



# City of Killeen

## Agenda

### City Council

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Tuesday, April 11, 2017

5:00 PM

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

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#### Call to Order and Roll Call

___ Jose Segarra, Mayor	___ Brockley Moore
___ Shirley Fleming	___ Jonathan Okray
___ Gregory Johnson	___ Juan Rivera
___ Jim Kilpatrick	___ Dick Young

#### Invocation

#### Pledge of Allegiance

#### Approval of Agenda

#### Minutes

1. [MN-17-008](#) Consider Minutes of Regular City Council Meeting of March 28, 2017.

**Attachments:** [Minutes](#)

#### Resolutions

2. [RS-17-038](#) Consider a memorandum/resolution authorizing the lease with purchase option of a wheel loader and compact excavator for the Drainage Maintenance division.

**Attachments:** [Staff Report](#)

[Purchase Agreement](#)

[Quote](#)

[Bancorp Lease Purchase Proposal](#)

[Loader Picture](#)

[Excavator Picture](#)

[Certificate of Interested Parties](#)

[Presentation](#)

3. [RS-17-039](#) Consider a memorandum/resolution authorizing the issuance of a permit to American Fireworks for the discharge of fireworks as part of the Celebrate Killeen Festival.

**Attachments:** [Staff Report](#)  
[Contract](#)  
[Map](#)  
[Material Safety Data Sheets](#)  
[Operator License](#)  
[Application for Class C Fireworks](#)  
[Shoot List](#)  
[Presentation](#)

4. [RS-17-041](#) Consider a memorandum/resolution authorizing the Texas Department of Transportation-Aviation Division to act as the Airport Agent for the administration of the Skylark Field T-Hangar Project.

**Attachments:** [Staff Report](#)  
[Presentation](#)

5. [RS-17-042](#) Consider a memorandum/resolution to suspend the April 21, 2017, effective date of Oncor Electric Delivery Company's requested rate change and approving cooperation with the Steering Committee of Cities Served by Oncor.

**Attachments:** [Staff Report](#)  
[Oncor Suspension Resolution](#)  
[Presentation](#)

6. [RS-17-043](#) Consider a memorandum/resolution adopting a city council policy establishing the procedure for appointments to citizen boards, commissions and committees.

**Attachments:** [Staff Report](#)  
[Policy](#)  
[Presentation](#)

## Public Hearings

7. [PH-17-022](#) HOLD a public hearing and consider an ordinance requested by RSBP Developers, Inc. (Case #Z17-09) to rezone approximately 8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision, from a Planned Unit Development (PUD) with "SF-2" (Single-Family Residential District) and "R-3" (Multifamily Residential District) uses to "R-2" (Two Family Residential District). The properties are locally known as 1500 through 1506, 1508, 1510, 1512, 1601, 1603, 1605, 1606, 1608 through 1613 and 1701 Justin Lane, Killeen, Texas.

**Attachments:** [Staff Report](#)  
[Aerial Map Exhibit](#)  
[Minutes](#)

[Ordinance](#)

[Application](#)

[Location Map](#)

[Buffer Map](#)

[Considerations](#)

[Presentation](#)

8. [PH-17-023A](#) HOLD a public hearing and consider an ordinance requested by Mark Dewayne Stanford to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Commercial' (GC) to 'Multi-Family Residential' (MFR) (FLUM# Z17-08) for 6.34 acres out G. W. Farris Survey, Abstract No. 306, for properties locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road, Killeen, Texas.

**Attachments:** [Staff Report](#)

[FLUM Exhibit](#)

[Minutes](#)

[Ordinance](#)

[Application](#)

[Presentation](#)

9. [PH-17-023B](#) HOLD a public hearing and consider an ordinance requested by Mark Dewayne Stanford (Case #Z17-08) to rezone 6.34 acres out of the G. W. Farris Survey, Abstract No. 306, from "R-1" (Single-Family Residential District) to "R-3A" (Multifamily Apartment Residential District), for properties locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road, Killeen, Texas. (Requires a three-fourths (3/4) majority vote.)

**Attachments:** [Staff Report](#)

[Aerial Map Exhibit](#)

[Minutes](#)

[Ordinance](#)

[Application](#)

[Location Map](#)

[Buffer Map](#)

[Considerations](#)

[Responses](#)

[Presentation](#)

10. [PH-17-024A](#) HOLD a public hearing and consider an ordinance requested by M.A. Hoard Construction Co. II, LTD. to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Commercial' (GC) to 'General Residential' (GR) (FLUM# Z17-10) for 2.3 acres, being Lot 41, Block 1, Grover Park. The property is locally known as 6501 Vahrenkamp Drive, Killeen, Texas.

**Attachments:** [Staff Report](#)  
[FLUM Exhibit](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Presentation](#)

11. [PH-17-024B](#) HOLD a public hearing and consider an ordinance requested by M.A. Hoard Construction Co. II, LTD. (Case #Z17-10) to rezone Lot 41, Block 1, Grover Park, from “B-5” (Commercial District) to “R-3A” (Multifamily Apartment Residential District), for property being locally known as 6501 Vahrenkamp Drive, Killeen, Texas.

**Attachments:** [Staff Report](#)  
[Aerial Map Exhibit](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Location Map](#)  
[Buffer Map](#)  
[Opposition Map](#)  
[Considerations](#)  
[Response](#)  
[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, 2017.*

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*Dianna Barker, City Secretary*

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

*This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The*



facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.

## Notice of Meetings

The Mayor and/or City Council have been invited to attend and/or participate in the following meetings/conferences/events. Although a quorum of the members of the City Council may or may not be available to attend this meeting, this notice is being posted to meet the requirements of the Texas Open Meetings Act and subsequent opinions of the Texas Attorney General's Office. No official action will be taken by Council.

- I-14 Signing & Great American Defense Community Designation Ceremony, April 22, 2017, 9:00 a.m., Central Texas College Anderson Center
- Lions Neighborhood Park Opening, April 22, 2017, 12:00 p.m., 1307 Stewart Street
- LULAC Banquet, April 22, 2017, 6:30 p.m., Courtyard Marriott
- Celebrate Killeen Festival, April 27-29, 2017, Central Texas College Anderson Center, Killeen Community Center
- National Day of Prayer, May 4, 2017, 12:00 p.m., Killeen City Hall
- Killeen Rodeo, May 18-20, 2017, Killeen Rodeo Grounds

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



# City of Killeen

## Legislation Details

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**File #:** MN-17-008    **Version:** 1    **Name:** Minutes of Regular City Council Meeting of March 28, 2017  
**Type:** Minutes    **Status:** Minutes  
**File created:** 3/20/2017    **In control:** City Council  
**On agenda:** 4/11/2017    **Final action:**  
**Title:** Consider Minutes of Regular City Council Meeting of March 28, 2017.  
**Sponsors:** City Secretary  
**Indexes:**  
**Code sections:**  
**Attachments:** [Minutes](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		

**City of Killeen**  
Regular City Council Meeting  
Killeen City Hall  
March 28, 2017 at 5:00 p.m.

Presiding: Mayor Jose L. Segarra

Attending: Mayor Pro-Tem Brockley Moore, Councilmembers Jim Kilpatrick, Juan Rivera(arrived 5:05), Shirley Fleming, Gregory Johnson, Jonathan Okray, and Richard Young

Also attending were City Manager Ronald L. Olson, City Attorney Kathryn Davis, City Secretary Dianna Barker, and Sergeant-at-Arms Gilman.

Mr. Jones gave the invocation, and Councilmember Fleming led everyone in the Pledge of Allegiance.

**Approval of Agenda**

*Motion was made by Mayor Pro-Tem Moore to approve the agenda pulling items PH-17-014 and PH-17-019 from consideration per the applicant's request. Motion seconded by Councilmember Fleming. The motion carried unanimously.*

**Minutes**

*Motion was made by Councilmember Kilpatrick to approve the minutes of the March 14th Regular City Council Meeting. Motion was seconded by Councilmember Rivera. Motion carried unanimously.*

**Resolutions**

**RS-17-030** Consider a memorandum/resolution accepting the annual audit report for the fiscal year ended September 30, 2016.

**Staff comments:** Jonathan Locke

The audit report, completed by Weaver, LLP, has been compiled to meet all required provisions of the Governmental Accounting Standards Board. Adam McCain with Weaver gave a brief overview of the report. Staff recommends that the City Council approve the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2016.

*Motion was made by Councilmember Kilpatrick to approve RS-17-030. Motion was seconded by Mayor Pro-Tem Moore. Motion carried unanimously.*

**RS-17-031** Consider a memorandum/resolution approving the investment report for the quarter ended December 31, 2016.

**Staff comments:** Jonathan Locke

The attached investment report summarizes all investment activity for the quarter that ended December 31, 2016. Bill Cook with Valley View Accounting briefly went over the report. Staff recommends that the City Council approve the attached investment report for the quarter that ended December 31, 2016.

*Motion was made by Councilmember Johnson to approve RS-17-031. Motion was seconded by*

*Councilmember Rivera. Motion carried unanimously.*

**RS-17-032** Consider a memorandum/resolution for Ambiance Limousine and Transportation, LLC., Ground Transportation application.

**Staff comments:** Kathy Davis

The application is complete and provides for a limousine service and airport shuttle from any established pick-up point in Killeen. Staff recommends that the City Council vote to permit a ground transportation authority to Ambiance Limousine and Transportation, LLC.

*Motion was made by Councilmember Rivera to approve RS-17-032. Motion was seconded by Councilmember Kilpatrick. Motion carried unanimously.*

**RS-17-033A** Consider a memorandum/resolution authorizing the City Manager to execute an interlocal agreement with the City of Frisco, Texas, for the purchase of self-contained breathing apparatus (SCBA) equipment for the Fire Department.

**Staff comments:** Fire Chief Brank

The Killeen Fire Department (KFD) has been approved for the Assistance to Firefighter Grant (AFG) for Self-Contained Breathing Apparatus (SCBA). The best price point quotation that KFD received is to piggyback on a competitive sealed bid submitted to Frisco, Texas, from Hoyt Breathing Apparatus for Scott brand SCBAs. The interlocal agreement allows the City to purchase the SCBAs at the same price as the winning bid submitted to the City of Frisco and satisfies the City's bidding requirement pursuant to Texas Government Code 791. City staff recommends that the City Manager be authorized to enter into this interlocal agreement with Frisco, Texas.

**RS-17-033B** Consider a memorandum/resolution authorizing the purchase of self-contained breathing apparatus (SCBA) equipment from Hoyt Breathing Air Products for the Fire Department.

**Staff comments:** Fire Chief Brank

The Assistance to Firefighting Grant provides a Federal Share of \$572,449, which leaves the remaining amount of \$57,005.01 as the City of Killeen's share. This purchase will be completed through an interlocal agreement between Frisco, Texas, and Killeen, Texas, to collaborate on a competitive sealed bid submitted to Frisco, Texas, from Hoyt Breathing Apparatus for Scott brand SCBA's. City staff recommends that the City Manager be authorized to execute the purchase of 88 SCBAs, 176 Cylinders, 231 Masks, and 67 Voice Amplifiers from Hoyt Breathing Air Products and he is further authorized to execute any and all change orders allowed by state and local law.

*Motion was made by Mayor Pro-Tem Moore to approve RS-17-033A&B. Motion was seconded by Councilmember Rivera. Motion carried unanimously.*

**RS-17-034** Consider a memorandum/resolution to revise the Killeen Arts Commission Rules and Regulations.

**Staff comments:** Jonathan Locke

A sub-committee of the Arts Commission was appointed to review the current Killeen Arts Commission Rules and Regulations. Ralph Cossey, Jr., briefly went over the significant changes that were made with respect to grant requirements requiring grantees to: provide the name of a host hotel on application, submit proof of hotel/motel rooms occupied due to event, display an Arts Commission banner at event, provide a booth for

the Arts Commission at event, and acknowledge Arts Commission funding in all media types. These rules will apply to grants that begin on or after October 1, 2017. City staff recommends that the City Council approve the attached Killeen Arts Commission Rules and Regulations, as revised.

*Motion was made by Councilmember Johnson to approve RS-17-034. Motion was seconded by Mayor Pro-Tem Moore. Motion carried unanimously.*

**RS-17-035** Consider a memorandum/resolution authorizing the sale of real property located at the corner of Buckley Avenue and Camilla Road.

**Staff comments:** Kathy Davis

One bid was received by the City from Michael Walsh and Nikki Chambers Walsh in the amount of \$9,000.00 who are the owners of 1101 Farhills Dr. immediately adjacent to the south of the subject property. The stated proposed use for the property is “extension of property”. Staff recommends that the City Council approve the sale of the above-described subject property to the highest bidder and that the City Manager be authorized and empowered to act in the name and on behalf of the City of Killeen in all lawful ways to execute and deliver all contracts, notes, deeds of trust, deeds, bills of sale, assignments, consents, notices, filings, certificates, acknowledgements, closing statements, affidavits, and other documents, and to do and perform every other act as he may deem necessary and appropriate to carry out the sale of the above-described tract in accordance with this resolution.

*Motion was made by Councilmember Okray to approve RS-17-035. Motion was seconded by Councilmember Fleming. Motion carried unanimously.*

**RS-17-036** Consider a memorandum/resolution authorizing the procurement of a street sweeper necessary to meet MS4 permit requirements.

**Staff comments:** Frank Tydlacka

The Phase II permit (MS4 permit), requires the city to reduce the amount of sediment entering the City's storm sewers and watercourses. Street sweeping is one of the primary ways to reduce the amount of sediment entering the City's storm sewers and watercourses. The City must add a street sweeper this year to prevent water quality violations and decrease the impact to the macrobenthic community in the City's creeks. The City's MS4 permit mandates that the City purchase and have in service one (1) additional Regenerative Air Sweeper by September 30, 2017. The needed equipment would be provided by TYMCO Inc. utilizing the HGAC Purchasing Cooperative per pricing below. Staff recommends approval to purchase the Model 600 Regenerative Air Street Sweeper from TYMCO Inc. utilizing the HGAC Purchasing Cooperative for the total cost of \$225,335.00 and that the City Manager or designee is expressly authorized to execute any and all change orders within the amounts set by state and local law.

*Motion was made by Councilmember Fleming to approve RS-17-036. Motion was seconded by Councilmember Kilpatrick. Motion carried unanimously.*

**RS-17-037** Consider a memorandum/resolution appointing Presiding and Alternate Election Judges for the May 6, 2017 general election.

**Staff comments:** Kathy Davis

Section 32.001 of the Election Code requires the City Council to appoint presiding and alternate judges for each of the polling locations used on Election Day. Staff

recommends the list of individuals in the attached resolution be named to serve as election officials for the election on May 6, 2017.

*Motion was made by Councilmember Okray to approve RS-17-037. Motion was seconded by Councilmember Rivera. Motion carried unanimously.*

### **Public Hearings**

#### **PULLED FROM CONSIDERATION**

**PH-17-014** HOLD a public hearing and consider an ordinance requested by Victor Craig Mashburn and Denna Connel O'Connor (Case #Z17-01) to rezone approximately 1.39 acres out of the G.W. Farris Survey, Abstract No. 306, Killeen, Texas, from "B-3" (Local Business District) to "R-1" (Single-Family Residential District). The property is locally known as 708 E. Elms Road, Killeen, Texas.

**PH-17-015** HOLD a public hearing and consider an ordinance requested by Darwin and Shelre Holden (Case #Z17-02) to rezone Lots 19 and 20, Block 3, Highview Addition, being locally known as 815 and 817 Florence Road, Killeen, Texas, from "R-1" (Single-Family Residential District) to "B-1" (Professional Business District).

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

**Staff comments:** Tony McIlwain

The staff notified twenty-seven (27) surrounding property owners within a 200' notification boundary regarding this request. Staff has received no responses.

The Planning and Zoning Commission recommended approval of the applicant's request for "B-1" zoning by a vote of 7 to 0.

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

*Motion was made by Mayor Pro-Tem Moore to approve PH-17-015. Motion was seconded by Councilmember Okray. Motion carried unanimously.*

**PH-17-016A** HOLD a public hearing and consider an ordinance requested by Paula L. Lohse and John P. Goode to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Residential' to 'General Commercial' (FLUM# Z17-03) for Lots 6 and 7, Block 36, Crescent Manor Second Extension and Lot 7, Block 35, Crescent Manor Second Extension. The properties are addressed as 1621 and 1623 Richard Drive and 1605 S. W.S. Young Drive, Killeen, Texas.

The City Secretary read the caption of the ordinance.

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'GENERAL RESIDENTIAL' TO 'GENERAL COMMERCIAL' FOR LOTS 6 AND 7, BLOCK 36, CRESCENT MANOR SECOND EXTENSION AND LOT 7, BLOCK**

**35, CRESCENT MANOR SECOND EXTENSION, BEING LOCALLY KNOWN AS 1621 AND 1623 RICHARD DRIVE AND 1605 S. W.S. YOUNG DRIVE, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

Property owners want to transition to commercial for commercial use.

The Planning and Zoning Commission recommended approval of 'General Commercial' (GC) for the subject properties by a vote of 6 to 0.

Mayor Segarra opened the public hearing.

Michelle Lee with Killeen Engineering & Surveying, 2901 E. Stan Schlueter Loop - available for questions.

With no one else appearing the public hearing was closed.

*Motion was made by Councilmember Kilpatrick to approve PH-17-016A. Motion was seconded by Councilmember Rivera. Motion carried unanimously.*

**PH-17-016B** HOLD a public hearing and consider an ordinance requested by Paula L. Lohse and John P. Goode (Case #Z17-03) to rezone Lots 6 and 7, Block 36, Crescent Manor Second Extension, from "B-1" (Professional Business District) and Lot 7, Block 35, Crescent Manor Second Extension, from "R-1" (Single-Family Residential District) to "B-3" (Local Business District). The properties are addressed as 1621 and 1623 Richard Drive and 1605 S. W.S. Young Drive, 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 CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM "B-1" (PROFESSIONAL BUSINESS DISTRICT) AND "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO "B-3" (LOCAL BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

The staff notified twenty-seven (27) surrounding property owners within a 200' notification boundary regarding this request. Staff has received protests from Mary Gonzales of 1504 Randall Road and Patricia Warren of 1617 Richard Drive. The Planning and Zoning Commission recommended approval of the applicants' request for "B-3" zoning for Lots 6 and 7, Block 36 and Lot 7, Block 35, Crescent Manor Second Extension by a vote of 6 to 0.

Mayor Segarra opened the public hearing.

Michelle Lee with Killeen Engineering & Surveying, 2901 Stan Schlueter Loop - spoke in favor of request.

With no one else appearing the public hearing was closed.

*Motion was made by Councilmember Fleming to approve PH-17-016B. Motion was seconded by Councilmember Okray. Motion carried unanimously.*

**PH-17-017** HOLD a public hearing and consider an ordinance requested by Waterville Property Management of Texas, L.L.C. (Case #Z17-04) to rezone 202 E. Veterans Memorial Boulevard, Suites A-D, from “B-5” (Business District) to “B-C-1” (General Business and Alcohol Sales District) to allow for the on-premises sales of beer, wine, and mixed beverages in conjunction with a pool hall.

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 CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM “B-5” (BUSINESS DISTRICT) TO “B-C-1” (GENERAL BUSINESS AND ALCOHOL SALES DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE**

**Staff comments:** Tony McIlwain

The staff notified seven (7) surrounding property owners within a 200’ notification boundary regarding this request. Staff has received no responses.

