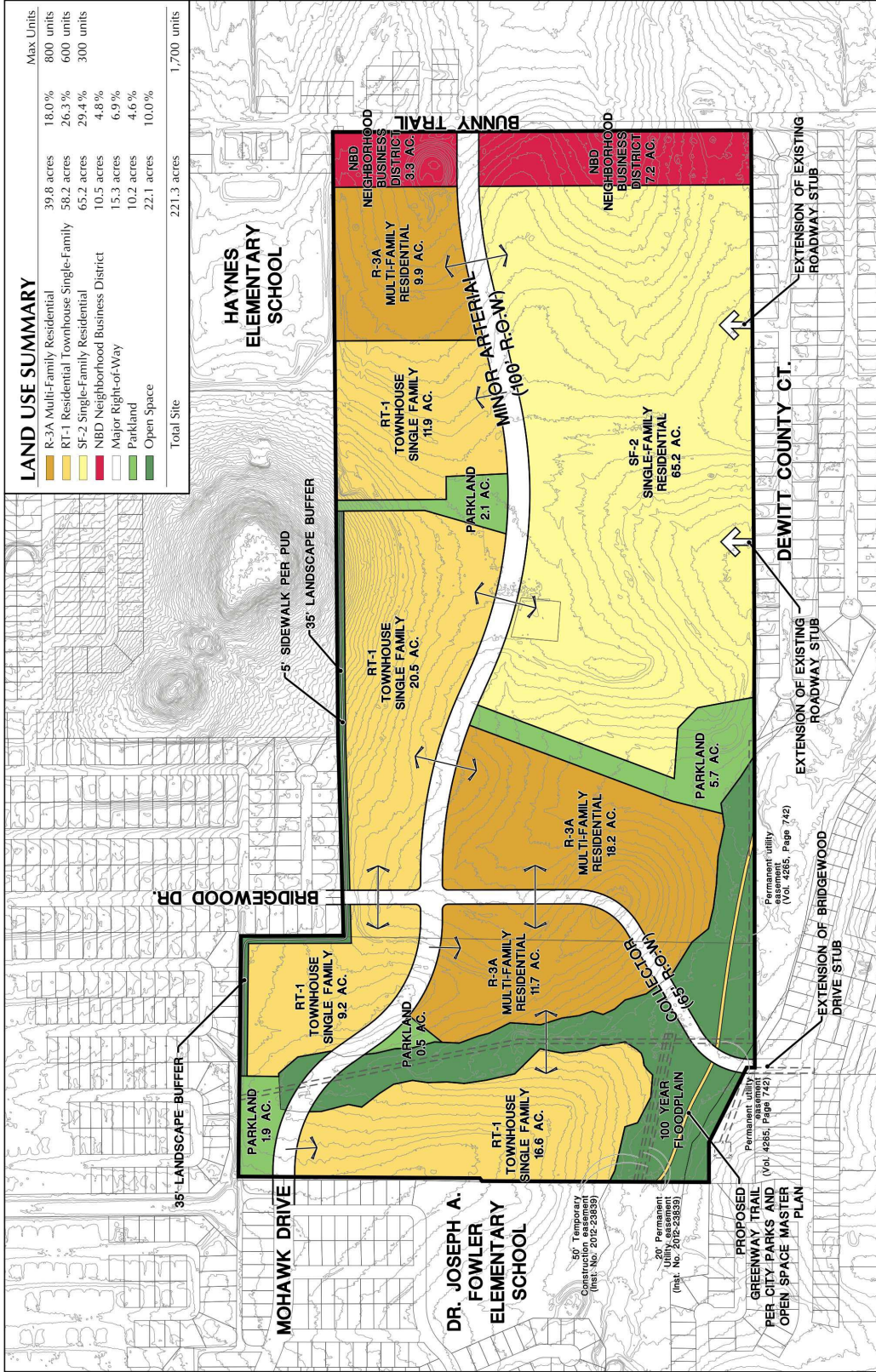


Exhibit B
Concept Plan

Scale: 1" = 600'

Date: December 07, 2022

North

Bunny Trail Planned Unit Development

SEC Planning, LLC

Land Planning + Landscape Architecture + Community Branding

ALSTN, TEXAS
13728K-2000
13728K-2000-0000 • info@secplanning.com

SHEET FILE: J:\2022\BIS FERC\CaseFile\PLAN\BIS\BunTrailPlan_PUD_2022-12-07.dwg
 Base mapping compiled from best available information. All map data
 should be considered as preliminary. In the event of a discrepancy, the
 official survey data shall prevail. The plan, including all notes and
 attachments, represents a conceptual plan and does not
 represent any regulatory approval. Plan is subject to change.

CUT HERE

YOUR NAME: ROBERT O. WHISENHUNT (SR.) **PHONE NUMBER:** 1254-247-0750

CURRENT ADDRESS: 6304 B. TEMORA LA.; KILLEEN, TX 76549

ADDRESS OF PROPERTY OWNED: SAME AS ABOVE

COMMENTS: NEW HOUSING IS GOOD PROGRESS FOR KILLEEN AND OUR AREA. ATTENTION MUST BE DIRECTED TO VEHICLE TRAFFIC AT INTERSECTION 195/W. STAN SCHLUTER LOOP; INTERSECTION W. STAN SCHLUTER LOOP/CLEAR CREEK RD. (SH 701), AND ENTRY/EXIT TRAFFIC ON BUNNY TRL. THESE ROADWAYS WILL BE MAJOR TRAFFIC CONGESTION POINTS UNLESS IMPROVED PRIOR TO NEW HOUSING CONSTRUCTION.

SIGNATURE: *Robert O. Whisenand* **REQUEST:** "DA" to "PUD" w/"SF-2", "R-3A", "RT-1" SPO #Z22-59 127

RECEIVED

MAR 10 2023

PLANNING

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
MARCH 6, 2023**

**CASE #Z22-59
“A” to PUD W/ “SF-2”, “R-3A”, “RT-1”, & “NBD”**

HOLD a public hearing and consider a request submitted by Belton Engineering Inc. on behalf of Bunny Trail Real Estate, LP (**Case #Z22-59**) for the initial rezoning of approximately 221.272 acres of land out of the John E. Maddera Survey, Abstract No. 600, from “A” (Agricultural District) to Planned Unit Development (PUD) with “SF-2” (Single-Family Residential District), “R-3A” (Multifamily Residential District), “RT-1” (Residential Townhouse Single-Family by District), and “NBD” (Neighborhood Business District) uses. The property is locally addressed as 6603 Bunny Trail, Killeen, Texas.

Ms. Meshier presented the staff report for this item. She stated that if approved, the applicant intends to develop the subject property into a mixed-use community with multiple types of single-family residential, apartments, townhomes, commercial, and open space uses.

Ms. Meshier also stated that staff finds that the request is consistent with the policies and principles of the 2022 Comprehensive Plan. Staff finds that the proposed PUD is consistent with the ‘Traditional Neighborhood’ designation of the Future Land Use Map. Therefore, staff recommends approval of the request as presented.

There is a floodway that runs through this property that will be dedicated to the City as parkland.

Staff notified three hundred and eighty-seven (387) surrounding property owners regarding this request. Of those notified, one hundred and ninety-one (191) reside outside of the 200-foot notification boundary required by the State, and within the 400-foot notification boundary required by Council; and fifty-four (54) property owners reside outside of Killeen. To date, staff has received zero (0) written responses regarding this request.

Commissioner Jones requested to see the concept plan and asked about connectivity to Clear Creek. Ms. Meshier explained that the proposed PUD will include the construction of Mohawk Drive, which will provide connectivity from Bunny Trail though to Clear Creek.

Chairman Minor asked about the condition of Bunny Trail and about the City’s plans to rebuild it. Mr. Zagars stated that, if the zoning is approved, the developer will be required to submit a Traffic Impact Analysis (TIA). Any required improvements to Bunny Trail will be specified within the TIA.

Commissioner Jones asked if the developer would be responsible for improvements to Bunny Trail adjacent to the proposed development. Mr. Zagars stated that Bunny Trail is a City project, so the City will be responsible for rebuilding that segment of the road. Ms. Meshier stated that Bunny Trail will be finished before the proposed development begins. Mr. Zagars stated that the Bunny Trail project will commence before the end of 2023.

Chairman Minor asked what the Controlled Growth designation in the Comprehensive Plan allows for. Ms. Meshier that the Controlled Growth is intended to ensure that new development is fiscally sustainable. She also noted that one of the primary characteristics that helps to ensure fiscal sustainability is density. She stated that the fiscal impact analysis of the proposed development indicates that it will generate enough tax revenue to be self-sustaining.

Commissioner Jones asked if the single-family would be available for sale or for rent. Ms. Meshier stated that the applicant is present to answer that question.

Ms. Lina Chtay of Belton Engineering was present to represent the request.

Ms. Chtay stated that the houses would be for sale, not for rent. The intent is to have homeowners. Chairman Minor asked what the sale price of the homes would be. Ms. Chtay stated that the minimum price would be \$270,000 due to the amenities being added, including the masonry wall, park amenities, and trails.

Mr. Jones asked if these trails would have adequate light for the safety of the citizens. Ms. Meshier stated that there is nothing in the PUD that addresses lighting of the trail. She also noted that the greenway trail area would be dedicated to the City.

Chairman Minor asked if the proposed townhome dwellings would have alleys in the back, or if the garages would face the street. Ms. Meshier stated that, per the PUD, 50% of the townhomes will be alley loaded.