The Planning and Zoning Commission recommended approval of the rezone request from “B-5” (Business District) to “B-C-1” (General Business and Alcohol Sales District) limited to Suites A through D of the existing building by a vote of 7 to 0.

Mayor Segarra opened the public hearing.

Jennifer Cain, 2505 Traverse Dr. - spoke in favor of request.

With no one else appearing the public hearing was closed.

*Motion was made by Councilmember Okray to approve PH-17-017. Motion was seconded by Councilmember Fleming. Motion carried unanimously.*

**PH-17-018A** HOLD a public hearing and consider an ordinance requested by Franklin Harris L.L.C. to amend the Comprehensive Plan’s Future Land Use Map (FLUM) from a ‘Suburban Residential’ and ‘General Commercial’ designated area to a ‘Multi-Family Residential’ designated area (FLUM# Z17-05) for 8.5 acres of land located between O.W. Curry Drive and Cunningham Road, south of E. Central Texas Expressway, Killeen, Texas.

The City Secretary read the caption of the ordinance.

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN’S FUTURE LAND USE MAP FROM ‘SUBURBAN RESIDENTIAL’ AND ‘GENERAL COMMERCIAL’ TO ‘MULTI-FAMILY RESIDENTIAL’ FOR APPROXIMATELY 8.5 ACRES OF LAND LOCATED BEWTWEEN O.W. CURRY DRIVE AND CUNNINGHAM ROAD, SOUTH OF E. CENTRAL TEXAS EXPRESSWAY, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

This designation calls for multi-unit attached residential in concentrated developments (5 or more units per building), whether for rent (apartments) or ownership (condominiums). The Planning and Zoning Commission recommended approval of the amendment to the Future Land Use Map from ‘Suburban Residential’ and ‘General Commercial’ to ‘Multi-Family Residential’ by a vote of 7 to 0.



Mayor Segarra opened the public hearing.

Megan Lash, Developer Representative, 421 W. 3<sup>rd</sup> Street - available for questions.  
With no one else appearing the public hearing was closed.

*Motion was made by Councilmember Kilpatrick to approve PH-17-018A. Motion was seconded by Councilmember Rivera. Motion carried unanimously.*

**PH-17-018B** HOLD a public hearing and consider an ordinance requested by Payton Senior L.L.C. on behalf of Franklin Harris, L.L.C. (Case #Z17-05) to rezone approximately 8.5 acres out of the W. H. Cole Survey, Abstract No. 150, from “R-1” (Single-Family Residential District), “R-3” (Multifamily Residential District) and “B-5” (Business District) to Planned Unit Development (PUD) with “R-3A” (Multifamily Apartment Residential District).

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 CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT), “R-3” (MULTIFAMILY RESIDENTIAL DISTRICT) AND “B-5” (BUSINESS DISTRICT) TO A PLANNED UNIT DEVELOPMENT (PUD) WITH “R-3A” (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

The staff notified twenty-nine (29) surrounding property owners within a 200’ notification boundary regarding this request. Staff has received no responses.

The Planning and Zoning Commission recommended approval of the applicant’s PUD request by a vote of 7 to 0. The approval is subject to adherence to the submitted site plan and a maximum impervious area calculation of no more than 47%.

Mayor Segarra opened the public hearing.

Megan Lash, Developer Representative, 421 W. 3<sup>rd</sup> St. - available for questions.  
With no one else appearing the public hearing was closed.

*Motion was made by Councilmember Rivera to approve PH-17-018B. Motion was seconded by Mayor Pro-Tem Moore. Motion carried unanimously.*

#### **PULLED FROM CONSIDERATION**

**PH-17-019** HOLD a public hearing and consider an ordinance requested by Gary W. Purser Sr. 1999 Trust and RSBP Developers, Inc. (Case #Z17-06) to rezone approximately 113 acres, being part of the W. E. Hall Survey, Abstract No. 1116, and the J.B. Harris Survey, Abstract No. 452, from “R-1” (Single-Family Residential District) to Planned Unit Development (PUD) with “R-1” (Single-Family Residential District) uses to allow for varying lot sizes and 22 acres of green space and riparian buffer. The property is located along the north right-of-way of Chaparral Road, approximately .63 mile west of the Killeen/ Harker Heights city limits.

**PH-17-020** HOLD a public hearing and consider an ordinance requested by WBW Land Investments, L.P. (Case #Z17-07) to rezone approximately 62.31 acres, being part of the Azra Webb Survey, Abstract No. 857, from “AR-1” (Agricultural Single-Family Residential District) and “SR-1” (Suburban Residential Single Family District) to Planned Unit Development (PUD) with “SR-2” (Suburban Residential Single-Family District), “SR-1” (Suburban Residential Single Family District), “R-1” (Single-Family Residential District) and “SF-2” (Single Family Residential District) to allow for various lot sizes and setbacks and associated standards. The property is located along the north right-of-way of Stagecoach Road, west of Rein Drive and the Wagon Wheel and Stagecoach Road Subdivisions, 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 CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM “AR-1” (AGRICULTURAL SINGLE-FAMILY RESIDENTIAL DISTRICT) AND “SR-1” (SUBURBAN RESIDENTIAL SINGLE-FAMILY DISTRICT) TO A PLANNED UNIT DEVELOPMENT (PUD) WITH “SR-2” (SUBURBAN RESIDENTIAL SINGLE FAMILY DISTRICT), “SR-1” (SUBURBAN RESIDENTIAL SINGLE FAMILY DISTRICT), “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT) AND “SF-2” (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

The staff notified sixty-five (65) surrounding property owners within a 200’ notification boundary regarding this request. Three surrounding property owners negotiated the PUD standards with the applicant and signed the draft concept plan. Staff has received protests from Linda Knotts, the owner of 6701 Rein Drive, Sandra Santiago-Green, the owner of 602 Hub Drive and Bob and La Nae Gordon, the owner of 1150 Stagecoach Road. Staff also received a response from Connie Havens, the owner of 6905 Rein Drive.

The Planning and Zoning Commission recommended approval of the applicant’s PUD of “SR-2”, “SR-1”, “R-1” and “SF-2” zoning districts by a vote of 6 to 0.

Mayor Segarra opened the public hearing.

Glenn Bauer, 6605 Rein Dr. - spoke in favor of the request and thanked the Council for their support.

Kathy Harkin, 6607 Rein Dr. - has not been given all the information requested about the development, i.e.: landscaping, number of houses, etc. Wants to make sure the residents get what they’ve asked for.

Josh Welch, 3000 Illinois Ave, Developer Representative - the developer and citizens met several times and came up with a plan agreeable to each. Spoke in favor of the request.

With no one else appearing the public hearing was closed.

*Motion was made by Councilmember Young to approve PH-17-020. Motion was seconded by Mayor Pro-Tem Moore. Motion carried 6 to 1 with Councilmember Fleming opposing.*

**PH-17-021** HOLD a public hearing and consider an ordinance amending the FY 2017 Annual Budget and Plan of Municipal Services of the City of Killeen to increase expense accounts for a professional services agreement providing auditing services.

The City Secretary read the caption of the ordinance.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2017 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN TO INCREASE EXPENSE ACCOUNTS FOR A**

**PROFESSIONAL SERVICES AGREEMENT PROVIDING AUDITING SERVICES;  
REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH  
THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN  
EFFECTIVE DATE.**

**Staff comments:** Jonathan Locke

On March 14, 2017, the City Council approved an agreement with McConnell & Jones, LLP that specifies the scope and fee schedule for the audit which will examine the City's administrative and internal controls for the fiscal years 2006-2015. A budget amendment is needed to provide funding for the audit services. The total fee associated with the audit engagement is \$394,456. Staff recommends that City Council approve the ordinance amending the FY 2017 Budget to provide funding for auditing services.

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

*Motion was made by Councilmember Young to approve PH-17-021. Motion was seconded by Councilmember Okray. Motion carried unanimously.*

**Adjournment**

With no further business, upon motion being made by Councilmember Okray, seconded by Mayor Pro-Tem Moore, and unanimously approved, the meeting was adjourned at 6:31 p.m.



# City of Killeen

## Legislation Details

**File #:** RS-17-038    **Version:** 1    **Name:** Lease of Wheel Loader and Compact Excavator for Drainage Maintenance Division

**Type:** Resolution    **Status:** Resolutions

**File created:** 1/23/2017    **In control:** City Council

**On agenda:** 4/11/2017    **Final action:**

**Title:** Consider a memorandum/resolution authorizing the lease with purchase option of a wheel loader and compact excavator for the Drainage Maintenance division.

**Sponsors:** Environmental Services, Fleet Services, Public Works Department

**Indexes:**

**Code sections:**

**Attachments:** [Staff Report](#)  
[Purchase Agreement](#)  
[Quote](#)  
[Bancorp Lease Purchase Proposal](#)  
[Loader Picture](#)  
[Excavator Picture](#)  
[Certificate of Interested Parties](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** April 4, 2017

**TO:** Ronald L. Olson, City Manager

**VIA:** Jonathan Locke, Executive Director of Finance

**FROM:** Frank Tydlacka, Director of Fleet Services

**SUBJECT:** Authorize lease with purchase option of a wheel loader and compact excavator for the Drainage Maintenance division

### **BACKGROUND AND FINDINGS:**

Beginning in FY13, the Drainage Maintenance division was authorized to lease a track loader to be used in routine operations, minor construction projects and upkeep of the approximate 457 acres of drainage channels throughout the city. The monthly payment for that unit was \$3,407.62. With the mission ever changing, it was found necessary to return that unit when the lease expired in June 2016 and replace it with a down-sized machine that would be more capable in confined areas. Therefore, the same funds were again appropriated in the FY17 Drainage Maintenance division's budget to lease the down-sized equipment. The monthly lease payment for the down-sized machines would be \$158.87 greater than the previous lease. However, this lease will negate the need to rent the compact equipment or borrow oversized equipment from other divisions. This results in an average monthly net savings of \$549.46, an increase in efficiency for the Drainage Maintenance division, and a reduced negative impact to the mission of other divisions.

### **THE ALTERNATIVES CONSIDERED:**

Borrowing a loader and excavator from another division will not work well because the existing equipment is too large, they would be continually transported back and forth between job sites and loading sites and the overall process would cause major inefficiencies for both divisions.

Renting is not practical because there must be a loader available most all of the time. Rental cost for the loader alone would average \$5,200/mo.

Leasing of the correct sized equipment would cost \$3,566.49 per month. This option would actually be a monthly savings realized of \$549.46 compared to the past cost of leasing the oversized loader and periodically renting the smaller size loader and compact excavator. Average cost of renting the additional required machinery has been \$708.33/mo. for a total monthly cost of (\$3,407.62 + \$708.33) \$4,115.95, again, \$549.46 more than the current proposed lease/purchase monthly cost.

**Which alternative is recommended? Why?**

This latter alternative is recommended because it is cost effective and improves efficiencies.

**CONFORMITY TO CITY POLICY:**

The City of Killeen is a member of several purchasing cooperatives that are in compliance with the Texas Local Government Code section 271.102. Purchases made through a cooperative satisfy competitive bid requirements. The needed equipment would be provided by Romco Equipment Co. of Round Rock, utilizing the TASB BuyBoard Purchasing Cooperative with financing provided by Bancorp South Equipment Finance.

**FINANCIAL IMPACT:**

The pricing for the two pieces of equipment is as follows:

<b>Make/Model</b>	<b>Monthly Cost</b>	<b>Purchase Option</b>	<b>Total Cost 3-yr + Purch.</b>
Volvo L60H Loader	\$2,822.40	\$60,754.10	\$162,360.50
Volvo ECR25D Excavator	\$744.09	\$16,017.10	\$42,804.34
<b>Total</b>	<b>\$3,566.49</b>	<b>\$76,771.20</b>	<b>\$205,164.84</b>

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

The amount of expenditure in the current FY (May - Sep) would be \$17,832.45. The next two FYs would be at \$42,797.88 per year. In FY20, the final seven monthly payments would total \$24,965.43. At the end of that period, the City would have the option of returning the equipment and initiating a new lease or the equipment could be purchased in FY20 for \$76,771.20

**Is this expenditure budgeted? If not, where will the money come from?**

This expenditure is budgeted. Funding for this equipment is available in the Drainage Maintenance division's Equipment Rental/Lease account (575-3448-434.44-10) at a rate of \$3,566.49 per month.

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

Yes. The FY17 budget for this account is \$47,000.

**RECOMMENDATION:**

Staff recommends the procurement of the wheel loader and compact excavator from Romco Equipment Co., through the TASB BuyBoard, with financing provided by Bancorp South Equipment Finance, on a three-year lease of \$3,566.49 per month, and that the City Manager or designee is authorized to approve the purchase of the equipment at the end of the three-year lease period for \$76,771.20 if the purchase is approved in the FY20 budget, and that the City Manager or designee is expressly authorized to execute any and all change orders within the amounts set by state and local law.

**DEPARTMENTAL CLEARANCES:**

Public Works  
Purchasing  
Finance  
City Attorney

**ATTACHED SUPPORTING DOCUMENTS:**

Purchase Agreement  
Quote  
Bancorp Lease Purchase Proposal  
Loader Picture  
Excavator Picture  
Certificate of Interested Parties

**EQUIPMENT LEASE - PURCHASE AGREEMENT**

**LESSOR:**

**BANCORPSOUTH EQUIPMENT FINANCE,**  
a division of BancorpSouth Bank  
P. O. Box 15097  
12 Thompson Park  
Hattiesburg, MS 39404-5097

601-544-3252

**LESSEE:**

City of Killeen, Texas  
P.O. Box 1329  
Killeen, TX 76540-1329

Randy Jimenez  
(254) 501-7729



INSTRUCTIONS FOR EXECUTING DOCUMENTS

<u>Document</u>	<u>Instructions</u>
Contract	Sign & Date Last Page of Contract
Special Stipulations <u>Exhibit A</u>	Sign & Date
Legal Counsel's Opinion <u>Exhibit B</u>	Should be typed on counsel's letterhead
Delivery Order <u>Exhibit C</u>	1st line - Date 2nd line - Date of Contract A. - Due Date will be set when the contract is closed C. - Fiscal period Page 2 - Sign & Date
Equipment Acceptance Notice <u>Exhibit D</u>	4th line - Delivery Order Date 7th line - Date this acceptance signed Sign & Date
Resolution	Section 1. - Name of person authorized to sign contract Section 7. - The amount of tax-exempt obligations (including this contract) made during this calendar year (since January 1)
Tax Exempt Certificate	1st line - Name of person completing form 2nd line - Date of contract No. 7 - Date of Resolution No. 8 - (See Resolution Section 7 above) Page 2 - Sign & Date
IRS Form 8038-G (or 8038-GC)	No. 2 - Your Fed. I.D. No. Sign & Date
Essential Use Letter	Type on your letterhead. State the use and purpose of the equipment
Invoice	<input type="checkbox"/> Advance rental <input checked="" type="checkbox"/> Payments in arrears

PLEASE RETURN ALL EXECUTED DOCUMENTS TO:

Regular Mail

Municipal Specialist  
BancorpSouth Equipment Finance  
PO Box 15097  
Hattiesburg, MS 39404-0597

Overnight Mail

Municipal Specialist  
BancorpSouth Equipment Finance  
12 Thompson Park  
Hattiesburg, MS 39401

## TERMS AND CONDITIONS OF AGREEMENT

1. Agreement. (a) Lessee requests BancorpSouth Equipment Finance, a division of BancorpSouth Bank ("Lessor") to acquire the personal property (herein called "Equipment") described in the attached Delivery Order (s). Lessee agrees to lease with an option to purchase the Equipment from Lessor and Lessor agrees to lease the Equipment to Lessee upon receipt of a duly authorized written acceptance hereof, signed by an authorized officer of Lessor at its principal office, upon the terms and conditions of this Agreement (the "Agreement"). Lessee represents, covenants and warrants, and as requested by Lessor will deliver an opinion of counsel substantially in the form attached as Exhibit B, to the effect, (i) that it is a fully constituted political subdivision or agency of the State of Texas (the "State") and is authorized by the Constitution and laws of the State and its own internal or administrative procedure to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder, and (ii) that this Agreement has been duly authorized, executed and delivered by Lessee and constitutes a legal, valid and binding agreement enforceable in accordance with its terms. Lessee agrees that it will do or cause to be done all things necessary to preserve and keep this Agreement in full force and effect. Lessee further represents, covenants and warrants that Lessee has complied with all bidding requirements where necessary and by due notification presented this Agreement for approval and adoption as a valid obligation on its part and that Lessee has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal year.

(b) Lessee acknowledges that Lessor has agreed to enter into this Agreement on the condition that the interest portions of the Payments as defined in Section 5 hereof shall be deductible from gross income pursuant to sections 103 and 265(b) of the Internal Revenue Code of 1986 and the Regulations thereunder (the "Code") is available. Said exception is subject to certain conditions relating to Lessee's use of the Equipment and to Lessee's issuance of tax-exempt obligations. In that regard, Lessee represents, covenants and warrants that :

(i) The Equipment will not be used, directly or indirectly, in a trade or business carried on by any person other than a governmental unit, except for such use as a member of the general public;

(ii) No portion of the Payments as defined in Section 5 hereof: (A) will be secured, directly or indirectly, by property used or to be used in a trade or business carried on by a person other than a governmental unit, except for such use as a member of the general public, or by payments in respect of such property; or (B) will be derived from payments, whether or not to Lessee, in respect of property or borrowed money used or to be used for a trade or business carried on by any person other than a governmental unit;

(iii) No portion of the gross proceeds of this Agreement will be used (directly or indirectly) to make or finance loans to persons other than governmental units;

(iv) This Agreement and the Delivery Order(s) attached hereto have been designated as a qualified tax-exempt obligation for the purposes of section 265 (b) of the Code; and

(v) Lessee reasonably anticipates that the amount of qualified tax-exempt obligations to be issued by Lessee (together with qualified tax-exempt obligations issued by an entity deriving its issuing authority from Lessee or by an entity subject to substantial control by Lessee) during the current calendar year shall not exceed \$10,000,000.

(c) Lessee acknowledges and agrees that the Payments have been calculated by Lessor assuming that the interest portion of each Payment is exempt from federal income taxation. Lessee represents, covenants and warrants that it will do or refrain from doing all things necessary or appropriate to insure that the interest portions of the Payments are exempt from federal income taxation, including, but not limited to, executing and filing all information statements required by Section 149(e) of the Code and timely paying, to the extent of available funds, amounts required to be rebated to the United States pursuant to Section 148(f) of the Code.

(d) Lessee acknowledges that the representations, covenants and warranties set forth in sub-sections (b) and (c) of this Section 1 shall survive the expiration of this Agreement and that Lessor may pursue any applicable remedies for the breach of such representations, covenants and warranties at any time.

2. Equipment Delivery and Acceptance. At the request of Lessee, Lessor agrees to order the Equipment which Lessee has described in the Delivery Order (s) from the supplier of such Equipment but shall not be liable for specific performance of this order. Lessee shall accept such Equipment when and if delivered and placed in good repair and working order and hereby authorizes Lessor to add to this Agreement the serial number of each item of Equipment so delivered. Any delay in such delivery shall not affect the validity of this Agreement. Lessee shall have thirty (30) days from the date of delivery to accept such Equipment and deliver an executed Equipment Acceptance Notice in the form attached hereto as Exhibit D. Notice of any defects must be given to Lessor within thirty (30) days of delivery. In the event the Equipment is not accepted by Lessee within thirty (30) days from the date of delivery and such acceptance is unreasonably withheld by Lessee, Lessor, at Lessor's option, shall have the right to cancel this Agreement.

3. Warranties. Lessor hereby assigns to Lessee for and during the term of this Agreement all manufacturer warranties and guarantees express or implied, issued on or applicable to the Equipment, and Lessor authorizes Lessee to obtain at Lessee's expense the customary services furnished in connection with such warranties and guarantees. LESSOR IS NOT A MANUFACTURER OR SUPPLIER OF THE EQUIPMENT, AND MAKES NO WARRANTIES WITH RESPECT TO THE EQUIPMENT, EITHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. Lessor authorizes Lessee to enforce in its own name and warranty, representation or other claim enforceable against the manufacturer. Lessor assumes no responsibility for shipment, delivery, installation or maintenance, and all claims of Lessee with respect thereto, whether for delay, damage or otherwise, shall be made against supplier. Lessor, at its option, may provide in its purchase order that supplier agrees that any of such claims may be made by Lessee directly against suppliers. The obligation of Lessee to pay the Payments as defined in Section 5 hereof, shall not be abated, impaired or reduced by reason of any claims of

Lessee with respect to Equipment condition, quality, workmanship, delivery, shipment, installation, defects or otherwise.

4. Agreement Term. This Agreement shall become effective upon the execution hereof by Lessor. The term of this Agreement shall commence on the date the Equipment is accepted pursuant to Section 2 hereof, and shall end at the expiration of the number of periods indicated in Schedule A of the Delivery Order (s) (hereinafter the "Agreement Term"). This Agreement shall be automatically renewed on a year-to-year basis except as provided for in Section 5 and Section 14 hereof.

5. Payments. (a) Lessee agrees to pay to Lessor or its assignee total Payments ("Payments") set forth in Section A of the Delivery Order (s), including the interest portions thereof, equal to the amount specified therein. Said Payments shall be payable without notice or demand at the office of Lessor (or such other place as Lessor may from time to time designate in writing). Any notice, invoicing, purchase orders, quotations or other forms or procedures required by Lessee of Lessor as a condition precedent to payment shall be fully explained and provided to Lessor prior to execution of this Agreement. Except as specifically provided in subsection (c) of this Section 5, Payments shall be absolute and unconditional in all events and shall not be subject to any set-off, defense or counterclaim.

(b) Lessee reasonably believes that funds can be obtained sufficient to make all Payments during this Agreement Term. It is Lessee's present intent to make Payments for the full Agreement Term if funds are legally available therefor, and in that regard Lessee represents that the use of the Equipment is essential to its proper efficient and economic operation.

(c) In the event no funds or insufficient funds are appropriated for Payments and other sums due in any fiscal year under this Agreement, Lessee shall immediately notify Lessor or its assignee of such occurrence, and this Agreement shall create no further obligation of Lessee as to such fiscal year and shall be null and void, except as to funds which have been previously appropriated. In such event, this Agreement shall terminate without penalty to Lessee on the last day of the fiscal year for which funds were appropriated. Subsequent to such termination of this Agreement, Lessee shall have no continuing obligation to make Payments under this Agreement. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its assignee on the date of such termination, packed for shipment in accordance with manufacturer specifications and freight prepaid and insured to any location in the continental United States designated by Lessor. Lessor shall have all legal and equitable rights and remedies to take possession of the Equipment.

6. Location. The Equipment shall be delivered and thereafter based at the location specified in the Delivery Order (s) and shall not be removed therefrom without Lessor's prior written consent.

7. Use; Repairs. Lessee shall use the Equipment in a careful manner and shall comply with all laws, ordinances and regulations relating to, and shall pay all costs, claims, damages, fees and charges arising out of its possession, use or maintenance. Lessee, at its expense, shall

keep the Equipment in good repair and furnish all parts, mechanisms and devices required therefor.

8. Alterations. Lessee shall not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be removed without damage to the Equipment.

9. Loss and Damage. Lessee shall bear the entire risk of loss or damage to all Equipment from any cause whatsoever, and no such loss or damage of the Equipment nor defect therein or unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Payments or any other obligation under this Agreement. In the event of damage to any item of Equipment, Lessee shall immediately place the same in good repair. If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee at the option of Lessee shall:

(a) Replace the same at Lessee's expense with like equipment in good repair; or

(b) Pay Lessor in cash all of the following: (i) all amounts then owed by Lessee to Lessor under the applicable Delivery Order, and (ii) an amount equal to the Concluding Payment set forth in Schedule A to such Delivery Order. Upon Lessor's receipt of such payment, Lessee shall be entitled to whatever interest Lessor may have in said item, in its then condition and location, without warranty expressed or implied.

10. Insurance. Lessee shall, during the Agreement Term, purchase and maintain insurance, or with Lessor's prior written consent may self-insure, covering specifically all Equipment of every description under this Agreement against casualty occurrences, including the perils of FIRE, LIGHTNING, WINDSTORM, HAIL, EXPLOSION, AIRCRAFT, VEHICLES, SMOKE, RIOT, CIVIL COMMOTION, STRIKERS, LOCKED OUT WORKMEN OR THEFT, BURGLARY AND WATER DAMAGE, in an amount equal to the cost of replacement of all Equipment and with a company approved by Lessor and shall carry public liability and property damage insurance sufficient to protect Lessor from liability in all events. The proceeds under this insurance shall be payable to Lessee and to Lessor or its assignee as additional insured as their interest may appear under the terms and conditions of this Agreement. Such proceeds shall be available to Lessee for the satisfaction of Lessee's obligations under Section 9 hereof. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee shall deliver to Lessor or its assignee a duly authenticated certificate evidencing such insurance. In the event of any loss, damage, injury or accident involving the Equipment, Lessee shall promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto.

11. Liens and Taxes. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, excluding, however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but

shall not be obligated, to pay said charges and taxes; in such event, Lessee shall pay Lessor the amount thereof upon demand.

12. Indemnity. To the extent permitted by the laws of the State, Lessee shall indemnify Lessor against and hold Lessor harmless from any and all claims, actions, proceedings, expenses, damages or liabilities, arising in connection with the Equipment, including, without limitation, its manufacture, selection, purchase, delivery, possession, use, operation or return and the recovery of claims under insurance policies thereon.

13. Assignment. (a) Without Lessor's prior consent, Lessee shall not either (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Agreement or the Equipment or any interest in this Agreement or said Equipment, or (ii) lease or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. Without the consent of Lessee, Lessor may assign, in whole but not in part, its rights, title and interest in and to this Agreement, and all attachments hereto including Delivery Order(s), to an assignee/investor or such assignee's/investor's agents or trustees and grant or assign a security interest in this Agreement or the Equipment, and its assignee may reassign this Agreement in whole but not in part. Each such assignee shall have all of the rights of Lessor under this Agreement. Lessee shall recognize and acknowledge each such assignment and/or security interest. Subject to the foregoing, this Agreement inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assignees of the parties hereto.

(b) This Agreement and any interest herein may be transferred only through a book entry system as prescribed by Section 149(a) of the Code, as the same may be amended from time to time. During the term of this Agreement, Lessee shall keep a complete and accurate record of all assignments and other transfers in form and substance necessary to comply with Section 149(a) of the Code. Upon assignment of Lessor's interest herein, Lessor will cause written notice of such assignment to be sent to Lessee and, upon receipt of such notice of assignment, Lessee shall: (i) acknowledge the same in writing to Lessor; and (ii) record the assignment in Lessee's "book entry system" as that term is defined in Section 149(a) of the Code. No further action will be required by Lessor or by Lessee to evidence the assignment.

14. Prepayment. At the written request of Lessee, delivered thirty (30) days prior to a Date of Payment as shown on Schedule A to a Delivery Order, and if Lessee is not on such Date of Payment in default pursuant to any provision of this Agreement, Lessor shall convey all of Lessor's right, title and interest in and to the Equipment described in that Delivery Order to Lessee upon payment by Lessee of the applicable Concluding Payment and the Base Payment due on such Date of Payment. Upon satisfaction by Lessee of such purchase conditions, Lessor shall deliver to Lessee a full release of any right, title or interest of Lessor in and to such Equipment.

15. Taxes and Title to Equipment. In addition to other payments to be made pursuant to this Agreement, Lessee shall indemnify and hold Lessor harmless, to the extent permitted by the laws of the State from and against, and shall pay Lessor, as additional payment, on demand, an amount equal to, all license, assessments, sales, use, real or personal property, gross receipts or other assessments, taxes, levies, imposts, duties and charges, if any, together with

any penalties, fines or interest thereon imposed against or on Lessor, Lessee or the Equipment by any governmental authority upon or with respect to the Equipment or the purchase, ownership, possession, operation, return or sale of, or receipt of payments for, the Equipment, except any Federal or state income taxes, if any, payable by Lessor. Lessee may contest any such taxes prior to payment provided such contest does not involve any risk of sale, forfeiture or loss of the Equipment or any interest therein.

This Agreement is intended for security. For purposes of laws governing taxation and conditional sales, title to the Equipment shall be deemed to be transferred hereby to Lessee, subject to immediate and automatic reversion to Lessor upon any default by Lessee or upon failure to appropriate sufficient funds in order to make payments required hereunder, unless Lessor otherwise elects in writing.

16. Personal Property. The Equipment is, and shall at all times during this Agreement Term be and remain, personal property.

17. Security Interest. To secure all of its obligations hereunder Lessee grants to Lessor a first and prior security interest in any and all right and interest of Lessee in the Equipment, this Agreement and payments due under this Agreement, agrees that this Agreement may be filed as a financing statement evidencing such security interest, and agrees to execute and deliver all financing statements and other instruments necessary or appropriate to evidence such security interest. Lessee further agrees that the Uniform Commercial Code of the State shall apply as between the parties hereto and assignees of Lessor.

18. Events of Default. Lessee shall be in default under this Agreement upon the occurrence of any of the following events:

(a) Nonpayment when due or within 6 days thereafter of any Payment of rent or other sum owing hereunder;

(b) Breach of any other covenant or agreement in this Agreement and the continuance of such breach for a period of 10 consecutive days following Lessee's receipt of written notice thereof from Lessor;

(c) If any representation or warranty made by Lessee or by any agent or representative of Lessee herein or in any document or certificate furnished Lessor in connection herewith or pursuant hereto proves to be incorrect at any time in any material respect;

(d) If Lessee shall dissolve or become insolvent or bankrupt, commit any act of bankruptcy, make any assignment for the benefit of or enter into an arrangement or composition with creditors, suspend or terminate the transaction of its usual business or consent to the appointment of a trustee or receiver or if a trustee or receiver shall be appointed for Lessee or for a substantial part of its property, or if bankruptcy, reorganization arrangements or similar proceedings shall be instituted by or against Lessee;

(e) If any order, judgment or decree shall be entered against Lessee by a court of competent jurisdiction and such order, judgment or decree shall continue unpaid or unsatisfied for any period in excess of 60 consecutive days without a stay of execution, or if a writ or order of attachment, execution or other legal process shall be issued in connection with any action or proceeding against Lessee or its property whereby any of the Equipment or any substantial part of Lessee's property may be taken or restrained;

(f) If Lessee shall default in the performance of any obligation or in payment of any sum due to Lessor under any other lease, contract, agreement, arrangement or understanding;

(g) If any indebtedness of Lessee for borrowed money shall become due and payable by acceleration of the maturity date thereof; or

(h) If Lessor, in the exercise of reasonable judgment, shall determine that Lessee is generally not paying its debts as such debts become due. In addition, Lessee shall give Lessor 5 days written notice prior to the filing of any voluntary petition of bankruptcy, written notice upon commencement of an involuntary bankruptcy proceeding, or written notice prior to taking any action with respect to all or any items of the Equipment in bankruptcy proceedings, and shall include in said written notice the venue of the anticipated proceedings and a copy of any relevant pleadings with respect thereto. Failure to give said written notice within the time as specified shall constitute an event of default hereunder and shall cause an immediate termination of this Agreement as to all items of Equipment. Said default and termination, however, shall not constitute an election of remedies, and Lessor shall retain its rights to such other remedies as may be set forth in this Agreement.

19. Remedies of Default. Upon the occurrence of any event of default and at any time thereafter, Lessor, acting alone and/or through its agents, may, without any further notice, exercise one or more of the following remedies as Lessor in its sole discretion shall elect:

(a) Terminate this Agreement as to any or all items of Equipment;

(b) Without notice, demand, liability or legal process, enter into any premises of or under control or jurisdiction of Lessee or any agent of Lessee where the leased Equipment may be, or is believed to be by Lessor, and repossess all or any item thereof, disconnecting and separating all or so much thereof as may be required to disconnect or separate same from any other property, Lessee hereby expressly waiving all further rights to possession of the Equipment and all claims for injuries suffered through or loss caused by such repossession;

(c) Cause Lessee, at Lessee's expense, promptly to return the Equipment to Lessor, at such place as Lessor may designate, in the condition set forth above;

(d) Use, hold, sell, lease or otherwise dispose of the Equipment or any item thereof on the premises of Lessee or at any other location without affecting the obligations of Lessee as provided in this Agreement;



(e) Sell or lease the Equipment or any part thereof, at public auction or by private sale or lease at such time or times and upon such terms as Lessor may determine, free and clear of any rights of Lessee, and, if notice thereof is required by law, any notice in writing of any such sale or lease by Lessor to Lessee not less than 10 days prior to the date thereof shall constitute reasonable notice thereof;

(f) Proceed by appropriate action either at law or in equity to enforce performance by Lessee of the applicable covenants of this Agreement or to recover damages for the breach thereof; or

(g) Exercise any and all rights accruing to Lessor under any applicable law upon a default by Lessee. In addition, Lessor shall be entitled to recover immediately as liquidated damages for the loss of a bargain and not as a penalty, a sum equal to the aggregate of the following:

(i) All unpaid Payments or other sums which are due and payable up to the date the Equipment is returned to or repossessed by Lessor; and

(ii) Any expense paid or incurred by Lessor in connection with the repossession, holding, repair and subsequent sale, lease or other disposition of the Equipment, including attorney's fees and legal expenses.

None of the remedies of Lessor under this Agreement are intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to herein or otherwise available to Lessor at law or in equity. Lessee agrees to pay Lessor all attorneys' fees and all costs and expenses incurred by Lessor in connection with the enforcement of the terms of this Agreement or any right or remedy hereunder. Any repossession or subsequent sale or lease by the Lessor of any item of Equipment shall not bar any action for a deficiency as herein provided and the bringing of an action or the entry of a judgment against Lessee shall not bar Lessor's right to repossess any or all items of Equipment. Lessee waives any and all rights to notice and to a judicial hearing with respect to the repossession of the Equipment by Lessor in the event of a default hereunder by Lessee.

20. Amendments and Addendums. This Agreement may be amended or any of its terms modified only by written consent of Lessee and of Lessor or its assignee.

In the event Lessee desires to buy other equipment, the parties may execute an addendum to this Agreement with respect to such other equipment by (i) executing a delivery order for such equipment; (ii) executing an acceptance certificate of the equipment; and (iii) obtaining new opinions and other supporting documentation as required or permitted by this Agreement. For purposes of construing subsequent transactions concerning other equipment as an integrated contract, the following shall be considered a single transaction or legal and binding agreement:

- (a) This Agreement, which provides basic terms and conditions;
- (b) An executed delivery order and acceptance certificate; and
- (c) Schedules, exhibits, and other attachments to such documents that pertain to the equipment described in the delivery order, and supporting documentation such as, e.g., opinions of counsel and insurance certificates.

21. Notices. All notices to be given under this Agreement shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five (5) days subsequent to mailing.

22. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provisions of this Agreement.

23. Governing Law. This Agreement shall be governed by the provisions hereof and by the laws of the State.

24. Delivery of Related Documents. Lessee will execute, or provide as required by Lessor, the following documents and information in form and substance satisfactory to Lessor:

- (a) Equipment Acceptance Notice;
- (b) Legal opinion of counsel as described in Section 1 above;
- (c) Statement of Lessee describing the essential functions and uses of the Equipment;
- (d) Documents evidencing title and delivery;
- (e) Maintenance contract regarding Equipment;
- (f) Uniform Commercial Code Financing Statements;
- (g) Certificates of liability and casualty insurance naming Lessor and its assigns as additional insureds;
- (h) Invoicing instructions; and

(i) Other documents as reasonably requested by Lessor.

25. Entire Agreement; Waiver. This Agreement, together with the Delivery Order (s) and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the Equipment. Any provisions of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Agreement. The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

26. Special Stipulations. Any amendment to standard language will be set forth in Exhibit A attached hereto ("Special Stipulations").

**LESSOR:**

BancorpSouth Equipment Finance,  
a division of BancorpSouth Bank  
P.O. Box 15097  
12 Thompson Park  
Hattiesburg, MS 39404-5097

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LESSEE:**

City of Killeen, Texas  
P.O. Box 1329  
Killeen, TX76540-1329

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SPECIAL STIPULATIONS**

LESSOR: BancorpSouth Equipment Finance,  
a division of BancorpSouth Bank  
P.O. Box 15097  
12 Thompson Park  
Hattiesburg, MS 39404-5097

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

LESSEE: City of Killeen, Texas  
P.O. Box 1329  
Killeen, TX 76540-1329

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Under this Equipment Lease Purchase Agreement, Section 1(b), first paragraph only and Section 1(b) (iv) and (v), Section 1 (c) and the reference to 1(c) in 1(d) do not apply. This applies to Delivery Order No. 1 of this Equipment Lease Purchase Agreement. Previous and future delivery orders under this agreement may be bank qualified and all sections of the Equipment Lease Purchase Agreement shall apply if qualifications are met

EXHIBIT A

 THIS IS THE FORM TO BE USED FOR A LEGAL OPINION OF THE LESSEE'S LEGAL COUNSEL. IT SHOULD BE TYPED ON THE COUNSEL'S LETTERHEAD: 

BancorpSouth Equipment Finance,  
a division of BancorpSouth Bank  
P. O. Box 15097  
Hattiesburg, MS 39404-5097

Re: Equipment Lease - Purchase Agreement dated \_\_\_\_\_ and  
Delivery Order No. 01 thereto, dated \_\_\_\_\_, by and between BancorpSouth  
Equipment Finance, a division of BancorpSouth Bank, as Lessor, and City of Killeen, Texas, as  
Lessee.

Ladies and Gentlemen:

I am the attorney for City of Killeen, Texas (the "Lessee") and pursuant to the above-referenced transaction, I am familiar with the above-referenced Equipment Lease - Purchase Agreement (the "Agreement").

Based on the examination of the Agreement and such other documents, records and papers as I deemed to be relevant and necessary as the basis for my opinion set forth below, it is my opinion that:

1. Either the Lessee is a state, territory, a possession of the United States, the District of Columbia, or a political subdivision thereof (as such terms are defined in section 103 of the Internal Revenue Code and the Regulations thereunder) or the Lessee is a constituted authority (as such term is defined in section 103 of the Internal Revenue Code and the Regulations thereunder) empowered to issue obligations on behalf of one of the foregoing entities, and the Lessee is authorized by the Constitution and laws of the State of Texas to enter into the transactions contemplated by the Agreement and to carry out its obligations thereunder.
2. The Agreement has been duly authorized, executed and delivered by the Lessee and constitutes a valid, legal and binding obligation of the Lessee enforceable in accordance with its terms.
3. No further approval, consent or withholding of objections is required from any federal, state or local government authority with respect to the entering into or performance by the Lessee of the Agreement and the transactions contemplated thereby.