Chairman Minor opened the public hearing at 5:19 p.m.

With no one wishing to speak, the public hearing was closed at 5:20 p.m.

Commissioner Jones made a motion to approve the applicant's request as presented, with the condition that lighting be added to the greenway trail segment. Commissioner Wilson seconded, and the motion passed by a vote of 7 to 0.

ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 221.272 ACRES OF LAND OUT OF THE JOHN E. MADDERA SURVEY, ABSTRACT NO. 600, FROM “A” (AGRICULTURAL DISTRICT) TO PLANNED UNIT DEVELOPMENT (PUD) WITH “SF-2” (SINGLE-FAMILY RESIDENTIAL DISTRICT), “R-3A” (MULTIFAMILY RESIDENTIAL DISTRICT), “RT-1” (RESIDENTIAL TOWNHOUSE SINGLE-FAMILY DISTRICT), AND “NBD” (NEIGHBORHOOD BUSINESS DISTRICT) USES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Belton Engineering, on behalf of Bunny Trail Real Estate, LP, has presented to the City of Killeen, a request for an amendment of the zoning ordinance of the City of Killeen by changing the classification of approximately 221.272 acres of land out of the John E. Maddera Survey, Abstract No. 600, from “A” (Agricultural District) to Planned Unit Development (PUD) with “SF-2” (Single-Family Residential District), “R-3A” (Multifamily Residential District), “RT-1” (Residential Townhouse Single-Family District), and “NBD” (Neighborhood Business District) uses, said request having been duly recommended for approval of the request, with condition that lighting be added to the greenway trail segment, by the Planning and Zoning Commission of the City of Killeen on the 6th day of March 2023, 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 11th day of April 2023, 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 applicant’s zoning request should be approved as recommended by the Planning and Zoning Commission.

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

SECTION I. That the zoning classification of approximately 221.272 acres of land out of the John E. Maddera Survey, Abstract No. 600, from “A” (Agricultural District) to Planned Unit Development (PUD) with “SF-2” (Single-Family Residential District), “R-3A” (Multifamily Residential District), “RT-1” (Residential Townhouse Single-Family District), and “NBD” (Neighborhood Business District) uses, said request having been duly recommended for approval of the request with condition that lighting be added to the greenway trail segment as recommended by the Planning and Zoning Commission, for the property locally addressed as 6603 Bunny Trail, 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 11th day of April 2023, 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:

Debbie Nash-King, MAYOR

ATTEST:

Laura J. Calcote, CITY SECRETARY

APPROVED AS TO FORM

Holli C. Clements, CITY ATTORNEY

Case #22-59

Ord. #23-___

CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2nd 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

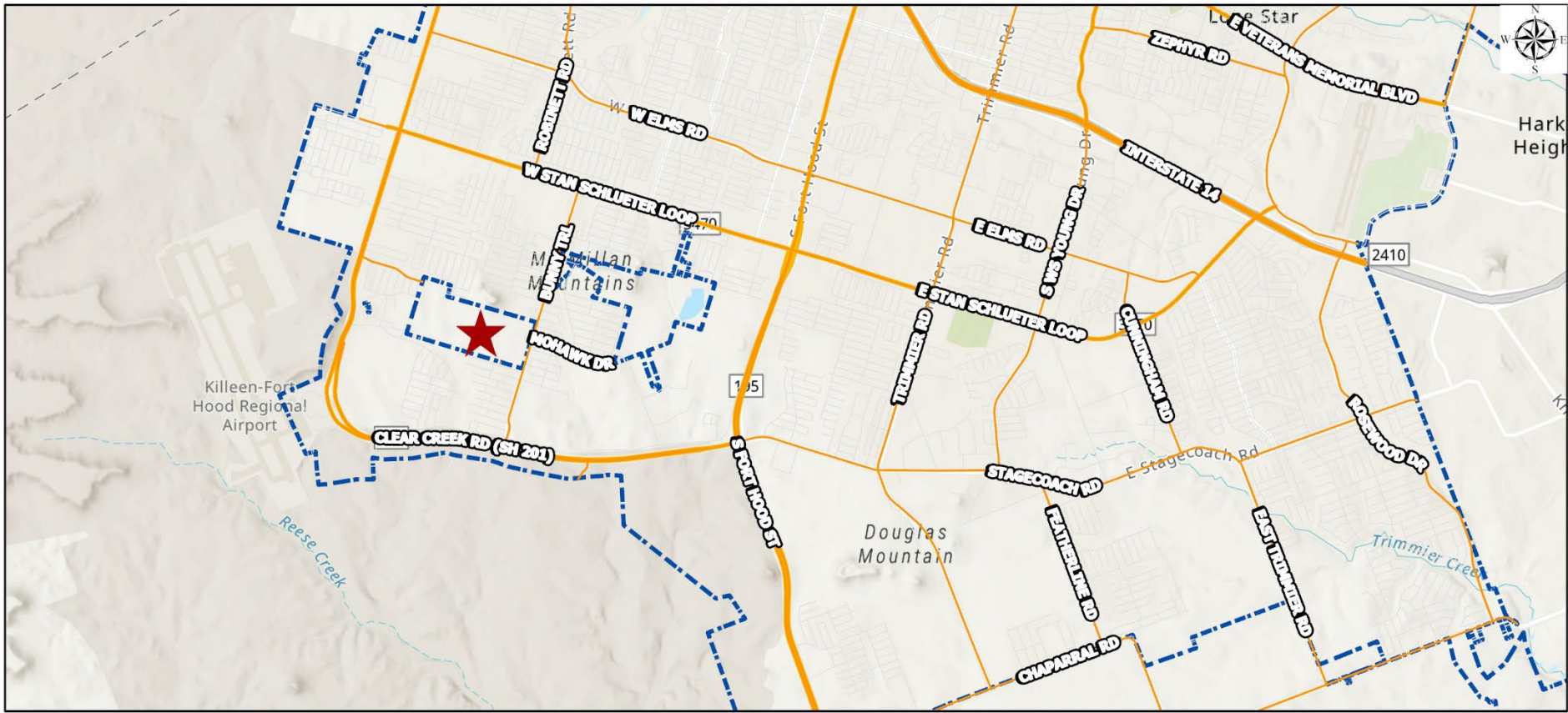
1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
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.



CASE #Z22-59: “A” TO PUD W/
“SF-2”, “R-3A”, “RT-1” & “NBD”

Case #Z22-59: “A” to “PUD”

HOLD public hearing and consider a request submitted by Belton Engineering, Inc. on behalf of Bunny Trail Real Estate, LP (**Case #Z22-59**) for the initial rezoning of approximately 221.272 acres of land out of the John E. Maddera Survey, Abstract No. 600, from “A” (Agricultural District) to Planned Unit Development (PUD) with “SF-2” (Single-Family Residential District), “R-3A” (Multifamily Residential District), “RT-1” (Residential Townhouse Single-Family District), and “NBD” (Neighborhood Business District) uses. The property is locally addressed as 6300 South Fort Hood Street, Killeen, Texas.



LOCATION MAP
 Council District: 4



Subject Property Legal Description: A0600BC J E MADDERA, 1-1, ACRES 156.896; A0600BC J E MADDERA, 1-1, ACRES 60.000