EXHIBIT B

4. The entering into and performance of the Agreement and other related documents will not violate any judgment, order, law or regulation applicable to the Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Lessee or the leased equipment pursuant to, any indenture, mortgage, deed of trust, bank loan, credit agreement or other instrument to which the Lessee is a party or by which it or its assets may be bound.

5. There are no actions, suits or proceedings pending or, to the knowledge of the Lessee, threatened against or affecting the Lessee in any court or before any governmental commission, board or authority which if adversely determined, will have a material adverse effect on the ability of the Lessee to perform its obligations under the Agreement.

6. The equipment subject to the Agreement is personal property and, when subjected to use by the Lessee, will not be or become fixtures under the laws of the State of Texas.

7. All required public bidding procedures regarding the award of the Agreement have been followed by the Lessee.

Sincerely,

**DELIVERY ORDER NO: 01**

10896 70872-001

Dated as of: \_\_\_\_\_

To Agreement No: 10896

THIS DELIVERY ORDER is issued pursuant to an Equipment Lease - Purchase Agreement dated as of \_\_\_\_\_ (the "Agreement"), between the parties to the Agreement to authorize installation of the Equipment listed herein. All terms used herein have the meanings ascribed to them in the Agreement.

**A. PAYMENTS, TERM, TRANSPORTATION AND DELIVERY COSTS.**

The Payments required under the Agreement for the Equipment designated on this Delivery Order are "See Schedule A". A portion of each Payment is paid as and represents payment of interest as set forth in Schedule A hereto. Payments shall be due as follows: "See Schedule A". Lessee shall pay transportation and/or delivery costs, if any, as set forth in Schedule B hereto.

**B. LATE PAYMENTS.**

There will be a charge of N/A per month based on the amount of any Payments which remain unpaid for ten (10) days after the due date.

**C. FISCAL YEAR.**

Lessee's fiscal year period is from \_\_\_\_\_ to \_\_\_\_\_.

**D. CONCLUDING PAYMENT.**

Lessee shall have the option to purchase the Equipment described herein in accordance with Section 14 of the Agreement upon payment of the Concluding Payment Amount set forth in Schedule A hereto plus the payment then due.

**E. EQUIPMENT DESCRIPTION.**

The Equipment as defined in the Agreement includes the following: See Schedule A-1 attached hereto and made a part hereof

EXHIBIT C

**SCHEDULE A-1**

City of Killeen, Texas

Master Lease Number: 10896

Delivery Order Number: 70872-001

One (1) New Volvo L60 H Loader, S/N: \_\_\_\_\_

One (1) New Volvo ECR25D Compact Excavator, S/N: \_\_\_\_\_



F. LOCATION.

---

G. ALTERNATIVE INTEREST RATES.

1. Loss of interest deductibility will incur a rate of not less than 5.00%.
2. Loss of tax-exempt interest will incur a rate of not less than 5.00%.

**THE TERMS GOVERNING THIS DELIVERY ORDER ARE CONTAINED IN THE AGREEMENT REFERENCED ABOVE AND APPLY WITH THE SAME FORCE AND EFFECT AS IF SET FORTH FULLY HEREIN.**

Lessor shall not be bound by this Agreement until it is executed by an authorized officer of Lessor at Lessor's principal place of business.

DATED as of the day and year first above stated on this Delivery Order.

LESSOR:

BancorpSouth Equipment Finance, a division  
of BancorpSouth Bank  
P. O. Box 15097  
Hattiesburg, MS 39404-5097

By: \_\_\_\_\_

Title: \_\_\_\_\_

LESSEE:

City of Killeen, Texas  
P.O. Box 1329  
Killeen, TX 76540-1329

By: \_\_\_\_\_

Title: \_\_\_\_\_

**InfoAnalysis**  
**Payment Amortization Report**

Customer: City of Killeen, Texas 10896 70872-001 SCHEDULE "A"

Interest Rate: 2.9100% (Monthly)

Per	Date	Payment	Principal	Interest	Principal Balance	Accrued Interest	Accrued Int Bal	Net Balance
0	3/ 3/17	0.00	0.00	0.00	192,997.00	0.00		192,997.00
1	4/ 3/17	3,566.49	3,098.47	468.02	189,898.53	468.02	0.00	189,898.53
2	5/ 3/17	3,566.49	3,105.99	460.50	186,792.54	460.50	0.00	186,792.54
3	6/ 3/17	3,566.49	3,113.52	452.97	183,679.02	452.97	0.00	183,679.02
4	7/ 3/17	3,566.49	3,121.07	445.42	180,557.95	445.42	0.00	180,557.95
5	8/ 3/17	3,566.49	3,128.64	437.85	177,429.31	437.85	0.00	177,429.31
6	9/ 3/17	3,566.49	3,136.23	430.27	174,293.08	430.27	0.00	174,293.08
7	10/ 3/17	3,566.49	3,143.83	422.66	171,149.25	422.66	0.00	171,149.25
8	11/ 3/17	3,566.49	3,151.46	415.04	167,997.79	415.04	0.00	167,997.79
9	12/ 3/17	3,566.49	3,159.10	407.39	164,838.70	407.39	0.00	164,838.70
	2017	32,098.43	28,158.30	3,940.13		3,940.13		
10	1/ 3/18	3,566.49	3,166.76	399.73	161,671.94	399.73	0.00	161,671.94
11	2/ 3/18	3,566.49	3,174.44	392.05	158,497.50	392.05	0.00	158,497.50
12	3/ 3/18	3,566.49	3,182.14	384.36	155,315.36	384.36	0.00	155,315.36
13	4/ 3/18	3,566.49	3,189.85	376.64	152,125.51	376.64	0.00	152,125.51
14	5/ 3/18	3,566.49	3,197.59	368.90	148,927.92	368.90	0.00	148,927.92
15	6/ 3/18	3,566.49	3,205.34	361.15	145,722.58	361.15	0.00	145,722.58
16	7/ 3/18	3,566.49	3,213.12	353.38	142,509.47	353.38	0.00	142,509.47
17	8/ 3/18	3,566.49	3,220.91	345.59	139,288.56	345.59	0.00	139,288.56
18	9/ 3/18	3,566.49	3,228.72	337.77	136,059.84	337.77	0.00	136,059.84
19	10/ 3/18	3,566.49	3,236.55	329.95	132,823.29	329.95	0.00	132,823.29
20	11/ 3/18	3,566.49	3,244.40	322.10	129,578.90	322.10	0.00	129,578.90
21	12/ 3/18	3,566.49	3,252.26	314.23	126,326.64	314.23	0.00	126,326.64
	2018	42,797.91	38,512.06	4,285.85		4,285.85		
22	1/ 3/19	3,566.49	3,260.15	306.34	123,066.49	306.34	0.00	123,066.49
23	2/ 3/19	3,566.49	3,268.06	298.44	119,798.43	298.44	0.00	119,798.43
24	3/ 3/19	3,566.49	3,275.98	290.51	116,522.45	290.51	0.00	116,522.45
25	4/ 3/19	3,566.49	3,283.93	282.57	113,238.52	282.57	0.00	113,238.52
26	5/ 3/19	3,566.49	3,291.89	274.60	109,946.63	274.60	0.00	109,946.63
27	6/ 3/19	3,566.49	3,299.87	266.62	106,646.76	266.62	0.00	106,646.76
28	7/ 3/19	3,566.49	3,307.87	258.62	103,338.89	258.62	0.00	103,338.89
29	8/ 3/19	3,566.49	3,315.90	250.60	100,022.99	250.60	0.00	100,022.99
30	9/ 3/19	3,566.49	3,323.94	242.56	96,699.06	242.56	0.00	96,699.06
31	10/ 3/19	3,566.49	3,332.00	234.50	93,367.06	234.50	0.00	93,367.06
32	11/ 3/19	3,566.49	3,340.08	226.42	90,026.98	226.42	0.00	90,026.98
33	12/ 3/19	3,566.49	3,348.18	218.32	86,678.81	218.32	0.00	86,678.81
	2019	42,797.91	39,647.83	3,150.08		3,150.08		

**Info Analysis**  
**Payment Amortization Report**

Customer: City of Killeen, Texas 10896 70872-001 SCHEDULE "A"

Interest Rate: 2.9100% (Monthly)

Per	Date	Payment	Principal	Interest	Principal Balance	Accrued Interest	Accrued Int Bal	Net Balance
34	1/ 3/20	3,566.49	3,356.30	210.20	83,322.51	210.20	0.00	83,322.51
35	2/ 3/20	3,566.49	3,364.44	202.06	79,958.07	202.06	0.00	79,958.07
36	3/ 3/20	3,566.49	3,372.59	193.90	76,585.48	193.90	0.00	76,585.48
37	4/ 3/20	76,771.20	76,585.48	185.72	0.00	185.72	0.00	0.00
	2020	87,470.68	86,678.81	791.87		791.87		
<b>Totals:</b>		<b>205,164.92</b>	<b>192,997.00</b>	<b>12,167.92</b>		<b>12,167.92</b>		

EQUIPMENT ACCEPTANCE NOTICE

10896 70872-001

TO: BancorpSouth Equipment Finance, a division of BancorpSouth Bank

RE: Agreement No. 10896

This is to acknowledge that the delivery and/or installation of the Equipment, described in Delivery Order No. 01 dated as of \_\_\_\_\_ has been completed in accordance with the terms of the above-referenced Agreement and that Lessee has duly delivered to and received in proper form from Lessor all purchase orders, invoices or such forms or documents required by Lessee to assure commencement of Payments on \_\_\_\_\_, in accordance with Section 2 of the Agreement.

The undersigned has inspected said Equipment. The said Equipment satisfies provisions of Section 2 of the above-referenced Agreement, and it is accepted according to the provisions contained therein.

LESSEE:

City of Killeen, Texas

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT D

**CERTIFICATE WITH RESPECT TO NON-BANK QUALIFIED TAX EXEMPT OBLIGATIONS**

I, the \_\_\_\_\_ of City of Killeen, Texas ("Lessee"), am duly authorized to execute that certain Agreement, dated as of \_\_\_\_\_, (the "Agreement") by and between Lessee and BancorpSouth Equipment Finance, a division of BancorpSouth Bank do hereby certify as follows:

- 1. This Certificate with Respect to Non-Bank Qualified Tax Exempt Obligations (the "Certificate") is executed for the purpose of establishing that the Agreement has been designated by Lessee as Non-Bank qualified tax-exempt obligation of Lessee for purposes of section 265(b)(3) of the Internal Revenue Code of 1986 (the "Code").
- 2. Lessee is a political subdivision of the State of Texas.
- 3. The Agreement is being issued in calendar year \_\_\_\_\_.
- 4. Neither any portion of the gross proceeds of the Agreement nor the Equipment identified in the Agreement shall be used (directly or indirectly) in a trade or business carried on by any person other than a governmental unit, except for such use as a member of the general public.
- 5. No portion of the Payments identified in Section 5 of the Agreement: (a) is secured, directly or indirectly, by property used or to be used in a trade or business carried on by a person other than a governmental unit, except for such use as a member of the general public, or by payments in respect of such property; or (b) is to be derived from payments (whether or not to Lessee) in respect of property or borrowed money used or to be used for a trade or business carried on by any person other than a governmental unit.
- 6. No portion of the gross proceeds of the Agreement are used (directly or indirectly) to make or finance loans to persons other than governmental units.
- 7. Lessee reasonably anticipated that the total amount of tax-exempt obligations (other than private activity bonds) to be issued by Lessee during calendar year \_\_\_\_\_ will exceed \$10,000,000.
- 8. This Certificate is based on facts and circumstances in existence on this date

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

City of Killeen, Texas

By: \_\_\_\_\_

Title: \_\_\_\_\_

**Information Return for Tax-Exempt Governmental Obligations**

▶ Under Internal Revenue Code section 149(e)  
 ▶ See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

**Part I Reporting Authority**

If Amended Return, check here

1 Issuer's name City of Killeen, Texas		2 Issuer's employer identification number (EIN) *
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) P.O. Box 1329	Room/suite	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code Killeen, Texas 76541		7 Date of issue
8 Name of issue		9 CUSIP number
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)		10b Telephone number of officer or other employee shown on 10a (254) 501-7729

**Part II Type of Issue (enter the issue price). See the instructions and attach schedule.**

11 Education	11		
12 Health and hospital	12		
13 Transportation	13		
14 Public safety	14		
15 Environment (including sewage bonds)	15		
16 Housing	16		
17 Utilities	17		
18 Other. Describe ▶ (1) New Liebherr LH-60 Wheel Loader & (1) Volvo ECR25D Compact Excavator	18	192,997	00
19 If obligations are TANs or RANs, check only box 19a <input type="checkbox"/>			
If obligations are BANs, check only box 19b <input type="checkbox"/>			
20 If obligations are in the form of a lease or installment sale, check box <input type="checkbox"/>			

**Part III Description of Obligations. Complete for the entire issue for which this form is being filed.**

(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
	\$ 192,997.00	\$	3.07 years	2.91 %

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

22 Proceeds used for accrued interest	22		
23 Issue price of entire issue (enter amount from line 21, column (b))	23		
24 Proceeds used for bond issuance costs (including underwriters' discount)	24		
25 Proceeds used for credit enhancement	25		
26 Proceeds allocated to reasonably required reserve or replacement fund	26		
27 Proceeds used to currently refund prior issues	27		
28 Proceeds used to advance refund prior issues	28		
29 Total (add lines 24 through 28)	29		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30		

**Part V Description of Refunded Bonds. Complete this part only for refunding bonds.**

31 Enter the remaining weighted average maturity of the bonds to be currently refunded	years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	
34 Enter the date(s) the refunded bonds were issued ▶ (MM/DD/YYYY)	

**Part VI Miscellaneous**

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .	35		
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . .	36a		
b	Enter the final maturity date of the GIC ▶ _____			
c	Enter the name of the GIC provider ▶ _____			
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .	37		
38a	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:			
b	Enter the date of the master pool obligation ▶ _____			
c	Enter the EIN of the issuer of the master pool obligation ▶ _____			
d	Enter the name of the issuer of the master pool obligation ▶ _____			
39	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . .			<input type="checkbox"/>
40	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . .			<input type="checkbox"/>
41a	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:			
b	Name of hedge provider ▶ _____			
c	Type of hedge ▶ _____			
d	Term of hedge ▶ _____			
42	If the issuer has superintegrated the hedge, check box . . . . .			<input type="checkbox"/>
43	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . .			<input type="checkbox"/>
44	If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . .			<input type="checkbox"/>
45a	If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____			
b	Enter the date the official intent was adopted ▶ _____			

**Signature and Consent**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

Signature of issuer's authorized representative \_\_\_\_\_ Date \_\_\_\_\_ Type or print name and title \_\_\_\_\_

**Paid Preparer Use Only**

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name ▶	Firm's EIN ▶			
Firm's address ▶	Phone no. _____			

\* THIS IS AN ESSENTIAL USE LETTER. IT SHOULD BE TYPED \*  
ON THE LESSEE'S LETTERHEAD.

BancorpSouth Equipment Finance,  
a division of BancorpSouth Bank  
P.O. Box 15097  
Hattiesburg, MS 39404-5097

RE: Agreement No. 10896, dated \_\_\_\_\_

Ladies and Gentlemen:

The equipment purchased under the above-referenced Agreement, and associated peripheral equipment that we are buying under said Agreement, will be used by the

\_\_\_\_\_.  
The equipment will not be used in any private business or put to any private business use.

The functions of the equipment will include \_\_\_\_\_  
\_\_\_\_\_ and are deemed to be essential to the efficient operation of the  
\_\_\_\_\_.

Sincerely,



PLEASE INDICATE TO WHOM FUNDS ARE TO BE RELEASED AND RETURN THIS FORM WITH YOUR SIGNED DOCUMENTS:

Check Here

\*If we are to fund the equipment vendor(s).

Check Here

\*If you have already paid for your equipment purchase and you need to be reimbursed. Please send a photo copy of the canceled check issued for payment of the equipment when you return these signed documents.

Please call 1-800-222-1610 with any questions.

BancorpSouth Equipment Finance



**BancorpSouth**<sup>™</sup>  
Equipment Finance

BancorpSouth Equipment Finance,  
a division of BancorpSouth Bank  
P.O. Box 15097  
Hattiesburg, MS 39404-5097

To whom it may concern:

It is our great pleasure to help be of assistance to you in your endeavor to finance vehicles or equipment with us here at BancorpSouth Equipment Finance. In our effort to help assist you in the financing of vehicles or equipment for your county or city, we are asking if you could provide us with a invoice from the vendor pertaining to the equipment or vehicle(s) description along with proof of insurance. On the insurance binder in regards to the proof of insurance we also ask that BancorpSouth Equipment Finance be listed as **"Loss Payee on physical damage"** for the leased or financed equipment to be mailed back to us along with the invoice and the Executing Documents/Lease Purchase Agreement or Contract. If you would be so kind to send the requested documentation to our mailing address at Post Office Box 15097 Hattiesburg, MS 39404-5097 it would greatly be appreciated. If you have any further questions please feel free to contact us at 601-544-3252. Thank you for your regards in this matter.

Respectfully,

BancorpSouth Equipment Finance



1150 West Old Settlers Blvd / Round Rock TX 78681 / 512-388-2529 / Fax: 512-388-1781

Quote No. ES07003707  
 Version: 4  
 Date: 03/21/2017

Joe Stewart  
 City of Killeen  
 P.O. Box 1329  
 Killeen, TX 76540

ROMCO Equipment Co. is pleased to present the following equipment for your consideration:

**1 NEW VOLVO L60H WHEEL LOADER EQUIPPED AS FOLLOWS:**

- Volvo D6J Tier 4 Diesel Engine @ 167 Hp
- 100% Front Differential Lock
- Volvo Automatic Power Shifting Transmission
- 20.5-R25 L3 Tires
- Hydraulic Attachment Bracket
- 98" (2.6 cyd) Hook-on Bucket w/ 98" 3-piece bolt-on cutting edge
- Boom Suspension System
- Hydraulic Wet Disc Brakes
- Contronic & Caretrack Monitoring System
- Rear View Camera (color)
- Enclosed Cab w/ Air Conditioner
- All Standard Equipment
- **Standard Factory Warranty: 12 Months or 2,500 Hours (whichever occurs first)**
- **Extended Full Machine Warranty: 3 Years or 3,000 Hours**

**1 NEW VOLVO ECR25D SHORT RADIUS COMPACT EXCAVATOR EQUIPPED AS FOLLOWS:**

- Volvo D1.1A Diesel Engine @ 20.9 HP
- Tier 4f Compliant
- 12" Rubber Track Shoes
- 78.7" Long Boom / Arm
- HD Counterweight
- 12" Pin-on Bucket
- Hydraulic Thumb
- Canopy ROPS / FOPS / TOPS
- Travel Alarm
- All Standard Equipment
- **Standard Factory Warranty: 12 Months or 2,500 Hours (whichever occurs first)**
- **Extended Full Machine Warranty: 3 Years or 3,000 Hours**

**LEASE TERMS: Provided through BancorpSouth Equipment Finance (subject to credit approval)**

	<b>L60H</b>	<b>ECR25D</b>
<b>Sale Price:</b>	\$152,731	\$40,266
<b>Monthly Payment</b>	\$2,822.40	\$744.09
<b>Term</b>	36 Months	36 Months
<b>Lease Rate**</b>	2.91%	2.91%
<b>Annual Hours</b>	1,000	1,000
<b>Over-hour Charge</b>	\$15	\$12
<b>Buyback</b>	\$60,754.10	\$16,017.10

**EQUIPMENT FOR THE CONSTRUCTION, MINING AND AGGREGATE INDUSTRIES**

This proposal is contingent upon the equipment being delivered and the lease funded prior to 4/30/2017. If the equipment is not delivered and the lease funded prior to 4/30/2017, the lease rate of this proposal will index WSJ Prime Rate – 84 bps (with a 2.91% floor rate).

BuyBoard Contract # 515-16. Prices do not include any taxes. The above pricing is valid for 60 days unless specifically extended by ROMCO Equipment Co.

Notice is hereby given that ROMCO Equipment Co. LLC has assigned its rights under this sales contract to ROMCO Exchange Co. LLC to sell the equipment described herein and, if applicable, to purchase trade-in property described herein.

Quoted By:

*Andrew Braxvoort*

ROMCO Equipment Co. Sales

March 21, 2017



3/21/17

Sent via: [GCook@romco.com](mailto:GCook@romco.com)

City of Killeen  
P.O. Box 1329  
Killeen, TX 76540-1329

It is a pleasure to submit for your consideration the following proposal to provide lease-purchase financing based on the terms and conditions set forth below:

1. Lessor: BancorpSouth Equipment Finance, a division of BancorpSouth Bank
2. Lessee: City of Killeen
3. Equipment Description: L60H and ECR25D
4. Equipment Cost: \$192,997.00
5. Lease Term: 3 Years
6. Lease Payments: (These are approximate payment amounts. The actual payment will be determined at funding date.)  
  
36 monthly payments in arrears of \$3,566.49 with \$76,771.20 balloon due 1 month after final payment.
7. Lease Rate: 2.91%
8. Funding Date: This proposal is contingent upon the equipment being delivered and the lease funded prior to 4/30/2017. If the equipment is not delivered and the lease funded prior to 4/30/17 the lease rate of this proposal will index WSJ Prime Rate – 84 bps (with a 2.91% floor rate).
9. Purchase Option: Title is passed to Lessee at lease expiration for no further consideration.

- 10. Non-appropriation/Termination: The lease provides that Lessee is to make reasonable efforts to obtain funds to satisfy the obligation in each fiscal year. However, the lease may be terminated without penalty in the event of non-appropriation. In such event, the Lessee agrees to provide an attorney's opinion confirming the events of non-appropriation and Lessee's exercise of diligence to obtain funds.
- 11. Non-Bank Qualified This lease-purchase financing shall be designated as a non-bank qualified tax-exempt transaction as per the 1986 Federal Tax Bill.
- 12. Tax Status: This proposal is subject to the Lessee being qualified as a governmental entity or "political subdivision" within the meaning of Section 103(a) of the Internal Revenue Code of 1954 as amended, within the meaning of said Section. Lessee agrees to cooperate with Lessor in providing evidence as deemed necessary or desirable by Lessor to substantiate such tax status.
- 13. Net Lease: This will be a net lease transaction whereby maintenance, insurance, taxes (if applicable), compliance with laws and similar expenses shall be borne by Lessee.
- 14. Financial Statements: Complete and current financial statements must be submitted to Lessor for review and approval of Lessee creditworthiness.
- 15. Lease Documentation: This equipment lease-purchase package is subject to the mutual acceptance of lease-purchase documentation within a reasonable time period, otherwise payments will be subject to market change.

If the foregoing is acceptable, please so indicate by signing this letter in the space provided below and returning it to BancorpSouth Equipment Finance. The proposal is subject to approval by BancorpSouth Equipment Finance's Credit Committee and to mutually acceptable terms, conditions and documentation.

Acceptance of this proposal expires as the close of business on 4/30/17 Extensions must be approved by the undersigned.

Any concerns or questions should be directed to Darrell Annis at (479) 225-4624 or via email at dannis@bxsef.com.

*Darrell Annis*

Darrell Annis  
Municipal Territory Manager  
P.O. Box 1021  
Russellville, AR 72811-1021

**ACKNOWLEDGMENT AND ACCEPTANCE**

By: \_\_\_\_\_  
City of Killeen Title

Date: \_\_\_\_\_



*Volvo Construction Equipment*





# 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.

ROMCO Equipment  
Round Rock, TX United States

Certificate Number:  
2017-158055

Date Filed:  
01/25/2017

Date Acknowledged:

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.

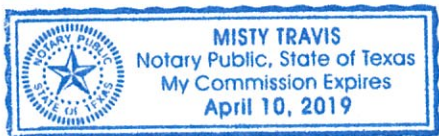
TBD  
Lease for excavator and wheel loader

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 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



I.D. 1224166-5

AFFIX NOTARY STAMP / SEAL ABOVE

*ASB*  
Signature of authorized agent of contracting business entity

Sworn to and subscribed before me, by the said Andrew Bruxvoort, this the 26th day of January 20 2017, to certify which, witness my hand and seal of office.

*MT*

Misty Travis  
Signature of officer administering oath

Misty Travis  
Printed name of officer administering oath

Notary Public Williamson Co.  
Title of officer administering oath



# LOADER & EXCAVATOR LEASE/PURCHASE

RS-17-038

April 4, 2017

# Background and Conclusion

- Drainage Maintenance Division needs a wheel loader and compact excavator in place of returned track loader.
- Equipment is required for routine operations, construction projects, and upkeep of 457 acres of drainage channel.
- Monthly payment = \$3,566.49. \$158.87 more than previous monthly payment but will save \$549.46/mo. in rental costs.
- Will result in overall cost savings and efficiency improvement.
- Equipment provided by Romco Equipment Co. utilizing TASB BuyBoard Purchasing Cooperative pricing and financed through Bancorp South Equipment Finance.
- Funds available in the Drainage Maintenance Equipment Rental/Lease account (575-3448-434.44-10).



Volvo Construction Equipment



## Volvo L60H Loader & ECR25D Excavator

# Recommendation

- Staff recommends procurement of the equipment.
- 3-Year lease of \$3,566.49 per month.
- Initiate another lease at end of 3-year term or purchase equipment for \$76,771.20 if approved in the FY20 budget.



# City of Killeen

## Legislation Details

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**File #:** RS-17-039    **Version:** 1    **Name:** 2017 Celebrate Killeen Fireworks  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 2/21/2017    **In control:** City Council  
**On agenda:** 4/11/2017    **Final action:**  
**Title:** Consider a memorandum/resolution authorizing the issuance of a permit to American Fireworks for the discharge of fireworks as part of the Celebrate Killeen Festival.  
**Sponsors:** Community Services Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Contract](#)  
[Map](#)  
[Material Safety Data Sheets](#)  
[Operator License](#)  
[Application for Class C Fireworks](#)  
[Shoot List](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		





## STAFF REPORT

**DATE:** April 4, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Brett E. Williams, Executive Director of Community Services

**SUBJECT:** 2017 Celebrate Killeen Fireworks

### **BACKGROUND AND FINDINGS:**

Each year Killeen Parks and Recreation and the Celebrate Killeen Committee host the Celebrate Killeen Festival the last weekend in April. The event is the City's annual community festival, featuring various forms of entertainment and cultural activities. The 2017 festival will include a carnival, cultural performances, comedy show, KISD Wellness Fair, poetry slam, food truck competition, and a car show.

The Celebrate Killeen Committee desires to include a fireworks display at the annual event for a third consecutive year. American Fireworks has been identified as a service provider for the display. American Fireworks successfully conducted the display for the 2015 and 2016 Celebrate Killeen Festival. The proposed plan is to conduct the fireworks display on Saturday, April 29, 2017, at 9:30 p.m. at the conclusion of the festival's outdoor movie showing, signifying the festival's end. The fireworks display will be fifteen minutes in length and will be conducted in the parking lot of the Davis Baseball Fields, located within the Killeen Community Center Complex. Patrons seeking to view the display will do so from the Killeen Amphitheatre where the movie will be shown.

Pursuant to section 11-6 of the Killeen Code of Ordinances, the city council may permit the use of fireworks for public displays. American Fireworks has met the requirements of the city's ordinances to include the following: name of the group, evidence of financial responsibility, date and time of the event, confirmation of the state of Texas issued license of the operator, copies of the state of Texas issued public display permit, the approximate number and kinds of fireworks to be discharged, the manner and place of storage of the fireworks prior to delivery to the site, and a diagram of the grounds on which the outdoor fireworks display is to be discharged.

In accordance with the ordinance, American Fireworks has provided a copy of its insurance, which is in compliance with state law, and a copy of its state license. An alternate date of May 6, 2017, at 9:00 p.m. at the Killeen Amphitheatre has been established in the event the fireworks display must be delayed due to the weather. The fireworks will be stored at 1315 Highway 71, Bastrop, Texas 78602 prior to delivery to Killeen for the display on the date of the event. American Fireworks will provide three assistants to set up and conduct the display. A diagram of the Killeen Community Center Complex and a list of the fireworks to be discharged are attached.

**THE ALTERNATIVES CONSIDERED:**

**Which alternative is recommended? Why?**

No other alternatives were considered to replace the fireworks display for the 2017 Celebrate Killeen Festival.

**CONFORMITY TO CITY POLICY:**

Pursuant to section 11-6 of the Killeen Code of Ordinances, the city council may permit the use of fireworks for public displays.

**FINANCIAL IMPACT:**

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

The Celebrate Killeen Committee has authorized the expenditure of \$5,000 from within its budget to fund the fireworks display. The Celebrate Killeen Committee is a subcommittee of Killeen Volunteers, Inc., which receives an annual grant from the City of Killeen.

**Is this a one-time or recurring expenditure?**

N/A

**Is this expenditure budgeted?**

This is a budgeted expenditure via the Celebrate Killeen Committee annual operating budget. Funds will be expensed from the committee's line item budget within Killeen Volunteers, Inc.

**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 authorize the issuance of a permit to discharge fireworks to American Fireworks as part of the City's annual Celebrate Killeen Festival, scheduled for April 29, 2017, at 9:30 p.m. at the Killeen Community Center Complex.

**DEPARTMENTAL CLEARANCES:**

City Attorney  
Purchasing  
Finance



**ATTACHED SUPPORTING DOCUMENTS:**

Contract

Map

Material Safety Data Sheets

Operator License

Application for Class C Fireworks

Shoot list



# AMERICAN FIREWORKS

1315 Hwy 71 W • P.O. Box 64  
Bastrop, Texas 78602  
Phone 512-321-4416 • Fax 512-321-7272

32326A FM 249  
Pinehurst, Texas 77362  
Phone 281-356-9419 • Fax 281-259-8065



## Fireworks Display Contract

Date: 2/14/2017

Roxanne Flores  
Killeen Volunteers  
P.O. Box 1329  
Killeen, Texas 76540

Re: Fireworks Show Saturday April 29, 2017

This is to acknowledge and confirm booking of your 15 minute Fireworks Display on Saturday April 29, 2017 at approximately 9:30 p.m.

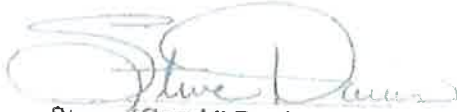
**Location:** **2201 E Veterans Memorial Blvd.**  
**Killeen, Texas 76543**  
**Bell County**

This will be an aerial display where we furnish the insurance in the amount of \$1,000,000.00, labor, transportation, a Licensed Pyrotechnic Operator, and all necessary equipment for firing display. We furnish everything except the firing site and security which you must provide. NOTE any FD stand by pumper fees will be the responsibility of The City of Killeen, Texas. The display will be electronically fired with a duration of approximately 15 minutes.


The total price of the display is **\$5,000.00** (Five Thousand Dollars). A deposit of 50% (\$2,500.00) is due upon signing of the contract. The balance due no later than April 29, 2017 payable to American Fireworks, P.O. Box 64, Bastrop, TX. 78602. If you agree to the terms, sign and return this contract by fax, email, or mail to confirm the booking of this display.

We appreciate this opportunity to serve the needs of your event.

American Fireworks

  
Steve "Coach" Davis  
Director of Pyrotechnic Displays  
Representative

Name

  
Ronald L. Olson  
Authorized Signature

[www.BuyAmericanFireworks.com](http://www.BuyAmericanFireworks.com)



Imagery ©2017 Google, Map data ©2017 Google 100 ft

- 1.) 1.4G SHOW 15 MINUTES
- 2.) 210 FALL OUT / 420' HAZMAT
- 3.) NO SCHOOL OR CHURCHES WITHIN 600'
- 4.) NO HEALTH CARE OR CORRECTION FACILITY WITHIN 600'

Measure distance

Total distance: 420.74 ft (128.24 m)

- 5.) SHOOT FROM OUR SHOW TRAILER.  
2201 E. VETERANS MEMORIAL BLVD. KILLEEN, TX.
- 6.) APRIL 29<sup>TH</sup> 2017 9:15-9:30 PM.
- 7.) CITY OF KILLEEN TO PROVIDE



MATERIAL SAFETY DATA SHEET  
**UN0336 1.4G CONSUMER FIREWORKS**  
B. J. ALAN COMPANY

555 Martin Luther King Jr. Blvd., Youngstown, Ohio 44502-1102 (330) 746-1064  
**Date Prepared:** April 1, 1999

**Hazardous Ingredients/Identity Information**

**Hazardous Components:** Contains pyrotechnic composition - a solid mixture of oxidizer and fuel that will burn if ignited. These items are classified as UN0336 1.4G Consumer Fireworks by the U.S. Department of Transportation. No chemical composition is exposed during normal handling and storage.

**Physical/Chemical Characteristics**

**Solubility in Water:** Slight

**Appearance and Odor:** All pyrotechnic composition is contained in a cardboard casing.

**Fire and Explosion Hazard Data**

**Extinguishing Media:** Flood with water if a small amount of fireworks is involved.

**Special Fire Fighting Procedures:** Do not use suffocation methods - devices contain their own oxygen. If a large amount of fireworks are involved, allow them to burn and prevent spread of fire.

**Unusual Fire and Explosion Hazards:** Fireworks will burn rapidly in the event of fire.

**Reactivity Data**

**Stability:** Stable

**Conditions to Avoid:** Open flames, smoking.

**Incompatibility (Materials to Avoid):** Exposure to water may cause items to deteriorate.

**Hazardous Decomposition or Byproducts:** Smoke, nitrogen oxides, and sulfur oxides may be produced in a fire.

**Hazardous Polymerization:** Will not occur.

**Health Hazard Data**

**Health Hazards:** Exposure to finished items does not pose any health hazard.

**Precautions for Safe Handling and Use**

**Steps to be Taken in Case Material is Released or Spilled:** No smoking or open flames in vicinity of spilled material. Carefully pick up and place spilled items in cardboard cartons. Sweep up any exposed chemical composition with a natural-fiber brush.

**Waste Disposal Method:** Dispose by burning in compliance with state and local regulations.

**Precautions to be taken in Handling and Storing:** Avoid open flames, smoking, and high temperatures (above 120 degrees F.). Keep shipping cartons cool and dry.

**Control Measures**

**Respiratory Protection:** None required when handling finished items.

**Protective Gloves:** None required.

**Work/Hygienic Practices:** No smoking in vicinity of fireworks.

**EMERGENCY RESPONSE PHONE # (800) 255-3924.**

# EMERGENCY RESPONSE INFORMATION

## FIREWORKS, 1.4G, UN0336

(Formerly referred to as CLASS C EXPLOSIVES, COMMON FIREWORKS)

No chemical composition is released or exposed during normal handling, storage and transportation. In the event of a vehicle fire or intense heat that reaches the cargo area, the fireworks are likely to ignite. They will burn, spreading burning particles over a limited area. A mass explosion is not expected. Smoke and potentially-irritating gases will be produced in a fire. If the fireworks are spilled as the result of an accident but do not ignite, they can safely be picked up and repackaged. The area should be kept cleared of unnecessary people while this is being done.

### EMERGENCY ACTION

In case of fire, stop traffic, isolate the immediate area, and deny entry. Keep unnecessary people away.

Fire in cargo area can be fought with water spray if necessary although disposal and site cleanup will be simplified if material is allowed to burn. Try to prevent other types of fire from reaching the cargo area. Self-contained breathing apparatus (SCBA) and structural firefighter's protective clothing will provide limited protection. Firefighters should retreat if fire approaches cargo area and use unmanned hose holder to direct water spray on fire. For additional information, call the shipper using the emergency telephone number listed on the shipper's papers.

### FIRE

Truck Fire (other than cargo area): Flood with water, Tire fires may start again, Unhook and separate tractor from trailer, if possible. Remove vehicle that is not involved in fire from fire area if you can do so without risk. If cargo area is exposed to heat and flames, direct water spray on outside of container to cool it down. Continue spray until well after fire is out.

Cargo fire Do **NOT** move cargo or vehicle if cargo has been exposed to heat. Withdraw from area if and when fire reaches cargo and let fire burn, if situation allows. If fire must be fought, flood with water spray. Use firefighting team to prevent spread of fire to adjacent structures and materials.

Promptly isolate the scene by removing all persons from the vicinity of the incident.

### SPILL OF CARGO

Shut off all ignition sources. There shall be no flares, smoking, tools capable of producing sparks, or flames in the vicinity of the spilled material. Cautiously pick up the spilled devices and place them in cardboard cartons.

### FIRST AID

Call emergency medical care. Use first aid treatment according to the nature of the injury.

# Material Safety Data Sheet

May be used to comply with OSHA's Hazard Communication Standard, 29 CFR 1910.1200. Standard must be consulted for specific requirements.

U.S. Department of Labor

Occupational Safety and Health Administration  
(Non-Mandatory Form)  
Form Approved OMB No. 1218-0072

**IDENTITY :** Consumer Fireworks, 1.4G

## Section I

### Manufacturer's Name and Address

B.J. Alan Company  
555 Martin Luther King Jr. Blvd.  
Youngstown, OH 44502

**Emergency Telephone Number :** (800)255-3924

**Telephone Number for Information :** (330)746-1064

**Date Prepared :** 03/12/2009

## Section II - Hazardous Ingredients/Identity Information

Hazardous Components (Specific Chemical Identity: Common Name(s))

OSHA PEL

ACGIH TLV

Other Limits Recommended

% (optional)

Contains pyrotechnic composition - a solid mixture of oxidizer and fuel that will burn if ignited. These items are classified as 1.4G explosive by DOT. No chemical composition is exposed during normal handling and storage.

## Section III - Physical/Chemical Characteristics

Boiling Point	n/a	Specific Gravity (H2O = 1)	n/a
Vapor Pressure (mm Hg)	n/a	Melting Point	n/a
Vapor Density (AIR = 1)	n/a	Evaporation Rate	n/a
Solubility in Water - Slight		Appearance and Odor - All pyrotechnic composition is contained in a cardboard casing.	

## Section IV - Fire and Explosion Hazard Data

Flash Point - n/a      Flammable Limits - n/a      LEL - n/a      UEL - n/a

Extinguishing Media - Flood with water if a small amount of fireworks is involved.

Special Fire Fighting Procedures - Do not use suffocation methods, devices contain their own oxygen.

If a large amount of fireworks are involved, allow them to burn and prevent spread of fire.

Unusual Fire and Explosion Hazards - Fireworks will burn rapidly in the event of fire.

## Section V - Reactivity Data

Stability-      Unstable       Stable X       Conditions to Avoid - Open flames, smoking.

Incompatibility (Materials to Avoid) - Exposure to water may cause items to deteriorate.

Hazardous Decomposition or Byproducts - Smoke, nitrogen oxides, and sulfur oxides may be produced in a fire.

Hazardous Polymerization-      May Occur       Will Not Occur- X       Conditions to Avoid- n/a

## Section VI - Health Hazard Data

Route(s) of Entry:      Inhalation?       Skin?       Ingestion?