Zoning Case 2022-59

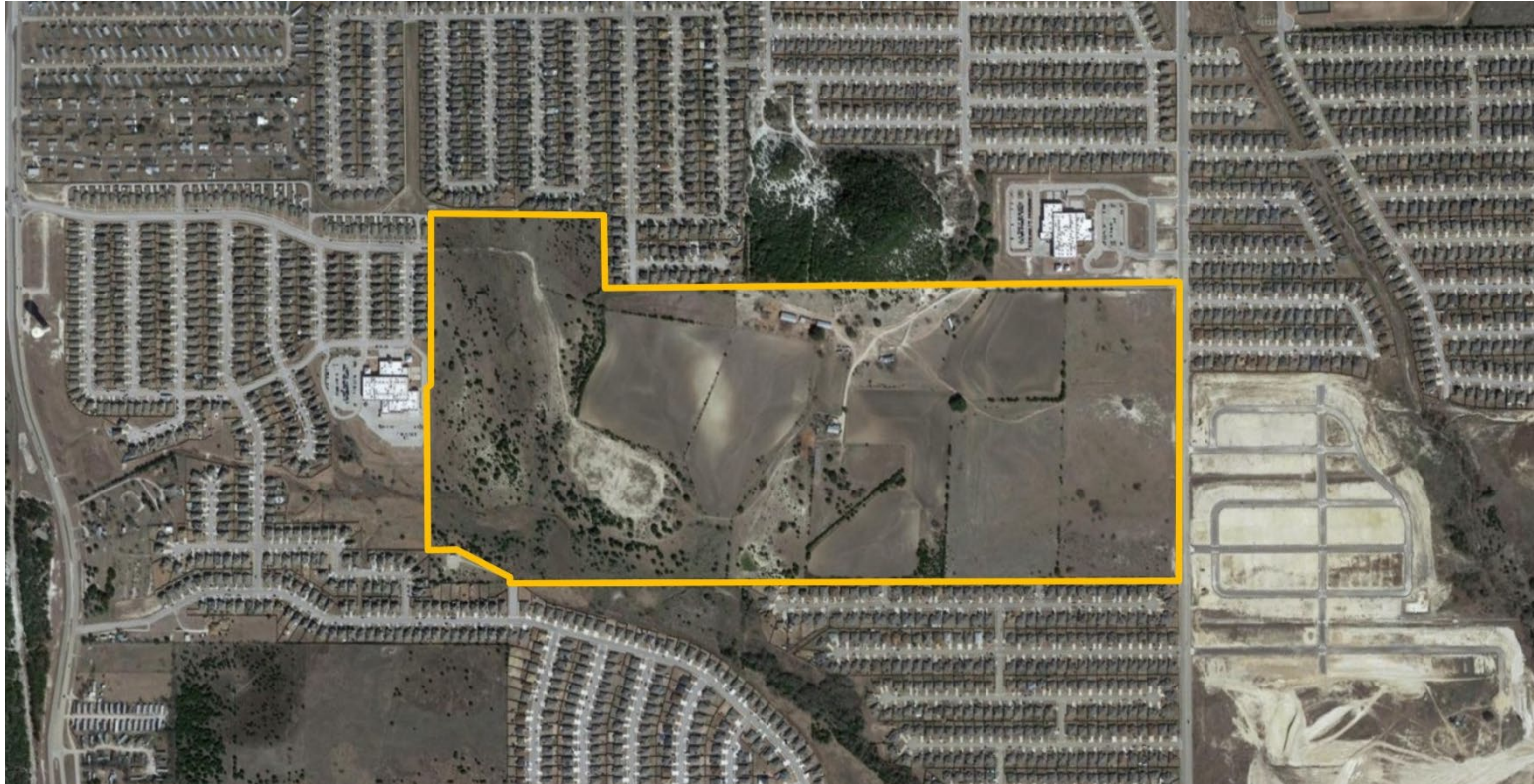
A to PUD w/ SF-2, R-3A, RT-1, and NBD

Legend

-  Major Roads
-  City Limits
-  Zoning Case Location

Case #Z22-59: “A” to “PUD”

4



Case #Z22-59: “A” to “PUD”

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- If approved, the applicant intends to develop the property into a mixed-use community with single-family dwellings, apartments, townhomes, commercial uses, and open space as follows:
 - ▣ 65.2 acres of “SF-2” (Single- Family Residential)
 - ▣ 39.8 acres of “R-3A” (Multi-Family Apartment Residential)
 - ▣ 58.2 acres of “RT-1” (Residential Townhouse Single-Family)
 - ▣ 10.5 acres of “NBD” (Neighborhood Business District)
 - ▣ 32.3 acres of Parkland/Open Space

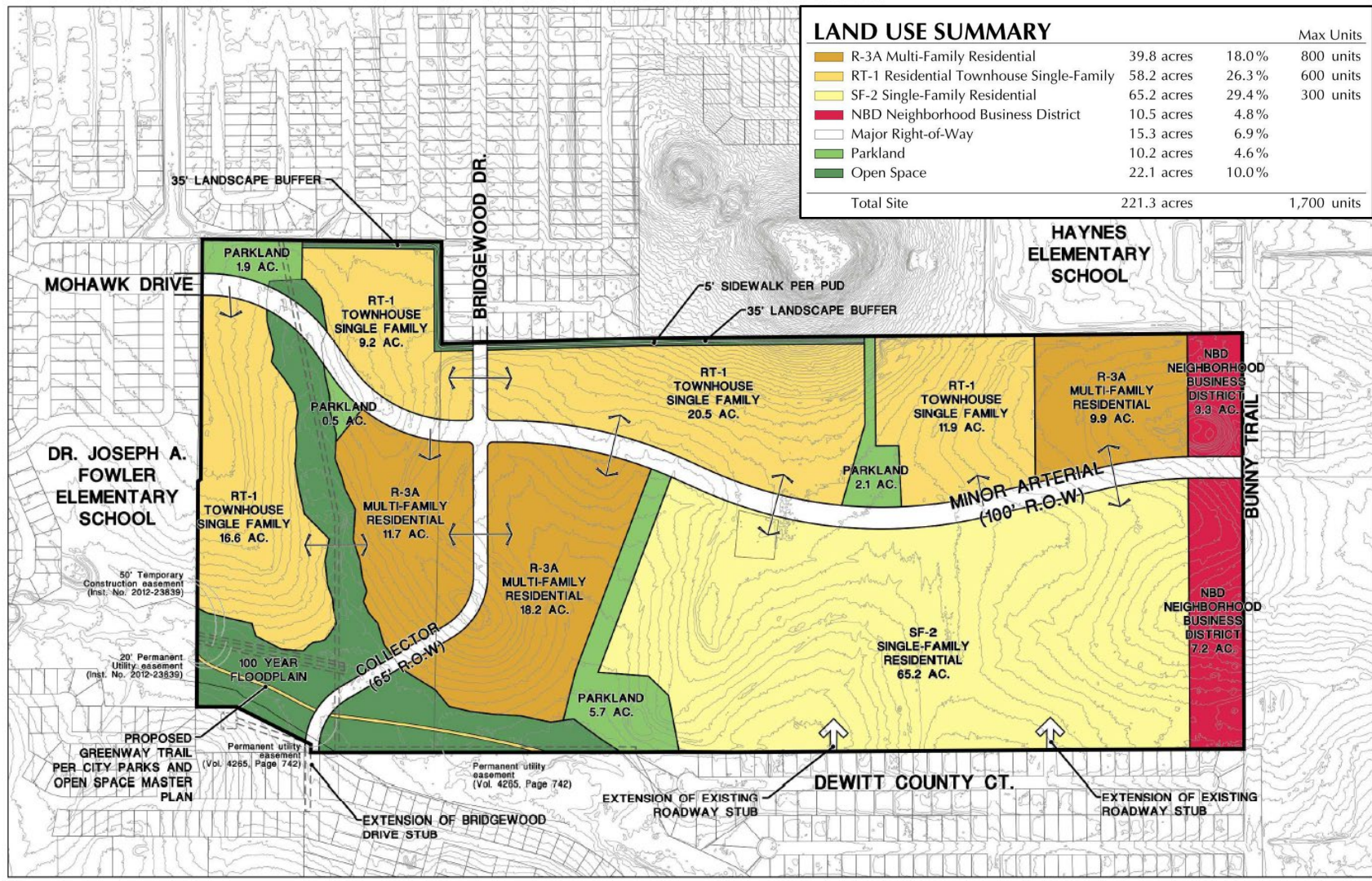
Case #Z22-59: “A” to “PUD”

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- Proposed number of dwelling units:
 - ▣ “SF-2” (Single- Family Residential): 300 units
 - ▣ “R-3A” (Multi-Family Apartment Residential): 800 units
 - ▣ “RT-1” (Residential Townhouse Single-Family): 600 units
- Total Single-Family Units: 900 units (2.99 persons per unit)
- Total Multi-Family Units: 800 units (2.60 persons per unit)
- **Estimated population at full build-out: 4,771**

LAND USE SUMMARY

			Max Units
	R-3A Multi-Family Residential	39.8 acres	800 units
	RT-1 Residential Townhouse Single-Family	58.2 acres	26.3% 600 units
	SF-2 Single-Family Residential	65.2 acres	29.4% 300 units
	NBD Neighborhood Business District	10.5 acres	4.8%
	Major Right-of-Way	15.3 acres	6.9%
	Parkland	10.2 acres	4.6%
	Open Space	22.1 acres	10.0%
Total Site		221.3 acres	1,700 units



Case #Z22-59: “A” to “PUD”

8

- The proposed PUD standards include stipulations regarding:
 - A mandatory HOA;
 - Buffering standards between commercial and residential uses;
 - Architectural standards;
 - Enhanced roadway standards;
 - Street tree requirements;
 - Enhanced fencing standards;
 - Parkland dedication and development requirements; and
 - Subdivision entryway signage.

Case #Z22-59: “A” to “PUD”

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The proposed development includes approximately 32.3 acres of parks and open space, including the following amenities:

- Greenway trail segment (12-foot concrete), which will connect to future regional trail network, as required in the Parks Master Plan;
- Open space connectivity from Mohawk Drive to planned community park (McMillan Mountain) to the north;
- At least one playscape with two (2) slides and two (2) swings;
- Covered pavilion of at least 1,500 square feet;
- Picnic tables, trash receptacles, and pet waste stations throughout.

Case #Z22-59: “A” to “PUD”

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- As a condition of the PUD, at least 50 percent (50%) of the townhomes shall be alley loaded.