Health Hazards (Acute and Chronic) - Exposure to finished items does not pose any health hazard.

Carcinogenicity: No      NTP? No      IARC Monographs? No      OSHA Regulated? No

Signs and Symptoms of Exposure: n/a      Emergency and First Aid Procedures: n/a

Medical Conditions Generally Aggravated by Exposure: n/a

## Section VII - Precautions for Safe Handling and Use

Steps to Be Taken In Case Material is Released or Spilled - No smoking or open flames in vicinity of spilled material. Carefully pickup and place spilled items in cardboard cartons. Sweep up any exposed chemical composition with a natural fiber brush.

Waste Disposal Method in accordance with local, state, and federal regulations.

Precautions to Be Taken in Handling and Storing - Avoid open flames, smoking, and high temperatures (above 120 F). Keep shipping cartons cool and dry.

Other Precautions: None

## Section VIII - Control Measures

Respiratory Protection (Safety Type) - None required when handling finished items.

Ventilation

Local Exhaust: n/a

Special: n/a

Mechanical (General): n/a

Other: n/a

Eye Protection: n/a

Other Protective Clothing or Equipment: n/a

Protective Gloves: none required

Work/Hygenic Practices: No smoking in vicinity of fireworks

ISSUED TO:

**Davis, Stephen Joseph**  
4470 Stearns Ln  
Sunset Valley TX 78735

License Number  
**SEO-1829306**

Expiration Date: 05-20-2017

EFFECTIVE DATE 05-20-2013

**FIREWORKS SPECIAL EFFECTS OPERATOR'S LICENSE**  
**TEXAS DEPARTMENT OF INSURANCE**  
**STATE FIRE MARSHAL'S OFFICE**



DATE ISSUED: April 7, 2016

Chris Connealy, State Fire Marshal

SF031(01)1

To receive news and updates from the SFMO concerning Fire Industry Licensing, sign up for the SFMO Licensing eNews Update at <http://www.tdi.texas.gov/alert/esfmlicensing.html>

TEXAS DEPARTMENT OF INSURANCE  
STATE FIRE MARSHAL'S OFFICE

**Davis, Stephen Joseph**

License No: **SEO-1829306**

**SPECIAL EFFECTS OPERATOR**

Expires: 05-20-2017 D.O.B: 04-15-1959

Signature Of License/Permit Holder

EFFECTIVE DATE: 05-20-2013

STATE FIRE MARSHAL

**Issued To:**

**Hoffman, Johny Glenn**  
173 MANDY LN  
RED ROCK TX 78662-9723

License Number

**SEO-2163348**

Expiration Date: 02-08-2018

EFFECTIVE DATE: 02-08-2017

**FIREWORKS SPECIAL EFFECTS OPERATOR'S LICENSE**

**TEXAS DEPARTMENT OF INSURANCE**  
**STATE FIRE MARSHAL'S OFFICE**



DATE ISSUED: February 14, 2017

*Chris Connealy*

Chris Connealy, State Fire Marshal

SF081|011





# TEXAS DEPARTMENT OF INSURANCE

State Fire Marshal's Office (112-FM)

333 Guadalupe, Austin, Texas 78701 \* PO Box 149221, Austin, Texas 78714-9221  
(512) 676-6800 | F: (512) 490-1063 | (800) 578-4677 | TDI.texas.gov | @TXSFMO

(1.4G)

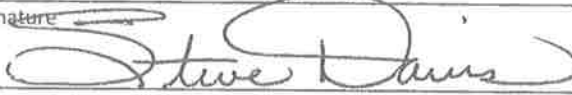
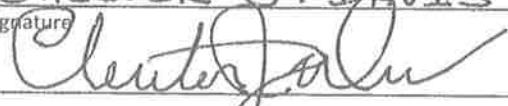
## APPLICATION FOR CLASS ~~B~~ FIREWORKS (FIREWORKS ~~1.3G~~) SINGULAR OR MULTIPLE DISPLAY PERMIT

This application must be accompanied by the appropriate fee and all documents and information required by Chapter 2154 of the Texas Occupations Code and the Fireworks Rules. Complete answers must be given to all questions.

Please print or type.

A public fireworks display permit may not be issued to any person who is under 21 years of age. Any fraudulent representation on this application shall be cause for denial, suspension, or revocation of a permit. All fees are non-refundable, except for overpayments resulting from mistakes of law or fact.

PERMIT			
CHECK ONE	TYPE OF PERMIT	PERMIT FEE	CODE
<input checked="" type="checkbox"/>	Singular Display Permit	\$50.00	570-07
<input type="checkbox"/>	Multiple Display Permit	\$400.00	570-08
APPLICANT			
NAME OF APPLICANT		Telephone No. (512) 321-4416	
CHES-LEE ENTERPRISES, INC. DBA AMERICAN FIREWORKS		Fax No. (512) 321-7272	
ADDRESS		CITY	STATE
P.O. Box 64		BASTROP	TX.
E-MAIL ADDRESS FOR NOTIFICATION PURPOSES (optional)		ZIP	
Steve.davis@buyamericanfireworks.com		78602	
WEB SITE ADDRESS (optional)			
Applicant doing business as (Check One)			
<input type="checkbox"/> Individual.	Yes	No	<input checked="" type="checkbox"/> Corporation
Is the individual 21 years of age or older?	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Partnership.	Yes	No	<input type="checkbox"/> Other -- describe:
Is each partner 21 years of age or older?	<input type="checkbox"/>	<input type="checkbox"/>	
Federal employer's identification (FEI) number: 75-2409133			
DISPLAY INFORMATION			
Date of display	APRIL 29, 2017	Time	9:15pm
Alternate date of display	MAY 6, 2017	Time	9:15pm
Exact location description or address of display and/or alternate location for the display			
2201 E. VETERANS MEMORIAL BLVD.			
KILLEN, TEXAS 76543 (BELL COUNTY)			
Pyrotechnic operator licensed in Texas who will be at the display site to supervise the display:			
Name	STEPHEN JOSEPH DAVIS	License number	SEO-1829306
Name	JOHNNY GLENN HOFFMAN	License number	SEO-2163348
Name		License number	

QUESTIONS		1.4G
Size and estimated number of 1.4G fireworks to be discharged: 1.4G CONSUMER FIREWORKS		
Other items (1.4G fireworks, flame effects, set pieces, etc.) 50-500 GRAM CAKES, 6-3" RACKS, 4 FINALE RACKS		
Manner and address of storage of fireworks prior to and during the display PRIOR: AMERICAN FIREWORKS WAREHOUSE - 1315 HWY 71 W. BASTROP, TX. 78602 (BASTROP COUNTY) DURING: TRAILER - 2201 E. VETERAN MEMORIAL BLVD. KILLEEN, TX. 76543 (BELL COUNTY)		
Manufacturer or distributor licensed in Texas who is to supply the fireworks: Name CHES-LEE ENTERPRISES, INC. BBA AMERICAN FIREWORKS License number FWD-0051		
SIGNATURES		
In applying for a fireworks permit, I certify that I am familiar with and will comply with Chapter 2154 of the Texas Occupations Code and the Fireworks Rules. I hereby authorize the state fire marshal or any of his duly authorized deputies, upon notice, to enter, examine, and inspect any premises, building, room, or establishment used in connection with the permit for which I am applying to determine compliance with the provisions of Chapter 2154 and the Fireworks Rules. By my signature, I verify that the information on this application and its attachments are true. I understand that knowingly providing a false answer to any question or submitting false information or documents with this application may be tampering with a governmental record which is punishable under the Texas Penal Code Chapter 37, §37.10.		
Printed name STEPHEN DAVIS	Title DIRECTOR OF PYROTECHNIC DISPLAYS	
Signature 	Date 3-1-2017	
Printed name CHESTER J. DAVIS	Title CEO / OWNER	
Signature 	Date 3-1-2017	

APPLICATIONS MUST BE SIGNED BY AN INDIVIDUAL APPLICANT, BY AN OFFICER OF A CORPORATION, BY THE SOLE PROPRIETOR, BY EACH PARTNER OF A GENERAL PARTNERSHIP, BY THE GENERAL PARTNER OF A LIMITED LIABILITY PARTNERSHIP OR BY AN OFFICER OR MEMBER OF A LIMITED LIABILITY COMPANY.

APPLICATIONS SUBMITTED BY A GOVERNMENTAL ENTITY MUST BE SIGNED BY THE APPROPRIATE OFFICER. FOR EXAMPLE, A CITY'S APPLICATION SHOULD BE SIGNED BY THE MAYOR, CITY MANAGER, CITY ADMINISTRATOR, CITY SECRETARY, ETC.

Check or money order should be made payable to the TEXAS DEPARTMENT OF INSURANCE.

Mail this completed application along with the appropriate fee and additional documents to:

Mail Address:	State Fire Marshal's Office Mail Code 9999 P. O. Box 149221 Austin, TX 78714-9221 (512) 676-6808	Physical Address:	State Fire Marshal's Office 333 Guadalupe Austin, TX 78701 (512) 490-1056
		Fax No.	(512) 490-1056
		Web Site Address:	www.tdi.texas.gov/fire

#### NOTICE ABOUT CERTAIN INFORMATION LAWS AND PRACTICES

With few exceptions, you are entitled to be informed about the information that the Texas Department of Insurance (TDI) collects about you. Under sections 552.021 and 552.023 of the Texas Government Code, you have a right to review or receive copies of information about yourself, including private information. However, TDI may withhold information for reasons other than to protect your right to privacy. Under section 559.004 of the Texas Government Code, you are entitled to request that TDI correct information that TDI has about you that is incorrect. For more information about the procedure and costs for obtaining information from TDI or about the procedure for correcting information kept by TDI, please contact the Agency Counsel Section of TDI's General Counsel Division at (512) 676-6551 or visit the Corrections Procedure section of TDI's website at [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **SINGULAR OR MULTIPLE DISPLAY PERMIT SITE DIAGRAM/PLAN**

**Please make sure the below listed items are included on the site diagram**

**Address of display location**

**Show location of firing site**

**Show location of spectators**

**Show minimum secured area on all sides of firing site**

**Show method of restraint/security on all sides of firing site**

**Show location of health care, detention and correctional facilities. If there are no such facilities within the distance required by NFPA 1123, 1995 ed., please indicate such in a statement on the diagram.**

**Show location of school buildings and/or churches. If there are no buildings within 600 feet of the firing site, please indicate such in a statement on the diagram.**

**Show location of hazardous materials. If there are no hazardous materials within the distance required by NFPA 1123, 1995 ed., please indicate such in a statement on the diagram.**

Texas Department of Insurance  
State Fire Marshal's Office  
Application for Class A Fireworks (Fireworks 1.3G) Singular or Multiple Display Permit  
Site Inspection Certification

1 Name of applicant CHES-LEE ENTERPRISES, INC. DBA AMERICAN FIREWORKS  
Address P.O. Box 64 Telephone (512) 321-4416  
City BASTROP State TEXAS Zip Code 78602  
2 Date of display APRIL 29, 2017 Time 9:15-9:30pm  
Alternate date of display MAY 6, 2017 Time 9:15-9:30pm  
3 Location and/or alternate location for the display 2201 E. VETERANS MEMORIAL BLVD  
KILLEEN, TX. 76543 (BELL COUNTY)

4. As the fire prevention officer, I approve of the display site and have reviewed the site diagram  Yes  No  
5. I approve of the location and manner for storage of display fireworks before and during the display  Yes  No  
6. I approve of the potential landing area for fireworks debris.  Yes  No  
7. The display is to be conducted in compliance with TX Occupations Code, Regulation of Fireworks & Fireworks Displays and the Fireworks Rules.  Yes  No

8 My approval is subject to the following conditions

List conditions, if applicable, or indicate "None" \_\_\_\_\_

9 As the appropriate fire prevention officer, I have inspected the display site(s) to determine whether this proposed display is of a nature or in a location that may be hazardous to property or dangerous to any person. This form is my notice to the state fire marshal of the results of the inspection as required in Sec. 2154.206, Chapter 2154, Texas Occupations Code.

Signature of fire prevention officer [Signature] #189 Date 3-7-17

Printed name of fire prevention officer MIKE EREANS #189 Title Captain

Department Fire Marshal's Office Telephone No 254-501-6583

Email address meveans@killeentexas.gov Mobile Phone No \_\_\_\_\_

Telephone No (512) 676-6808  
Fax No (512) 490-1056  
Web Site Address [www.tdi.texas.gov/fire](http://www.tdi.texas.gov/fire)

C (1.4G)  
**APPLICATION FOR CLASS B FIREWORKS (FIREWORKS ~~1.2G~~)**  
**SINGULAR OR MULTIPLE DISPLAY PERMIT**

**APPLICANTS FOR A SINGULAR OR MULTIPLE DISPLAY PERMIT MUST SUBMIT THE FOLLOWING:**

1. An application for a singular or multiple display permit.
2. A certificate of general liability insurance.

**ITEMS TO BE INCLUDED ON INSURANCE CERTIFICATES:**

1. The name of the insurer and the policy number.
2. The name of the insured, which must be the same name as on the display application.
3. Effective dates (or days) of the policy.
4. The amount of coverage must not be less than \$500,000. The policy shall be conditioned to pay those sums the insured becomes obligated to pay as damages because of bodily injury and property damage caused by an occurrence involving the insured or the insured's servant, officer, agent, or employee in the conduct of a public fireworks display.
5. The words "fireworks display" and the date(s) of the display should appear under description of operations on the certificate. Any alternate date(s) should also be included.
6. The State Fire Marshal's Office should be listed as the certificate holder.
7. Must be issued by an insurer authorized to do business in Texas and countersigned by an insurance agent licensed in Texas.

ADDITIONAL DOCUMENTS			
If you are a Texas or Foreign Corporation submit the following	If you are a Sole Proprietorship or General Partnership submit the following:	If you are a Texas or Foreign Limited Partnership submit the following	If you are a Texas or Foreign Limited Liability Company submit the following
Certificate of general liability insurance	Certificate of general liability insurance	Certificate of general liability insurance	Certificate of general liability insurance
Corporate Charter, Certificate of Existence, or Certificate of Authority issued by the Texas Secretary of State		Certificate of Limited Partnership, Registration Application for Foreign Limited Partnership	Certificate of Organization, or Certificate of Authority issued by the Texas Secretary of State
Franchise Tax Account Status must be ACTIVE with the TX Comptroller of Public Accounts		Franchise Tax Account Status must be ACTIVE with the TX Comptroller of Public Accounts	Franchise Tax Account Status must be ACTIVE with the TX Comptroller of Public Accounts
Assumed Name Certificate from Texas Secretary of State (if using a d/b/a)	Assumed Name Certificate from your County Clerk (if using a d/b/a)	Assumed Name Certificate from Texas Secretary of State (if using a d/b/a)	Assumed Name Certificate from Texas Secretary of State (if using a d/b/a)

Texas Secretary of State: (512) 463-5578

Texas Comptroller of Public Accounts (800) 252-1386

SHOOT LIST  
FIREWORKS SHOW  
AMERICAN FIREWORKS

CITY OF KILLEEN  
2201 E. VETERANS MEMORIAL BLVD.  
KILLEEN, TX. 76543

APRIL 29, 2017

Between 9:15 – 9:30pm

Electronically fired from our trailer

ALL 1.4 G

CONSUMER FIREWORKS

15 MINUTE SHOW

500 GRAM CAKES (3" AND UNDER) 50 EACH

FINALE RACKS (6 RACKS OF 50 SHELLS)

3" 200 Floral tubes 20 each



# CELEBRATE KILLEEN FIREWORKS

RS-17-039

April 4, 2017

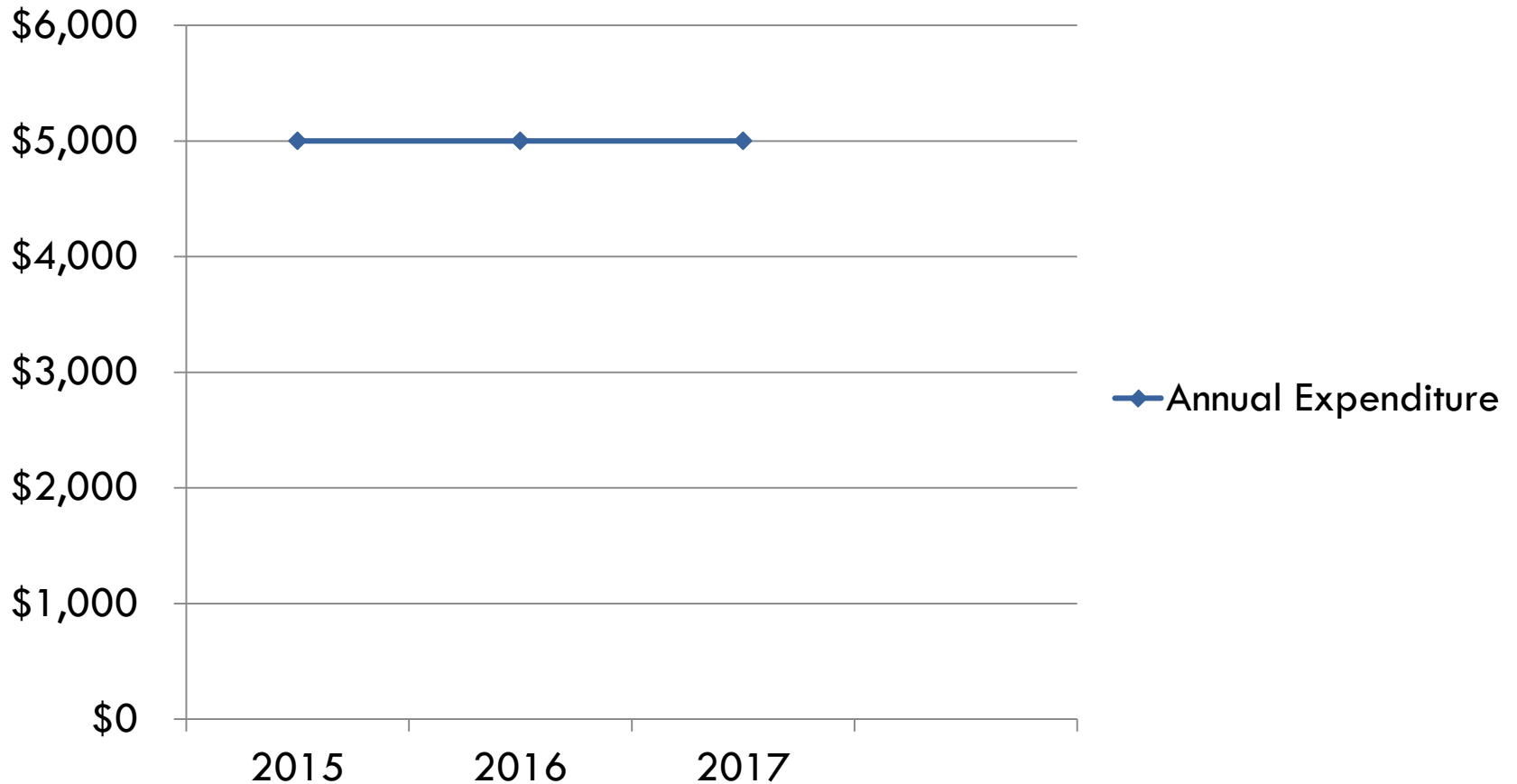
# Celebrate Killeen Fireworks

- Killeen Parks & Recreation in conjunction with the Celebrate Killeen Committee conducts the Celebrate Killeen Festival the last weekend in April on an annual basis.
- Annual festival features carnival, cultural performances, comedy show, KISD Wellness Fair, poetry slam, food truck competition, 5K run and car show.
- 2015 marked the first year the Celebrate Killeen Committee funded a fireworks display.
- Currently, there is no other fireworks display conducted in Killeen.
- Section 11-6 of Killeen's Code of Ordinances grants the City Council the authority to permit the use of fireworks for public displays.
- American Fireworks has met the City's ordinance requirements.
  - ▣ Financial responsibility
  - ▣ Event date & storage location of fireworks
  - ▣ State license
  - ▣ Display permit
  - ▣ Types of fireworks to be discharged



# Celebrate Killeen Fireworks

## Financial Commitment





# Celebrate Killeen Fireworks

Aerial view of the 2016 Celebrate Killeen Festival. Photo shows amphitheater, vendors and carnival.