Prototypical Alley-Loaded Townhome



Prototypical Front-Loaded Townhome

Case #Z22-59: “A” to “PUD”

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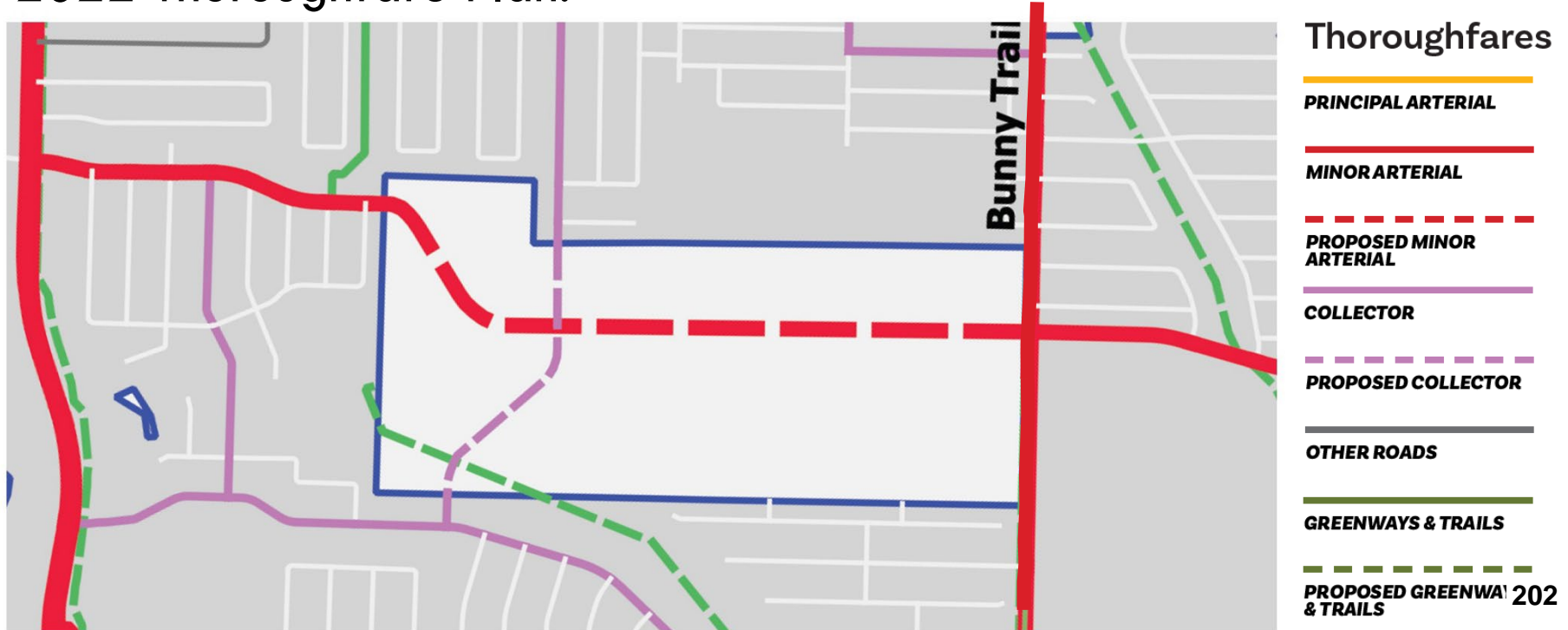
Prototypical Multifamily Product



Prototypical Multifamily Product
201

Case #Z22-59: “A” to “PUD”

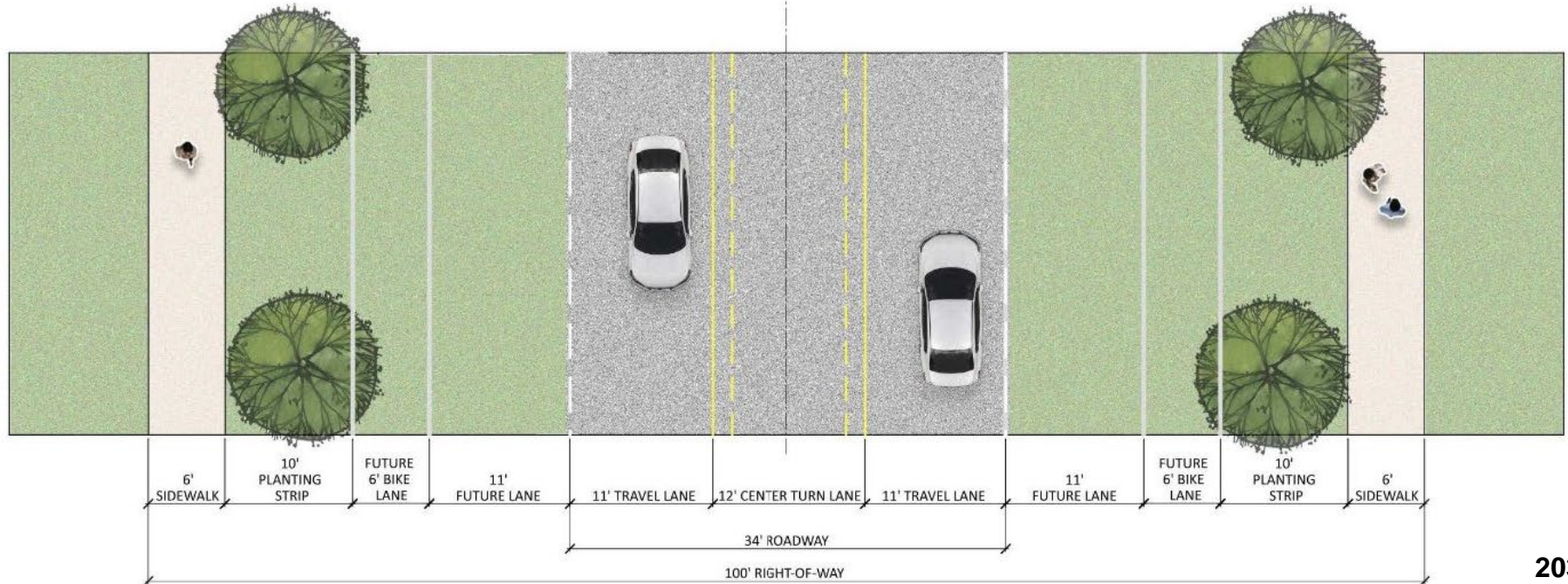
2022 Thoroughfare Plan:



Case #Z22-59: “A” to “PUD”

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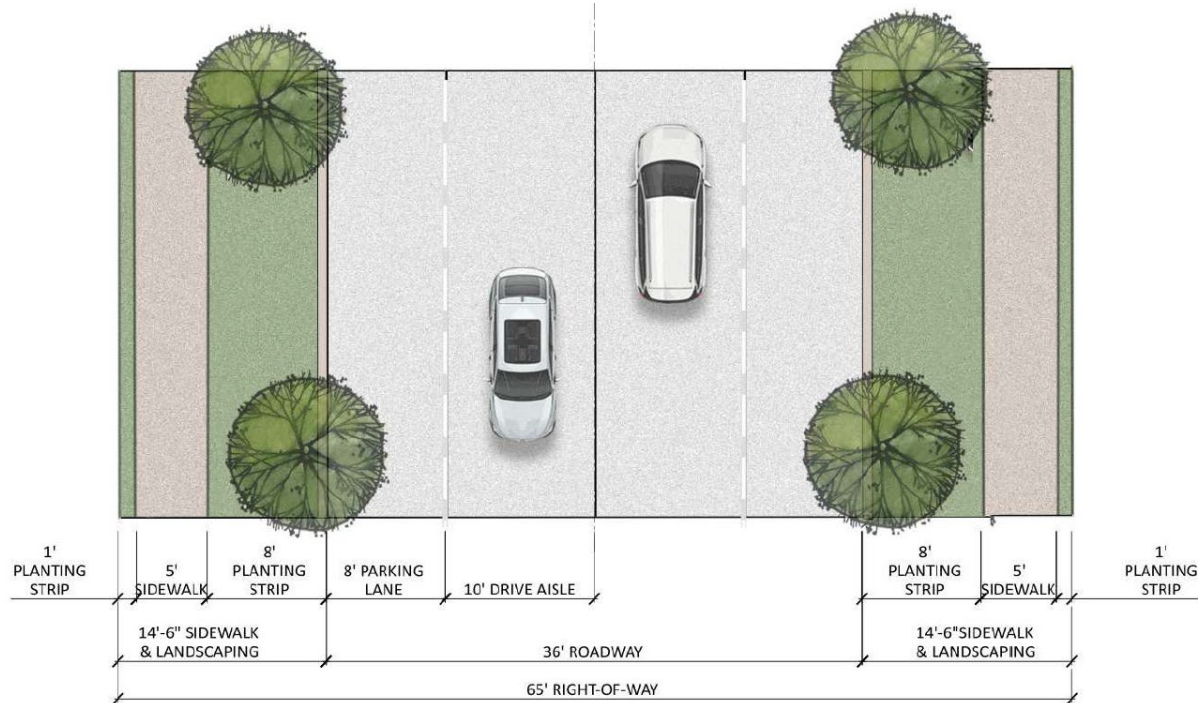
Mohawk Drive (Minor Arterial) Section – initial construction



Case #Z22-59: “A” to “PUD”

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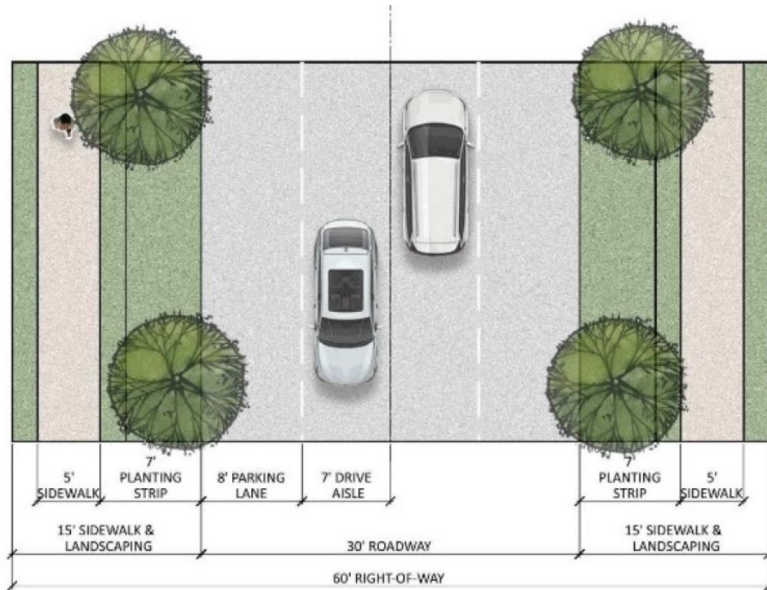
Bridgewood Drive (Collector) Section



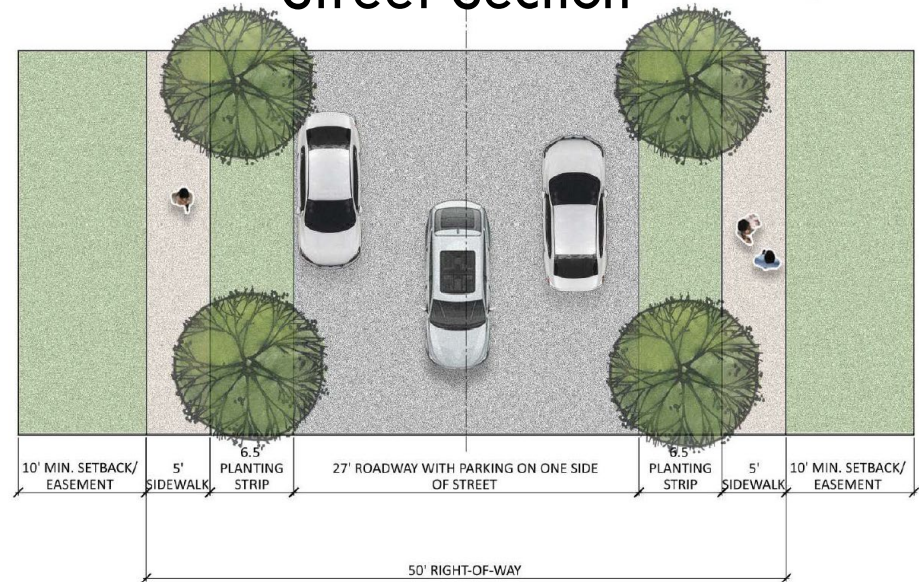
Case #Z22-59: “A” to “PUD”

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Local Street Section



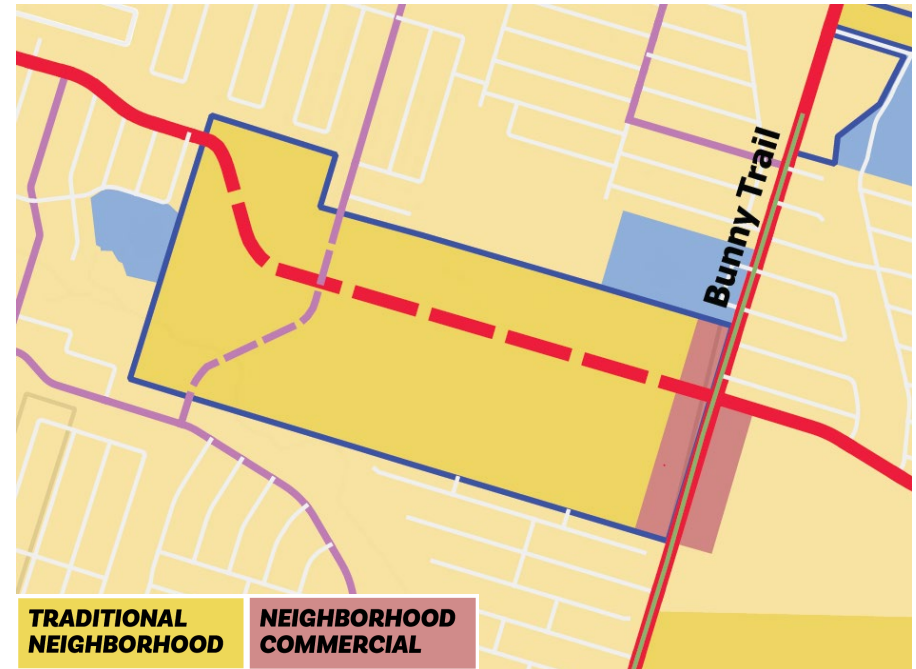
Alley Loaded Townhome Street Section



Comprehensive Plan Analysis

16

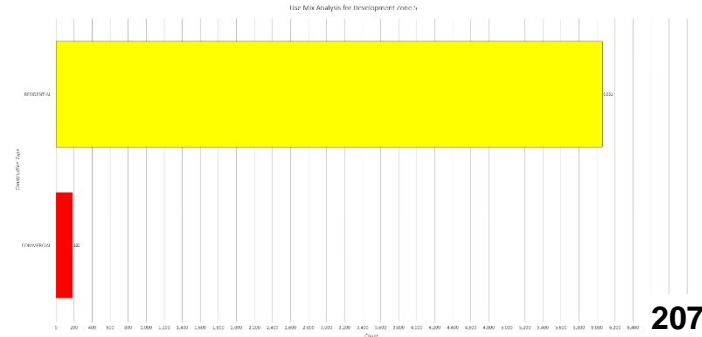
- 'Traditional Neighborhood' promotes a use mix of up to 50% non-residential and 80% residential uses.
- 'Neighborhood Commercial' promotes a use mix of up to 100% non-residential and 25% residential uses.



Comprehensive Plan Analysis

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- ❑ Located within Killeen Development Zone #5.
- ❑ Approximate current land use mix:
 - ▣ 18% non-residential uses
 - ▣ 62% residential uses.
 - ▣ 20% Agricultural
- ❑ Approximate Zoning districts (excluding special districts):
 - ▣ 7% non-residential zoning districts
 - ▣ 93% residential zoning districts



Comprehensive Plan Analysis

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- Staff finds that the proposed PUD is consistent with the ‘Traditional Neighborhood’ and ‘Neighborhood Commercial’ designation of the Future Land Use Map (FLUM).

- The request supports the following 2022 Comprehensive Plan recommendations:
 - **LU1** – Use place types and complete neighborhoods as building blocks

 - **LU3** – Encourage incremental evolution of neighborhoods

Comprehensive Plan Analysis

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- ❑ **NH3** – Diversify housing mix (types and price points)
- ❑ **NH4** – Build complete neighborhoods
- ❑ **MC1** – Adjust planning approach to consider non-vehicular trips.
- ❑ **MC3** – Improve network connectivity
- ❑ **MC4** – Design neighborhood streets to prioritize people, place, and fiscal productivity.

*Land Use & Growth Management (LU), Neighborhoods (NH), and Mobility & Connectivity (MC) Recommendations

Case #Z22-59: “A” to “PUD”

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View of the subject property looking southwest:



Case #Z22-59: “A” to “PUD”

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View of the subject property from Bunny Trail looking west:



Public Notification

- Staff notified three-hundred and eighty-seven (387) surrounding property owners regarding this request.
- Of those notified, one-hundred and ninety-one (191) reside outside of the 200-foot notification boundary required by the State, and within the 400-foot notification boundary required by Council; and fifty-four (54) property owners reside outside of Killeen.
- To date, staff has received one (1) written response regarding this request.

Alternatives

The City Council has three (3) alternatives. The City Council may:

- ❑ Disapprove the applicant's PUD request;
- ❑ Approve the proposed PUD with conditions; or
- ❑ Approve the PUD as presented by the applicant.

Staff Recommendation

- Staff finds that the request is consistent with the policies and principles of the 2022 Comprehensive Plan, as indicated in the Comprehensive Plan Analysis.
- Therefore, staff recommends approval of the request as requested by the applicant.

Commission Recommendation

- At their regular meeting on March 6, 2023, the Planning and Zoning Commission recommended approval of the applicant's request, with the condition that lighting be added to the greenway trail segment, by a vote of 7 to 0.



City of Killeen

Staff Report

File Number: PH-23-021

1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023
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HOLD a public hearing and consider an ordinance amending Chapter 31 of the Killeen Code of Ordinances, providing for amendments to the City’s land use regulations regarding residential structures on a single lot and permitted uses in “R-3F” (Multifamily Residential District).

DATE: April 4, 2023

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: ORDINANCE AMENDING CHAPTER 31 - Residential Land Uses

BACKGROUND AND FINDINGS:

Killeen Code of Ordinances section 31-6(8) states the following:

“Every single-family residential or duplex residential building [...] shall be located on a lot, and there shall not be more than one (1) main building on one (1) lot.”

As written, this standard prohibits more than one single-family or two-family home on a single lot - even if the property is zoned for multifamily use. If approved, the proposed ordinance would modify this language to allow more than one single family or duplex dwelling on a single lot zoned “R-3”, “R-3A”, or “R-3F”.

It would also amend Killeen Code of Ordinances section 31-255.1(a), which lists the permitted uses in the “R-3F” (Multifamily Residential District), to allow two-family dwellings. Currently, the “R-3F” zoning district permits single-family, three-family, & four-family dwellings, but not two-family dwellings.

THE ALTERNATIVES CONSIDERED:

The City Council has three (3) alternatives:

- Do not approved the ordinance;
- Approve the ordinance with modifications; or
- Approve the ordinance as presented.

Which alternative is recommended? Why?

Staff recommends approval of the ordinance as presented.

If approved, the proposed ordinance will encourage infill development on existing lots, particularly in North Killeen. It will also provide additional opportunities for different types of housing, including Missing Middle housing.