# Celebrate Killeen Fireworks

- Celebrate Killeen Festival:
  - ▣ Showcases Killeen's diversity
  - ▣ Provides family friendly fun over the course of the three day event
  - ▣ Is attended by upwards of 6,000 people on an annual basis
  - ▣ Is funded in part by funds from the City's Hotel Motel Occupancy Tax Fund
  - ▣ Fireworks serve as the closing act for the annual festival



# City of Killeen

## Legislation Details

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**File #:** RS-17-041    **Version:** 1    **Name:** TxDOT Skylark Field Hangar Project  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 3/20/2017    **In control:** City Council  
**On agenda:** 4/11/2017    **Final action:**  
**Title:** Consider a memorandum/resolution authorizing the Texas Department of Transportation-Aviation Division to act as the Airport Agent for the administration of the Skylark Field T-Hangar Project.  
**Sponsors:** Aviation Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** April 4, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Matthew Van Valkenburgh A.A.E., Executive Director of Aviation

**SUBJECT:** RESOLUTION TO AUTHORIZE TxDOT-AVIATION TO ACT AS THE AIRPORT AGENT FOR A SKYLARK FIELD T-HANGAR PROJECT

### **BACKGROUND AND FINDINGS:**

Texas Department of Transportation (TxDOT) - Aviation Division has the responsibility to handle planning, programming, and administration of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) funds for General Aviation Airports in Texas. These grants are known as non-primary entitlement (NPE) funds. Qualified airports may receive up to \$150,000 annually, and, to fund larger projects, may "bank" up to four consecutive years of their NPE allotment for a total of up to \$600,000. Skylark Field is a qualifying airport and has been a previous recipient of these funds; additionally, Skylark currently has \$600,000 NPE grant funding available for use.

On October 25, 2016, Council adopted the Skylark Field Master Plan which identified adding T-hangars as the highest priority facility requirement and recommended construction of a T-hangar complex in FY 2018. FAA NPE funds can be utilized to fund the major portion of a hangar design and construction.

Staff met with TxDOT in March to discuss the Skylark Field Master Plan and various funding mechanisms for the T-hangar project. In the course of the meeting, it came to light that the opportunity and funding was available to design the T-hangars in FY 17 and then construct in FY 18. Skylark currently has \$600,000 "banked" FAA NPE grant funds from fiscal years 2014-2017; if we do not use the FY 2014 funds this fiscal year, they will be forfeited, i.e., lost for our use. Although our bank will again grow to \$600,000 in FY 18, a portion of that money will also be necessary for design. Therefore, if the overall project is divided into a design project this year and followed with a separate construction project in FY 2018, the airport will have \$150,000 for design in FY 17 and have a full \$600,000 NPE available for construction when FY 2018 NPE funds are distributed. This method of programming the project will make maximum utilization of federal grant funds.

A major revenue source for the Skylark Field enterprise fund is the rental of light aircraft storage units - commonly known as T-hangars, to individuals and businesses basing their aircraft at Skylark Field. The airport has 40 T-hangar and covered tie-down units. These facilities stay 100% occupied and there is waiting list with over 50 requests for T-hangar space.

A new 9-unit T-hangar building is estimated to earn approximately \$28,000 per year in revenues. Additional revenues will be earned from fuel sales to the tenants of the new hangar.

The estimated design and construction cost of a 9-unit T-hangar building is \$1,050,000; design being \$100,000 and construction \$950,000 based on existing markets pricing. It is the Airport's intent to provide \$350,000 toward the project construction, and \$10,000 (or 10%) for the design match.

It is TxDOT's intent to include the Skylark Field T-hangar project on the agenda for consideration at the April 25th Transportation Commission meeting. Assuming project approval by the Commission, the City will be required to provide its 10% match for the design to TxDOT in the June-July 2017 time frame.

### **THE ALTERNATIVES CONSIDERED:**

The alternatives for the project are: (1) design the project in FY 2017 with construction in FY 2018; (2) design and construct in FY 2018; or, (3) defer the project indefinitely.

### **Which alternative is recommended? Why?**

Staff recommends Alternative 1. If the city proceeds with design FY 17, up to \$150,000 in NPE funds are available with a full \$600,000 available for construction in FY 18. Thus, by leveraging funding for both fiscal years, the City can have up to \$750,000 for the project. Alternative 2 will effectively cost the City \$150,000 in NPE funding as the \$150,000 for FY 14 will be forfeited by remaining unused; Alternative 3 deprives Skylark Field the opportunity to increase its revenue.

### **CONFORMITY TO CITY POLICY:**

The hangar construction plan conforms to Skylark Field Airport Master Plan as adopted by City Council on October 25, 2016.

### **FINANCIAL IMPACT:**

For this Staff Report, there is no financial impact for the Council to support a resolution authorizing TxDOT to act as the Airport Agent for the disbursement of project NPE funds and administration of the T-hangar project. Staff will bring back to Council staff reports which will fully outline the financial responsibilities of the project. However, for a general overview of the funding mechanisms:

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

For FY 17, the City's share for this project is estimated to be \$10,000 to match an FAA Non-Primary Entitlement grant for design.

For FY 18, which will be in the Aviation Department FY 18 budget, the City share is estimated to be \$350,000. This estimated amount will match an FAA Non-Primary Entitlement grant of up to \$600,000.



**Is this a one-time or recurring expenditure?**

This is a one-year expenditure in each of FY 17 and FY 18.

**Is this expenditure budgeted?**

No. For FY 17, a budget amendment will be submitted for Council consideration concurrently with a future council agenda item to accept the Federal Grant (administered through TxDOT Aviation Division). This grant offer will follow the State Transportation Commission's approval of the project. The FY 18 fund expenditure will be budgeted.

**If not, where will the money come from?**

The funds are available in the Skylark Field Aviation Enterprise Fund balance to fund the grant matching requirements. The Skylark Field fund balance currently includes restricted funds that were received from the sale of approximately 15 acres of land in 2012. Those funds must be used for capital improvement projects at Skylark Field.

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

No. A budget amendment will be recommended to establish a specific account and project amount upon receipt of the formal grant offer from TxDOT Aviation Division.

Upon completion of the project, the increase to annual revenue at Skylark Field will be approximately \$28,000 per annum.

**RECOMMENDATION:**

City Council approve a resolution for TxDOT-Aviation to act as the Airport Agent for the disbursement of NPE funds and administration of the design and construction of a Skylark Field T-hangar project and for the purpose of applying for, receiving and disbursing all federal and state funds for this project and for the administration of contracts necessary for the initiation of the work; and authorize the City Manager to execute any and all required documents including any and all amendments within the amounts set by state and local law.

**DEPARTMENTAL CLEARANCES:**

Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

N/A



# TXDOT-SKYLARK FIELD HANGAR PROJECT

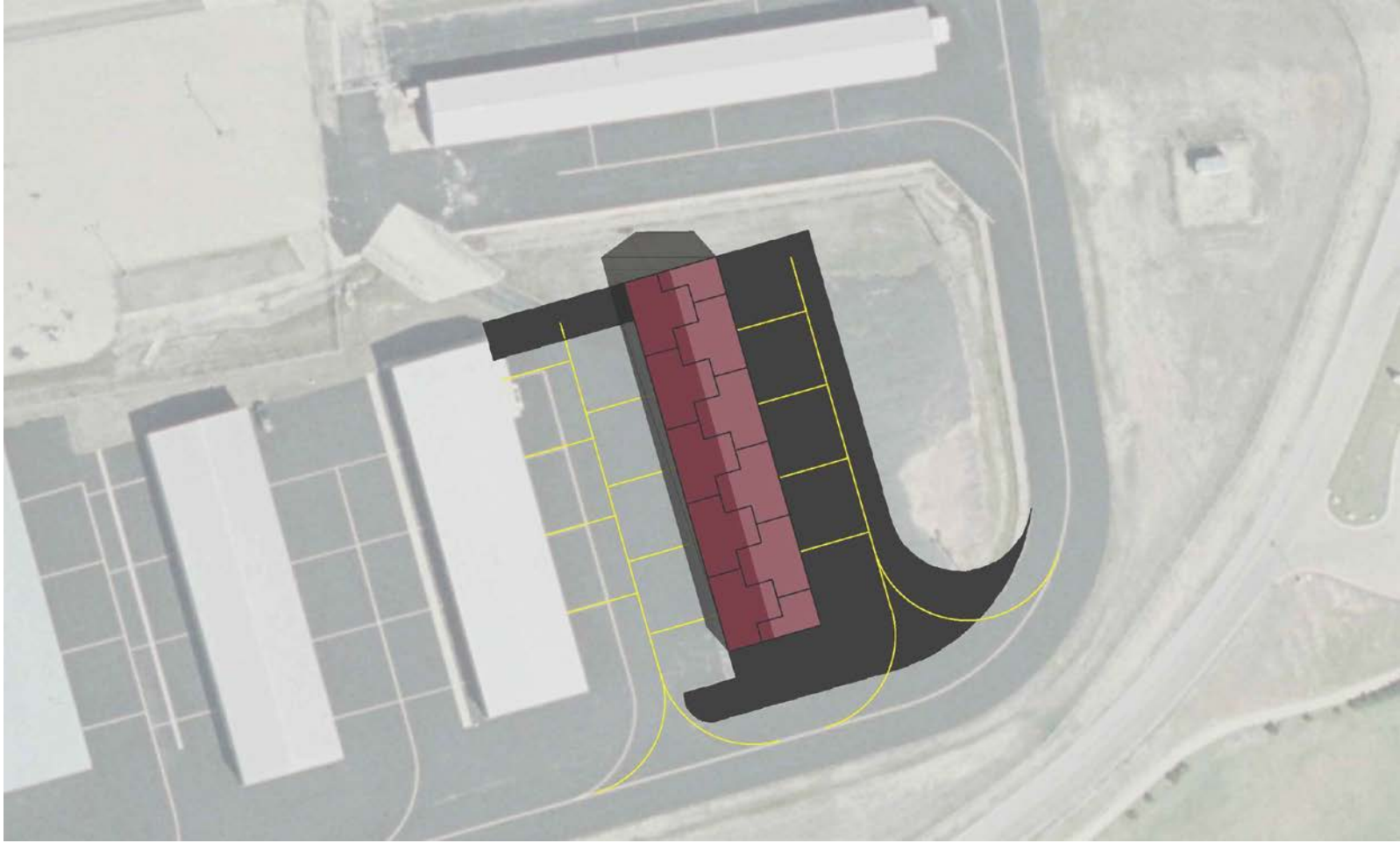
RS-17-041

April 4, 2017



# TxDOT Skylark Field Hangar Project

- Designate TxDOT as City's agent for purpose of applying for, receiving, and disbursing Federal Funds
  
- Build new proposed 9-Unit T-Hangar building Skylark Field
  - ▣ FY 2017 Design Phase            City \$10,000            NPE Funds \$90,000
  - ▣ FY 2018 Construction Phase    City \$350,000        NPE Funds \$600,000
  
- Estimated cost of project is \$1,050,000
  
- City share funding available in Skylark Field Aviation Enterprise Fund Balance
  
- Estimated revenue from project is \$28,000 per year



## Skylark Field Proposed 9-Unit T-Hangar

Design Plan for Proposed 9-Unit T-Hangar at Skylark Field.



# City of Killeen

## Legislation Details

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**File #:** RS-17-042    **Version:** 1    **Name:** Oncor Rate Suspension  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 3/20/2017    **In control:** City Council  
**On agenda:** 4/11/2017    **Final action:**  
**Title:** Consider a memorandum/resolution to suspend the April 21, 2017, effective date of Oncor Electric Delivery Company's requested rate change and approving cooperation with the Steering Committee of Cities Served by Oncor.  
**Sponsors:** City Attorney Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Oncor Suspension Resolution Presentation](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** March 20, 2017

**TO:** Ronald L. Olson, City Manager

**VIA:** Kathy Davis, City Attorney

**FROM:** Traci Briggs, Deputy City Attorney

**SUBJECT:** Suspending the effective date of Oncor's requested rate change

### **BACKGROUND AND FINDINGS:**

By state law, cities have original jurisdiction over the rates of electric providers. When a provider wants to increase its rates, it must therefore make a request to each individual city it serves. On March 17, 2017, Oncor Electric Delivery Company ("Oncor") filed an application to increase system-wide transmission and distribution rates by \$317 million, or approximately 7.5%. This increase includes an 11.8% increase in residential rates, meaning a typical residential customer using 1000kWh per month would see in a monthly increase of \$6.68. The application also includes a 0.5% increase in street light rates. The effective date of the rates would be effective April 21, 2017. Although there have been rate increases in recent years, this is the first comprehensive base rate case since 2011.

The city is a member of a 156-city coalition known as the Steering Committee of Cities Served by Oncor ("Steering Committee"). The Steering Committee serves as a public interest advocate before the Legislature, the Courts and the Public Utility Commission on electric utility regulation matters. It also provides regulatory guidance to cities.

State law permits cities to suspend a rate change for ninety (90) days after the rates would otherwise be effective for any legitimate purpose. By suspending the effective date, the Steering Committee will have adequate time to study and investigate the application, as well as negotiate rates. The rate case expenses, including retained attorneys and consultants, are reimbursed by Oncor pursuant to state law.

### **THE ALTERNATIVES CONSIDERED:**

The city has three options. The first is to suspend the effective date of the proposed rate. The second is to take no action, in which case the rate increases will automatically become effective on April 21, 2017. The final option is to deny the rate increase. The Steering Committee does not recommend denying the rate case until it has been fully analyzed. If denial is later determined to be the best option, the city can still do so before the end of the suspense period.

**Which alternative is recommended? Why?**

The Steering Committee and staff recommend suspending the rate case. A thorough review of the rate case would be difficult before the effective date. Suspending the effective date gives the Steering Committee additional time to determine whether the requested increase is justified, can be negotiated or denied.

**CONFORMITY TO CITY POLICY:**

This action is in compliance with city policies and state law.

**FINANCIAL IMPACT:**

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

Suspending Oncor's rate case creates no fiscal impact to the city now or in the future. Expenses incurred by the Steering Committee are reimbursed by Oncor.

**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 approval of the attached resolution suspending the effective date of Oncor's rate request and authorizing the city's continued cooperation with the Steering Committee.

**DEPARTMENTAL CLEARANCES:**

Finance

**ATTACHED SUPPORTING DOCUMENTS:**

Oncor Suspension Resolution

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY OF KILLEEN SUSPENDING THE APRIL 21, 2017, EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY'S REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE**

WHEREAS, on or about March 17, 2017, Oncor Electric Delivery Company (Oncor), pursuant to PURA §§ 33.001 and 36.001 filed with the City of Killeen a Statement of Intent to increase electric transmission and distribution rates in all municipalities exercising original jurisdiction within its service area effective April 21, 2017; and

WHEREAS, the City of Killeen is a member of the Steering Committee of Cities Served by Oncor ("Steering Committee") and will cooperate with the 156 similarly situated city members and other city participants in conducting a review of the Company's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company prior to getting reasonable rates and direct any necessary litigation; and

WHEREAS, PURA § 36.108 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days after the date the rate change would otherwise be effective; and

WHEREAS, PURA § 33.023 provides that costs incurred by Cities in ratemaking proceedings are to be reimbursed by the regulated utility.

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

1. That the April 21, 2017 effective date of the rate request submitted by Oncor on or about March 17, 2017, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

2. As indicated in the City's resolution approving membership in the Steering Committee, the Executive Committee of Steering Committee is authorized to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations regarding reasonable rates, and to intervene and direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Public Utility Commission.

3. That the City's reasonable rate case expenses shall be reimbursed by Oncor.

4. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

5. A copy of this Resolution shall be sent to Oncor, Care of Howard Fisher, Oncor Electric Delivery Company, LLC, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202 and to Thomas Brocato, Counsel to the Steering Committee, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED AND APPROVED this the 11th day of April, 2017.

ATTEST:

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Dianna Barker, City Secretary

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Jose L. Segarra, Mayor

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Kathryn H. Davis, City Attorney



## SUSPENDING THE EFFECTIVE DATE OF ONCOR'S RATE CHANGE

RS-17-042

April 4, 2017



# Oncor Requested Rate Change

## □ Background

- Cities have original jurisdiction over electric provider rates.
- Providers must submit a request to each city for rate changes.
- The City is a member of the Oncor Steering Committee, which provides regulatory guidance and assistance in rate matters.

# Oncor's Requested Rate Change

## □ Oncor's Filing

- Filed an application for a system-wide rate increase on March 17, 2017.
- Calls for an overall increase of \$317 million.
  - An 11.8% increase in residential rates, or approximately \$6.68 for a typical customer.
  - A 0.5% increase in street light rates.
- To be effective April 21, 2017.

# Options

- Do nothing
  - ▣ The rates become effective April 21, 2017, by operation of law without full analysis by the Steering Committee as to reasonableness or any attempts to negotiate a lesser increase.
- Suspend the effective date
  - ▣ State law allows a rate case to be suspended for 90 days.
  - ▣ The Steering Committee has time to study the request, make recommendations to the cities and negotiate a lesser increase.
- Deny the request
  - ▣ Oncor will appeal to the PUC. If other cities suspend or negotiate a different rate, Killeen would be alone in the case before the PUC.
  - ▣ Denying is still a later option even if the request is suspended.

# Recommendation

- The Steering Committee and staff recommend suspending the rate case to provide time for a thorough review of the request and negotiations with Oncor.
- This action delays the effective date and results in no fiscal impact to the city.
- Steering Committee expenses are reimbursed by Oncor.



# City of Killeen

## Legislation Details

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**File #:** RS-17-043    **Version:** 1    **Name:** Procedures for appointments to boards and commissions  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 4/5/2017    **In control:** City Council Workshop  
**On agenda:** 4/11/2017    **Final action:**  
**Title:** Consider a memorandum/resolution adopting a city council policy establishing the procedure for appointments to citizen boards, commissions and committees.  
**Sponsors:** City Attorney Department, City Manager Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Policy](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
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## STAFF REPORT

**DATE:** April 5, 2017  
**TO:** Ronald L. Olson, City Manager  
**FROM:** Kathy Davis, City Attorney  
**SUBJECT:** Council Policy Regarding Appointments to Citizen Boards, Commissions and Committees

### **BACKGROUND AND FINDINGS:**

On March 7, 2017, Council discussed the process and criteria to consider when making appointments to citizen boards, commissions and committees. The consensus was to create a policy that would guide future appointment and reappointment processes. The attached policy addresses the timeframe for making appointments, the process for reviewing applications, the duties of appointment subcommittees and the full council, term limits and criteria for appointment.