CONFORMITY TO CITY POLICY:

This recommendation is consistent with the following recommendations of the Comprehensive Plan:

- LU1** - Use place types and complete neighborhoods as building blocks.
- LU2** - Improve the fiscal productivity of development.
- LU3** - Encourage incremental evolution of neighborhoods.
- LU4** - Prioritize infill and revitalization in north Killeen.
- NH3** - Diversify housing mix (types and price points).
- NH4** - Build complete neighborhoods.
- DT4** - Embrace the small/incremental approach to add residential units and small scale commercial spaces.

FINANCIAL IMPACT:

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

This is not applicable.

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:

At their Regular Meeting on March 6, 2023, the Planning and Zoning Commission recommended approval of the proposed ordinance by a vote of 7 to 0.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the Planning and Legal staff.

ATTACHED SUPPORTING DOCUMENTS:

- Minutes
- Ordinance

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
MARCH 6, 2023**

Residential Land Use Ordinance

HOLD a public hearing and consider an ordinance amending Chapter 31 of the Killeen Code of Ordinances, providing for amendments to the City's land use regulations regarding residential structures on a single lot and permitted uses in "R-3F" (Multifamily Residential District).

Ms. Meshier presented the staff report for the item. She stated that, if approved, the proposed ordinance would amend Chapter 31 to allow more than one single-family or two-family dwelling on a single lot zoned "R-3", "R-3F", or "R-3A".

Chairman Minor opened the hearing at 5:31 p.m.

With no one wishing to speak, the public hearing was closed at 5:31 p.m.

Commissioner Jones moved to approve the ordinance as presented. Vice Chair Gukeisen seconded, and the motion passed by a vote of 7 to 0.

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S LAND USE REGULATIONS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR 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;

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 facilitate new infill development in North Killeen; 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:

ARTICLE I. - IN GENERAL

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) Within the R-1 and R-2 zoning districts, not more than one single-family or two-family residential structure shall be located on a single lot. More than one single-family or two-family structure may be permitted on a single lot within the R-3, R-3F, and R-3A districts, provided the lot meets the minimum area regulations for the respective district. 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) 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.

DIVISION 8A. - DISTRICT "R-3F" MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 31-255.1. - Use regulations.

- (a) Uses. A building or premises in an R-3F multifamily residential district shall be used only for the following purposes:
 - (1) All uses allowed in section 31-231.

- (2) Multifamily structures containing three (3) or four (4) separate dwelling units.
 - (3) Institutions of a religious, educational, charitable or philanthropic nature, but not a penal or mental institution.
 - (4) Accessory buildings and uses, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a business.
- (b) *Planned unit development required.* Rezoning applications under this division shall be subject to the requirements of 31-256.9 of division 8B of this article, if applicable.

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 11th day of April, 2023, 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

Debbie Nash-King, MAYOR

ATTEST:

Laura Calcote,
CITY SECRETARY

APPROVED AS TO FORM:

Holli C. Clements,
CITY ATTORNEY



ORDINANCE AMENDING CHAPTER 31 – ZONING

PH-23-021

April 4, 2023

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Background

- Killeen Code of Ordinances Sec. 31-6(8) states the following:
“Every single-family residential or duplex residential building [...] shall be located on a lot, and there shall not be more than one (1) main building on one (1) lot.”
- As written, this standard prohibits more than one single-family or two-family home on a single lot – even if the property is zoned for multifamily use.

Background

- If approved, the proposed ordinance would modify this language to allow more than one single family or two-family dwelling(s) on a single lot zoned “R-3”, “R-3A”, or “R-3F”.
- It would also amend the permitted uses in the “R-3F” (Multifamily Residential District) to allow two-family dwellings. Currently, the “R-3F” zoning district permits single-family dwellings and three-family & four-family dwellings, but not two-family dwellings.

Proposed Amendment

Sec. 31-6. – Compliance with regulations.

- 8) ~~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.~~

Within the R-1 and R-2 zoning districts, not more than one single-family or two-family residential structure shall be located on a single lot. More than one single-family or two-family structure may be permitted on a single lot within the R-3, R-3F, and R-3A districts, provided the lot meets the minimum area regulations for the respective district.

Proposed Amendment

5

Sec. 31-255.1. – Use regulations.

- a) Uses. A building or premises in an R-3F multifamily residential district shall be used only for the following purposes:
 - 1) All uses allowed in section ~~31-186~~ 31-231.

Alternatives

6

- Do not approved the ordinance;
- Approve the ordinance with modifications; or
- Approve the ordinance as presented.

Staff Recommendation

7

- Staff recommends approval of the ordinance as presented.
- If approved, the proposed ordinance will encourage infill development on existing lots, particularly in North Killeen.
- It will also provide additional opportunities for different types of housing, including Missing Middle housing.

Staff Recommendation

- This recommendation is consistent with the following elements of the Comprehensive Plan:
 - ▣ **LU1** – Use place types and complete neighborhoods as building blocks.
 - ▣ **LU2** – Improve the fiscal productivity of development.
 - ▣ **LU3** – Encourage incremental evolution of neighborhoods.
 - ▣ **LU4** – Prioritize infill and revitalization in north Killeen.
 - ▣ **NH3** – Diversify housing mix (types and price points).
 - ▣ **NH4** – Build complete neighborhoods.
 - ▣ **DT4** – Embrace the small/incremental approach to add residential units and small scale commercial spaces.

Commission Recommendation

9

- At their Regular Meeting on March 6, 2023, the Planning and Zoning Commission recommended approval of the proposed ordinance by a vote of 7 to 0.



City of Killeen

Staff Report

File Number: PH-23-022

1	City Council Workshop	04/04/2023	Reviewed and Referred	City Council	04/11/2023
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HOLD a public hearing and consider an ordinance amending Chapter 31 of the Code of Ordinances of the City of Killeen; providing for amendments to the City's zoning regulations; allowing for short term rentals.

DATE: April 4, 2023

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: ORDINANCE AMENDING CHAPTER 31 - Short Term Rentals

BACKGROUND AND FINDINGS:

Killeen Code of Ordinances Sec. 31-2 provides a definition of "dwelling, single-family," which states: "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." As written, this definition effectively prohibits the operation of short term rentals (i.e. Airbnb's and Vrbo's) in Killeen.

Staff has identified at least 400 short term rental properties currently in operation in Killeen. Because short term rentals are not a permitted use under the Zoning Ordinance, these short term rentals are unregulated and do not pay Hotel Occupancy Tax. This results in an estimated annual loss of \$700,000 in revenue and puts hotels at a competitive disadvantage.

If approved, the proposed ordinance will establish requirements for the lawful operation of a short term rental property in Killeen. The proposed ordinance includes an annual registration requirement. It would also require the property to pass an annual inspection. The proposed ordinance also establishes a spacing requirement of 200 feet between short term rentals, which would become effective one year from the effective date.

The proposed ordinance includes an intensity requirement that no more than two (2) short term rentals are allowed per two-family or multi-family building. The proposed ordinance also includes a process for permit denial or revocation and a process for complaints relating to the short term rental can be reported to the Police Department or City Code Enforcement division, depending on the concern.

THE ALTERNATIVES CONSIDERED:

The City Council has three (3) alternatives:

- Do not approve the ordinance;
- Approve the ordinance with amendments; or
- Approve the ordinance as presented.

Staff notes that disapproval of the proposed ordinance would mean Short Term Rentals will continue

to be an illegal use. Zoning violations are punishable by a fine not exceeding \$2,000 per day.

Which alternative is recommended? Why?

Staff recommends approval of the ordinance as presented.

CONFORMITY TO CITY POLICY:

This item conforms to all applicable City policies.

FINANCIAL IMPACT:

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

This is not applicable.

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:

At their Regular Meeting on March 6, 2023, the Planning and Zoning Commission recommended approval of the proposed ordinance by a vote of 5 to 2 with Vice-Chair Gukeisen and Commissioner Ploeckelmann voting in opposition of the ordinance.

Commissioner Gukeisen noted concerns regarding allowing the operation of a business in a residential area. He also noted that he does not support establishing additional taxes, fees, and/or regulations. Commissioner Ploeckelmann expressed concerns regarding the impact of the proposed ordinance on the residential character of existing neighborhoods.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by Development Services, Community Development, Finance, and Legal staff.

ATTACHED SUPPORTING DOCUMENTS:

Minutes

Ordinance

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
MARCH 6, 2023**

Residential Land Use Ordinance

HOLD a public hearing and consider an ordinance amending Chapter 31 of the Killeen Code of Ordinances, providing for amendments to City's zoning regulations regarding short term rentals.

Ms. Meshier presented staff report for this item. She stated that, if approved, the proposed ordinance would allow the operation of short-term rentals in Killeen, and would also allow the City to collect Hotel Occupancy Tax on said rentals.

Vice-Chair Gukeisen asked if there would be a requirement for the properties to be inspected between rentals. Ms. Meshier stated that the City' would inspect the properties annually, but not between each stay.

Chairman Minor asked if the ordinance could include a phone number for complaints. Ms. Meshier stated that the ordinance would require short term rental operators to provide contact information for the City to occupants. Chairman Minor stated that the ordinance should include contact information for Code Enforcement as well. Ms. Meshier stated that the Commission can recommend approval of the ordinance with that condition.

Chairman Minor opened the hearing at 5:39 p.m.

With no one wishing to speak, the public hearing was closed at 5:39 p.m.

Commissioner Ploeckelmann moved to disapprove item PH-4. Vice Chair Gukeisen seconded.

Commissioner Jones stated that many larger cities are putting in place similar ordinances.

Chairman Minor stated that denying the proposed ordinance would prevent the City from being able to collect hundreds of thousands of dollars. He also stated that short term rental operators are making money, so the City should be able to collect taxes on these rentals.

Commissioner Ploeckelmann stated that approval of the proposed ordinance would change the residential character of existing neighborhoods. He further stated that approval of the proposed ordinance would not be fair to current homeowners.

Commissioner Gukeisen stated that Hotel Occupancy Tax does not go into the General Fund; it goes into a separate fund, so it does not benefit the City as a whole.

Mr. Matthew Irvine, Director of the Killeen Civic and Conference Center, explained the permitted use of Hotel Occupancy Tax. He also stated that one dollar of Hotel Occupancy

Tax brings in two dollars of sales tax, which does go into the General Fund.

Chairman Minor called for the vote. The motion to disapprove the ordinance failed by a vote of 2 to 5 with Commissioners Ploeckelmann and Gukeisen voting in favor.

Commissioner Jones moved to approve the ordinance as recommended by staff. Commissioner Wilson seconded.

Commissioner Marquez moved to amend the motion to include a condition regarding adding Code Enforcement contact information to the ordinance. Commissioner Wilson second, and the motion to amend passed by a vote of 5 to 2 with Commissioners Gukeisen and Ploeckelmann in opposition.

Chairman Minor called for the vote on the motion to approve with the added condition, and the motion passed by a vote of 5 to 2 with Commissioners Gukeisen and Ploeckelmann in opposition.

Commissioner Gukeisen noted concerns regarding allowing the operation of a business in a residential area. He also noted that he does not support establishing additional taxes, fees, and/or regulations.

Commissioner Ploeckelmann expressed concerns regarding the impact of the proposed ordinance on the residential character of existing neighborhoods.

ORDINANCE _____

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S ZONING REGULATIONS; ALLOWING FOR SHORT TERM RENTALS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR 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;

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 amend district regulations to allow for short term rentals; 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 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 shall mean five (5) or more attached dwelling units on one (1) lot.

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

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.

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 by three (3) or more families.

Dwelling, single-family, shall mean a building designed for or occupied by one (1) family.

Dwelling, two-family, shall mean a building designed for or occupied 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.

Halfway house shall mean a facility operated under the authority of the Texas Department of Criminal Justice for the Federal Bureau of Prisons for persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

Hotel shall mean a building in which lodging or boarding and lodging are rented out to the public for a period of not less than one (1) night and not more than twenty-nine (29) consecutive nights for a fee.. This term includes hotels, motels, bed and breakfasts, inns, extended stay hotels, and long-term stay hotels.

Hotel Occupancy Tax shall mean the hotel occupancy tax required to be assessed and collected for the operation of any hotel or short term rental and paid pursuant to Chapter 351 of the Texas Tax Code and Killeen Code of Ordinances Chapter 27, Article IV.

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.

Lot, width of, shall mean the mean horizontal distance between side lot lines, as measured in a straight line from points at the front building setback line on each side lot line.

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.

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.

Personal services shall mean an establishment providing services of a personal nature. This classification includes barber and beauty shops, nail and tanning salons, cosmetologists, massage therapists, seamstresses, tailors, shoe repair, dry cleaners (excluding plants), self-service laundries, tattoo parlors as licensed per V.T.C.A., Health and Safety Code ch. 146, laser tattoo removal, laser hair removal, permanent makeup application, and the like.

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 (1) 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.

Short term rental shall mean a single-family, two-family, or multi-family dwelling that is rented out to the public for a period of not less than one (1) night and not more than twenty-nine (29) consecutive nights for a fee.

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.

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. 31-186. Use regulations.

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

- (1) One-family dwellings, including site-built and modular construction.
- (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 101.1 of the International Building Code) shall not be allowed as an accessory use, except that:
 - 1. An on-premises ground sign, limited to the provisions of subsection 31-507(A)(3) 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. An on-premises sign, limited to the provisions of subsection 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 twenty-five (25) feet from the front lot line and shall not be less than five (5) feet from any interior side lot line 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 subsection 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 subsection 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 subsections 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-premises 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) Mortuaries;
- (ix) Private clubs;
- (x) Trailer rentals;
- (xi) Repair shops or service establishments, except as provided in subsection 31-186(13)c.6.(x) above;
- (xii) Carpentry work;
- (xiii) Photo developing or photo studios;
- (xiv) Upholstering;
- (xv) Antique shops;
- (xvi) Gift shops;

(xvii) Repair shops for any item with an internal combustion engine; and

(xviii) 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. No conditional use permit as provided in section 31-456 of this chapter shall be issued for any home occupations prohibited by subsection 31-186(13)c.7. above.
9. The provisions of this section shall apply to all home occupations, regardless of the date of their creation/existence, unless specifically exempted by subsection 31-186(13)c.7.(viii), or temporarily exempted by subsection 31-186(13)c.8. above.

(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.

(16) Licensed community homes or group home for persons with disabilities having not more than six (6) persons with disabilities and two (2) supervisors in accordance with V.T.C.A., Human Resources Code, ch. 123.

(17) Short term rentals in accordance with Killeen Code of Ordinances Chapter 31, Article VII.

Secs. 31-913 – 31-949. - Reserved.

Article VII. – Short term rental registration.

Sec. 31-950. – Title.

This Article of the Code of the City of Killeen is hereby designated and shall be known and referred to as the “Short Term Rental Registration” Article of the City Code of Ordinances.

Sec. 31-951. – Purpose.

The purpose of this Article is to safeguard the life, health, safety, welfare, and property of the occupants of residential dwelling units, the neighbors of said occupants, and the general public, through the regulation of short term rental residential property. The intent of this Article is to preserve the neighborhood character of residential neighborhoods within the City of Killeen and to minimize adverse impacts to the housing supply caused by the conversion of residential units to tourist or transient use.

Sec. 31-952. – Applicability.

The requirements in this Article shall apply to the owner(s) and/or operator(s) of all existing and future short term rentals, including single-family homes, patio homes, garden homes, townhomes, duplexes, triplexes, fourplexes, multi-family units, and manufactured homes unless expressly provided otherwise herein.

Sec. 31-953. – General provisions.

- a) It shall be unlawful for any person or entity to rent, lease, advertise, offer to rent, or otherwise permit or allow any premises to be operated or used without a valid short term rental registration permit issued under this Article.
- b) A permit issued under this Article may not be transferred and does not convey with the property upon sale. Each new owner of a permitted or previously permitted dwelling unit must apply for a short term rental permit to rent property under the short term rental guidelines.
- c) It shall be unlawful for an owner or operator to rent, lease, advertise, or offer a short term rental for a period of less than 24 hours.
- d) Any advertising of a short term rental by the owner or any person or service shall conform to the provisions of this article and the property's approval.

Sec. 31-954. – Distance and density.

- a) Beginning one (1) year from the effective date of the ordinance from which this Article is derived, a short term rental shall not be located within two hundred (200) feet of another permitted short term rental. Such measurement shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.
- b) For two-family or multi-family dwellings including three-plexes, four-plexes or apartments, the number of short term rentals shall not exceed two (2) dwelling units per two-family or multi-family building.

Sec. 31-955. – Permit application.

- a) A person seeking a short term rental permit shall submit an application to the City. Said application shall be in writing on a form provided by the City and shall, at a minimum, include the following information:
 - a. The physical/street address of the short term rental;
 - b. The name, address, email address(es), phone number(s) and authenticated signature for the owner(s) of the premises and the corporation owner's representative as applicable;
 - c. The name, address, email address and phone number(s) of the operator(s), agent(s) if any, and designated local responsible party as required in Sec. 31-956(e)(2).
 - d. Such certifications deemed necessary and proper to ensure compliance with his Article.
- b) A separate permit application shall be submitted for each individual short term rental and shall be assigned a unique permit number upon permit issuance by the City. A permit is valid for one year from the date of issuance and must be renewed annually. The fee for such permit shall be as prescribed on the City's fee schedule.

Sec. 31-956. – Permit requirements.

- a) *Life Safety Inspection.* Prior to issuance of a short term rental permit, the operator shall allow, with reasonable notice, an on-site inspection of the short term rental by the City to ensure compliance with minimum health and safety requirements and to determine compliance with this Article as well as other applicable city codes.
 - 1) This includes, but is not limited to, carbon monoxide detectors, smoke detectors, fire extinguishers per floor, emergency evacuation plan posted, no parking on unimproved surfaces.
 - 2) If, upon completion of an inspection, the premises are found to be in violation of one or more provisions of applicable city codes and ordinances, the city shall provide written notice of such violation and shall set a re-inspection date for a violation to be corrected prior to its occupancy.
 - 3) If only a portion of the premises is offered for rent, then that portion, plus shared amenities and points of access, may be inspected.
- b) *Hotel Occupancy Tax.* It is a condition of the initial and continued validity of a short term rental permit that the operator has paid and remains current on the payment of all hotel occupancy taxes owed to the City under the Texas Tax Code.
- c) *Fees.* The applicant shall pay a nonrefundable application fee upon submission of a short term rental application to the City established by the fee schedule. If a dwelling unit does not pass the initial life safety inspection, the applicant shall pay a non-refundable re-inspection fee, as prescribed in the City's adopted fee schedule.
- d) *Personal Injury Liability Insurance.* Each owner/operator shall maintain a minimum of \$500,000 in liability insurance, including personal injury liability insurance, on the short term rental for the full duration of their permit term and provide proof of insurance to the City.

- e) *Notice of Instructions.* Each owner/operator of a short term rental shall provide a Notice of Instructions (also known as “host rules”) to occupants staying at the premises. The notice shall instruct the occupants as to all applicable City regulations pertaining to short term rentals. These include, but are not limited to:
- 1) Owner/operator’s 24-hour contact information;
 - 2) A local responsible party’s 24-hour contact information, who is able to be on site within sixty (60) minutes to address any complaints, if the owner/operator is not within the city limits when guests are renting the premises;
 - 3) Pertinent neighborhood information including but not limited to parking restrictions, noise and amplified sound restrictions, trash collection schedules;
 - 4) Information to assist guests in case of emergencies posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire, and emergency medical service providers and instructions for obtaining severe weather, natural or manmade disaster alerts and updates; and
 - 5) Notification that guests are responsible for compliance with all applicable laws, rules, and regulations pertaining to the use of the short term rental, and that guests may be fined by the City for violations of this Division.
- f) *Notice of approval.* Within ten (10) days of approval of the short term rental application, the City shall send written notice to all property owners within two-hundred (200) feet of the short term rental informing them of the use of the property as an approved short term rental. This notice will include the owner/operator’s 24-hour contact information and information about short term rental regulations. It shall also include contact information and phone numbers for the City’s Police Department and Code Enforcement division.

Sec. 31-957. – Permit denial and revocation.

- a) *Denial of Permit.* The permit application shall be denied and no permit shall be issued if the City finds that:
- 1) Any statement made in the application is incomplete, inaccurate, misleading, or false;
 - 2) The operator, its partners, officers, owners, and other principals have not paid to the City all fees due under this Division; or
 - 3) The applicant has had a short term rental permit revoked within the preceding year.
- b) *Revocation of Permit.* The City may revoke a permit for one or more of the following reasons:
- 1) The applicant fails to comply with or is in violation of any provision of the permit, City ordinances, or any other applicable law;
 - 2) The application contains a false or misleading statement of material fact;
 - 3) The City determines that the rental poses a serious threat to the public health, safety or welfare;
 - 4) Three (3) or more confirmed cases of nuisances/citations;

- 5) Failure to pay hotel occupancy tax; or
- 6) Failure to complete the permit renewal process.
- c) *Notice of denial or revocation.* The City shall provide written notice within ten (10) days of the denial or revocation of a permit to operator, which shall state the reason(s) for the decision and inform the operator of its right to appeal the decision in writing including when and to whom it must be delivered.
- d) *One-Year Waiting Period.* In the event an owner's short term rental registration is revoked and the applicant fails to successfully appeal decision, no second or additional registration shall be issued for a short term rental on the premises for one year of the date such registration was revoked.

Sec. 31-958. – Permit expiration and renewal.

- a) *Permit expiration.* A short term rental registration shall expire on the last day of the month one year after the date of issuance. No short term rental registration may be renewed without a completed renewal application submitted by the owner and payment of the renewal fee. An application for the renewal of a short term rental registration may only be approved by the City if the renewal application satisfies all the conditions of this Article and all other applicable City Code provisions, including the Zoning Ordinance.
- b) *Renewing a Permit.* An operator may file an application for renewal of the permit beginning thirty (30) days prior to expiration of a current registration. The City may deny the renewal if there is reasonable cause to believe that:
 - 1) The applicant has violated any ordinance of the city, or any state, or federal law on the property or has permitted such a violation on the property by any other person; or
 - 2) There are grounds for revocation or other sanction as provided in this Article.
- c) Every complete application for a short- term rental renewal registration shall include:
 - 1. A list of all owners, operators, and agents (if applicable) of the short term rental and the owner of the premises on which the short term rental is to be operated, including names, addresses and current email addresses and telephone numbers of each such person; if a partnership, the name of all partners and the principal business address and telephone number of each partner; if a corporation, the person registering must state whether it is organized under the laws of the state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the main individual in charge of the local office of such corporation, if any, and the names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation;
 - 2. The name, address, email address and 24-hour telephone number of a contact person who is the owner, operator, or owner's designated agent relating to ownership and/or operation of the short term rental, and the designated local responsible party who shall be responsible and authorized to respond to complaints concerning the short term rental within one hour or less;

3. An acknowledgement that any registration granted under this article does not supersede any property-specific restrictions against short term rentals that may exist under law, agreement, lease, covenant, or deed restriction;
 4. A depiction of the floor plan that identifies sleeping areas, evacuation routes and location of all fire extinguishers and smoke detectors;
 5. The Notice of Instructions containing the information required by Section 31-956(e).
 6. A sworn statement that the owner has met and will continue to comply with all requirements of this article; and
 7. Other information as may be required by the City.
- d) An application for a short term rental renewal registration submitted after the expiration of the most immediate registration for the premises shall be treated as an application for a new registration as described in section 31-955.
 - e) Applications shall not be considered complete until all documentation required under this Article is submitted, and until the full application and registration fees have been paid. Incomplete applications will not be accepted.

Sec. 31-959. - Designation of local responsible party required.

An owner must designate the name and contact information of a local responsible party who can be contacted regarding immediate concerns and complaints from the public or City. Said individual must be available to be reached in person or by phone at all times while occupants are on the premises of a short term rental. If called, a local responsible party must be able to and shall be present at the premises within one (1) hour of call from the City. A local responsible party must be authorized to make decisions regarding the premises and its occupants.

Sec. 31-960. - Hotel occupancy taxes; Request for occupancy history.

Every person owning, operating, managing or controlling a short term rental shall collect the tax imposed in section 27-72 of this City Code for the city and remit the same to the tax assessor-collector on or before the due date, and at the same time file the report required by sections 27-74. If any person shall fail to collect the tax imposed in Article IV, or shall fail to file a report as required by section 27-74, or shall fail to remit to the tax assessor-collector the tax as imposed in Article IV when such report or remittance is due, or shall file a false report, then such person shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 27-76 of this Code.

Sec. 31-961. – Complaints.

- a) Suspected criminal activity involving a short term rental, including but not limited to complaints concerning noise and disorderly conduct by guests shall be reported to the Police Department.
- b) Complaints related to the operation of a short term rental, including but not limited to complaints concerning trash, parking, and high weeds and grass, shall be reported to the City Code Enforcement division.

Sec. 31-962. – Appeal.

- a) The applicant may appeal a denial of a permit by submitting in writing a notice to appeal, delivered to the City Manager’s office no later than five (5) business days after the denial or revocation decision.
- b) The notice of appeal must be in writing and state the grounds for the appeal and why the determination should be reversed or modified. If the applicant makes a timely, written request for appeal, the City Manager or designee shall hold a hearing within ten (10) business days. The decision of the City Manager or designee is final.

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 on October 1, 2023.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 11th day of April, 2023, 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

Debbie Nash-King, MAYOR

ATTEST:

APPROVED AS TO FORM:

Laura Calcote, CITY SECRETARY

Holli C. Clements, CITY ATTORNEY



SHORT TERM RENTAL ORDINANCE

PH-23-022

April 4, 2023

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Background

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- Killeen Code of Ordinances Sec. 31-2 provides a definition of “*dwelling, single-family,*” which states: “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.”
- As written, this definition effectively prohibits the operation of short term rentals (i.e. Airbnb’s and Vrbo’s) in Killeen.

Background

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- Staff has identified 400+ short term rental properties currently in operation in Killeen.
- Because short term rentals are not a permitted use under the Zoning Ordinance, these short term rentals are unregulated and do not pay Hotel Occupancy Tax.
- This results in an estimated annual loss of \$700,000 in revenue and puts hotels at a competitive disadvantage.

Background

- If approved, the proposed ordinance will establish requirements for the lawful operation of a short term rental property in Killeen.
- The proposed ordinance includes an annual registration requirement. It would also require the property to pass an annual inspection.
- The proposed ordinance also establishes a spacing requirement of 200 feet between short term rentals, which would become effective one year from the effective date.

Background

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- The proposed ordinance includes an intensity requirement that no more than two (2) short term rentals are allowed per two-family or multi-family building.
- The proposed ordinance also includes a process for permit denial or revocation and a process for complaints relating to the short term rental can be reported to the Police Department or City Code Enforcement division, depending on the concern.

Alternatives

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- The City Council has three (3) alternatives:
 - ▣ Do not approve the ordinance;
 - ▣ Approve the ordinance with amendments; or
 - ▣ Approve the ordinance as presented.

- Staff notes that disapproval of the proposed ordinance would mean Short Term Rentals will continue to be an illegal use. Zoning violations are punishable by a fine not exceeding \$2,000 per day.

Staff Recommendation

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- Staff recommends approval of the ordinance as presented.

Commission Recommendation

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- At their Regular Meeting on March 6, 2023, the Planning and Zoning Commission recommended approval of the proposed ordinance by a vote of 5 to 2 with Commissioners Ploeckelmann and Gukeisen in Opposition.

Commission Recommendation

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- Commissioner Gukeisen noted concerns regarding allowing the operation of a business in a residential area. He also noted that he does not support establishing additional taxes, fees, and/or regulations.
- Commissioner Ploeckelmann expressed concerns regarding the impact of the proposed ordinance on the residential character of existing neighborhoods.