### **THE ALTERNATIVES CONSIDERED:**

#### **Which alternative is recommended? Why?**

It is recommended that the City Council standardize its appointment and reappointment process for citizen boards, commissions and committees by adopting a formal policy.

### **CONFORMITY TO CITY POLICY:**

Adoption of this policy is within the purview of the City Council, and is in conformance with the City Charter and Code of Ordinances.

### **FINANCIAL IMPACT:**

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

Adoption of this policy will not necessitate the expenditure of funds in either this fiscal year or future fiscal years.

#### **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 the Council adopt the attached City Council Policy

**DEPARTMENTAL CLEARANCES:**

City Manager

**ATTACHED SUPPORTING DOCUMENTS:**

Policy

## CITIZEN BOARD, COMMISSION AND COMMITTEE APPOINTMENTS

### **I. PURPOSE.**

This Policy establishes the procedure for the appointment and reappointment of citizens interested in serving on Boards, Commissions and Committees for the City of Killeen.

### **II. TIME OF APPOINTMENT.**

All appointments and shall be made by the City Council prior to October 1<sup>st</sup> of each year, for all positions to be filled that year. (Code of Ordinances, sec. 2-116)

### **III. REVIEW OF APPLICATIONS.**

Staff will compile and present all applications for appointment to citizen boards, commissions and committees to the City Council at the specified workshop meeting, and two weeks before the workshop via electronic delivery.

### **IV. APPOINTMENT SUBCOMMITTEES.**

Some citizen boards, commissions and committees have appointment subcommittees consisting of two Councilmembers. It is the responsibility of the subcommittee members to review and discuss applications for the board, commission or committee for which they are a subcommittee member, and reach a consensus regarding which applicant(s) to recommend to the full Council as the most qualified to fill a position. This decision should be made prior to the workshop at which appointments are scheduled to be discussed.

The following boards, commissions and committees have appointment subcommittees: BOA-Construction, BOA-Fire Prevention, BOA-Airport Hazard, BOA-Zoning, Killeen Volunteers, Inc., Senior Citizens Advisory, Bell County Health District.

### **V. FULL COUNCIL APPOINTMENTS.**

Some citizen boards, commissions and committees do not have appointment subcommittees. For these committees, appointments are made after the full Council has reviewed the appropriate applications and had the opportunity to discuss applications in a workshop meeting. Consensus regarding which applicants are the most qualified to fill a position will be reached during a workshop meeting. If necessary, appointment decisions will be reached through a nomination process.

The following boards, commissions and committees do NOT have appointment subcommittees: Animal Advisory Committee, Arts Commission, Community Development Advisory Committee, Heritage Preservation Board, Killeen Economic Development Committee, Killeen Sister Cities, Planning & Zoning Commission, TIRZ #2 Board, Killeen-Temple Metropolitan Planning Organization (KTMPO)



**VI. TERM LIMITS.**

To encourage broad citizen participation, no person may be appointed to serve more than six consecutive years, excluding unexpired terms, on a particular board, commission, or committee. This limitation does not apply if a particular position requires specialized knowledge, licenses, or certifications and no other qualified and interested person is available, or for other good cause found by the Council and specified in the appointment resolution. (Code of Ordinances, sec. 2-117)

**VII. CRITERIA FOR APPOINTMENT.**

When determining the most qualified applicant, Council should consider the following information:

- a. Date of application;
- b. Primary residence—is applicant a City of Killeen resident or does applicant live in the ETJ? Is residency a requirement for the position?
- c. Is applicant currently serving on other boards, commissions and/or committees?
- d. Does applicant have specialized knowledge, licenses or certifications that are helpful or required for the position?
- e. If applicant is being considered for reappointment, is such reappointment prohibited by term limits?
- f. If applicant is being considered for reappointment, has applicant maintained a good record of attendance?

**VIII. RESPONSIBILITY AND AUTHORITY.**

This Policy will be reviewed annually by the City Council. Upon completion of the review, the City Council will adopt a resolution stating that it has reviewed the Citizen Board, Commission and Committee Appointment Policy, and the outcome. Periodic revisions to the Policy will also be approved by resolution of the City Council.

Prepared by: Kathy Davis, City Attorney

Reviewed by: Ronald L. Olson, City Manager

\_\_\_\_\_

\_\_\_\_\_

Initial adoption by Council: April 11, 2017



# DRAFT POLICY: APPOINTING CITIZENS TO COMMITTEES

RS-17-043

April 4, 2017

# CITIZEN APPOINTMENTS

2

## □ PURPOSE

- Establish procedure for appointment/reappointment of citizens to boards, commissions and committees

## □ TIME OF APPOINTMENT

- By October 1, annually

## □ REVIEW OF APPLICATIONS

- Staff compiles applications, emails to council 2 weeks prior to workshop, provides copies at workshop

# CITIZEN APPOINTMENTS

3

## □ APPOINTMENT SUBCOMMITTEES

- Teams of two councilmembers
- Responsible for reviewing and discussing applications in advance, reaching consensus regarding most qualified applicant(s) prior to workshop
- BOA-Construction, BOA-Fire Prevention, BOA-Zoning, KVI, Senior Citizens Advisory, Bell County Health District

# CITIZEN APPOINTMENTS

4

- FULL COUNCIL APPOINTMENTS
  - Entire council reviews applications, discusses applicants during workshop
  - Workshop consensus regarding most qualified candidate to fill a vacancy
    - If necessary, nomination process used
  - Animal Advisory Committee, Arts Commission, CDAC, Heritage Preservation Board, KEDC, Killeen Sister Cities, P&Z, TIRZ #2 Board, KTMPO

# CITIZEN APPOINTMENTS

5

## □ TERM LIMITS

- No more than six consecutive years, excluding unexpired terms
- Exceptions:
  - Specialized knowledge, license or certifications AND no other qualified and interested person available;
  - Other good cause found by council, which will be specified in the appointment resolution

# CITIZEN APPOINTMENTS

6

## □ CRITERIA FOR APPOINTMENTS

- ▣ Application date?
- ▣ Primary residence?
- ▣ Service on other boards?
- ▣ Specialized knowledge, licenses or certifications?
- ▣ Term limits?

## □ RESPONSIBILITY AND AUTHORITY

- ▣ Council will review annually



# City of Killeen

## Legislation Details

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**File #:** PH-17-022    **Version:** 1    **Name:** Zoning 17-09  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 3/20/2017    **In control:** City Council  
**On agenda:** 4/11/2017    **Final action:**

**Title:** HOLD a public hearing and consider an ordinance requested by RSBP Developers, Inc. (Case #Z17-09) to rezone approximately 8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision, from a Planned Unit Development (PUD) with "SF-2" (Single-Family Residential District) and "R-3" (Multifamily Residential District) uses to "R-2" (Two Family Residential District). The properties are locally known as 1500 through 1506, 1508, 1510, 1512, 1601, 1603, 1605, 1606, 1608 through 1613 and 1701 Justin Lane, Killeen, Texas.

**Sponsors:** Planning & Development Dept

**Indexes:**

**Code sections:**

**Attachments:** [Staff Report](#)  
[Aerial Map Exhibit](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Location Map](#)  
[Buffer Map](#)  
[Considerations](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		





## STAFF REPORT

**DATE:** April 4, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Ray Shanaa, Executive Director of Planning and Development Services

**SUBJECT:** REZONING CASE #Z17-09 PLANNED UNIT DEVELOPMENT (PUD) WITH "SF-2" (SINGLE-FAMILY RESIDENTIAL DISTRICT) AND "R-3" (MULTIFAMILY RESIDENTIAL DISTRICT) TO "R-2" (TWO FAMILY RESIDENTIAL DISTRICT)

### **BACKGROUND AND FINDINGS:**

RSBP Developers, Inc. submits this request to rezone approximately 8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision, from a Planned Unit Development (PUD) for "SF-2" (Single-Family Residential District) and "R-3" (Multifamily Residential District) uses to "R-2" (Two Family Residential District). The properties are locally known as 1500 through 1506, 1508, 1510, 1512, 1601, 1603, 1605, 1606, 1608 through 1613 and 1701 Justin Lane, Killeen, Texas.

### **District Descriptions:**

A building or premises in a district "R-2" Two-Family Residential District shall be used only for the following purposes:

- (1) Any use permitted in district "R-1"
- (2) Two-family dwellings

The property is currently vacant. There is a mixture of existing commercial uses and residential uses in the vicinity.

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

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

- Predominantly "R-1" zoning district with less openness and separation between dwellings compared to Suburban Residential areas
- Auto-oriented character that can be offset with architectural standards, landscaping, and limited uniform subdivision designs
- Neighborhood-scale commercial emerging over time for well-suited areas

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

**THE ALTERNATIVES CONSIDERED:**

**Which alternative is recommended? Why?**

The City Council shall take the following Pharr v. Tippitt guidelines into consideration making a decision on a zoning request:

*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*

**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; however, it will be necessary to maintain future publicly dedicated infrastructure.

**Is this a one-time or recurring expenditure?**

The maintenance of publicly dedicated infrastructure will be on-going.

**Is this expenditure budgeted?**

This expenditure is not discretely budgeted.

**If not, where will the money come from?**

Various Public Works accounts

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

This is not applicable at this time.

**RECOMMENDATION:**

The Planning and Zoning Commission recommended approval of the applicant's zoning request by a vote of 4 to 0, with Commissioner Purser abstaining. The staff notified 16 (sixteen) surrounding property owners regarding this request and received no protests.

**DEPARTMENTAL CLEARANCES:**

This item has been reviewed by the Legal Department.

**ATTACHED SUPPORTING DOCUMENTS:**

Aerial Map Exhibit

Minutes

Ordinance

Application

Location Map

Buffer Map

Considerations

**Figure 1. Aerial Map**



**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
MARCH 20, 2017**

**CASE #Z17-09  
PUD w/ SF-2 and R-3 to R-2**

**HOLD a public hearing and consider a request submitted by RSBP Developers, Inc., to rezone approximately 8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision, from a Planned Unit Development (PUD) for “SF-2” (Single-Family Residential District) uses and “R-3” (Multifamily Residential District) to “R-2” (Two Family Residential District). The properties are locally known as 1500 through 1506, 1508, 1510, 1512, 1601, 1603, 1605, 1606, 1608 through 1613 and 1701 Justin Lane, Killeen, Texas.**

Commissioner Purser stepped away from the dais due to a potential conflict of interest.

Chairman Frederick requested staff comments.

City Planner Tony McIlwain stated that this property was rezoned from “R-3” (Multifamily Residential District) and “B-3” (Local Business District) to a Planned Unit Development (PUD) with “SF-2” (Single Family Residential District) on August 23, 2016, per Ordinance No. 16-039. This zoning request is more restrictive than the previous “R-3” zoning that was on the property prior to the last approved zoning action. The zoning request is consistent with the FUM of the Comprehensive Plan. Staff recommends approval of the applicant’s “R-2” zoning request.

The staff notified 16 (sixteen) surrounding property owners regarding this request. No responses have been received.

Ms. Michelle Lee, Killeen Engineering & Surveying, Ltd., 2901 E. Stan Schlueter Loop, Killeen, Texas, was present to represent this request.

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

Commissioner McLaurin motioned to recommend approval of “R-2” (Two Family Residential District). Vice Chair Dorroh seconded the motion. The motion passed unanimously.

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

Commissioner Purser returned to the dais.

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

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM PLANNED UNIT DEVELOPMENT (PUD) WITH “SF-2” (SINGLE-FAMILY RESIDENTIAL DISTRICT) USES AND “R-3” (MULTIFAMILY RESIDENTIAL DISTRICT) TO “R-2” (TWO FAMILY DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, RSBP Developers, Inc. submits this request for an amendment of the zoning ordinance of the City of Killeen by changing the classification of 8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision, from a Planned Unit Development (PUD) with “SF-2” (Single-Family Residential District) uses and “R-3” (Multifamily Residential District) to “R-2” (Two Family District), said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen; 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 2017, at the City Hall, City of Killeen;

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

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

**SECTION I.** That the zoning classification of the following described tract be changed from a Planned Unit Development (PUD) with “SF-2” (Single-Family Residential

District) uses and “R-3” (Multifamily Residential District) to “R-2” (Two Family District), said property being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision.

**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 2017, 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:**

\_\_\_\_\_  
**Jose L. Segarra, MAYOR**

**ATTEST:**

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

**APPROVED AS TO FORM**

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

Case #17-09  
Ord. #17-\_\_\_



Date Paid:	<u>3/3/17</u>
Amount Paid:	\$ <u>300.00</u>
Cash/MO #/Check #:	# _____
Receipt #:	<u>501</u>

CASE #: 217-09

## City of Killeen Zoning Change Application

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

Name(s) of Property Owner: RSBP DEVELOPER, INC.

Current Address: 2901 E. Stan Schlueter Loop

City: Killeen State: Texas Zip: 75642 - \_\_\_\_\_

Home Phone: (254) 526-3981 Business Phone: (254) <sup>634-5567</sup> Ext #104 Cell Phone: (254) 535-1540

Email: bpurser@kesltd.com; cpurser@purserco.com

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

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

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

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

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

Address/Location of property to be rezoned: Located at 1606 Justin Lane

Legal Description: 7.64 acre tract out of the J.S. Wilder Survey, Abstract # 912, Bell County, Texas

Metes & Bounds    or    Lot(s)    Block    Subdivision

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

If NO, a FLUM amendment application must be submitted.

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

Present Zoning: PUD Present Use: VACANT

Proposed Zoning: R2 Proposed Use: TWO-FAMILY RESIDENTIAL DISTRICT

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

This property was conveyed to owner by deed dated \_\_\_\_\_ 2014 and recorded in Volume \_\_\_\_\_

Page \_\_\_\_\_, Instrument Number 2016-20454 of the Bell County Deed Records.  
(Attached)

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



## APPOINTMENT OF AGENT

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

Name of Agent: Killeen Engineering & Surveying, Ltd.

Mailing Address: 2901 E. Stan Schlueter Loop


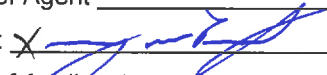
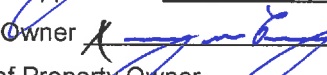
City: Killeen State: Texas Zip: 76542 - \_\_\_\_\_

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

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

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

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

Signature of Agent 	Title <u>KES- Rep</u>
Printed/Typed Name of Agent <u>Ben Purser</u>	Date <u>3-3-17</u>
Signature of Agent _____	Title _____
Printed/Typed Name of Agent _____	Date <u>3</u>
Signature of Applicant 	Title <u>President - RSBP</u>
Printed/Typed Name of Applicant <u>Gary W. Purser, Jr.</u>	Date <u>3-3-17</u>
Signature of Property Owner 	Title <u>President - RSBP</u>
Printed/Typed Name of Property Owner <u>RSBP DEVELOPER, INC.</u>	Date <u>3-3-17</u>
Signature of Property Owner _____	Title _____
Printed/Typed Name of Property Owner _____	Date _____
Signature of Property Owner _____	Title _____
Printed/Typed Name of Property Owner _____	Date _____

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



**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

Z17-09

**ZONING FROM:**

PUD and R-3 To R-2

**APPLICANT:**

SCF KILLEEN FAMILY LP




**PROPERTY OWNER:**

MARK DEWAYNE STANFORD

**LEGAL DESCRIPTION:**

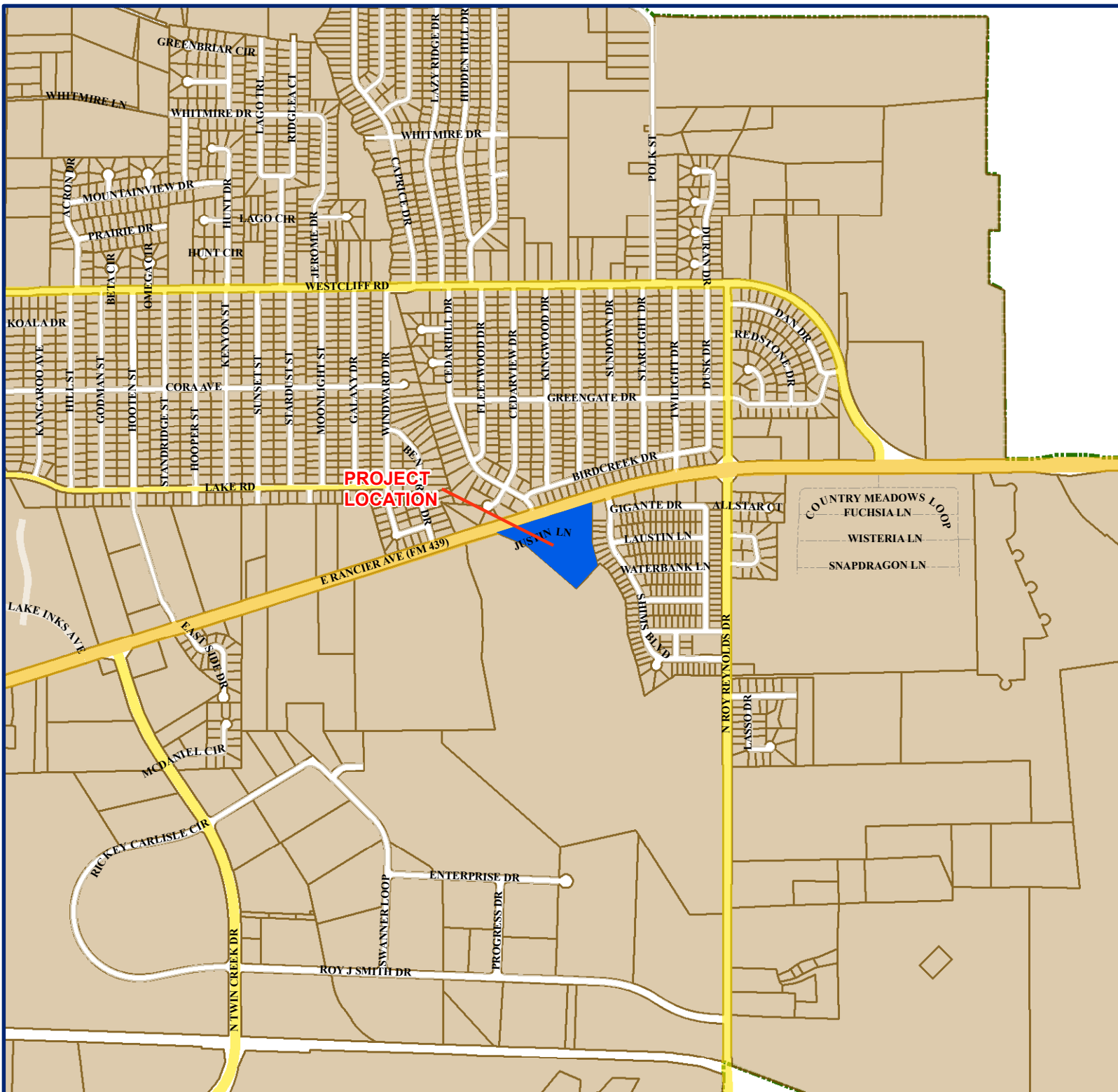
A0306BC G W FARRIS, 10-3,  
ACRES 4.576; A0306BC  
G W FARRIS, 10-5,  
ACRES 1.765

**Legend**

-  Zoning Case
-  Parcel
-  City Limits



Date: 3/8/2017





**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

**Z17-09**

**ZONING FROM:**

**PUD and R-3 To R-2**

**APPLICANT:**

**RSBP DEVELOPER, INC.**







**PROPERTY OWNER:**

**RSBP DEVELOPER, INC.**

**LEGAL DESCRIPTION:**

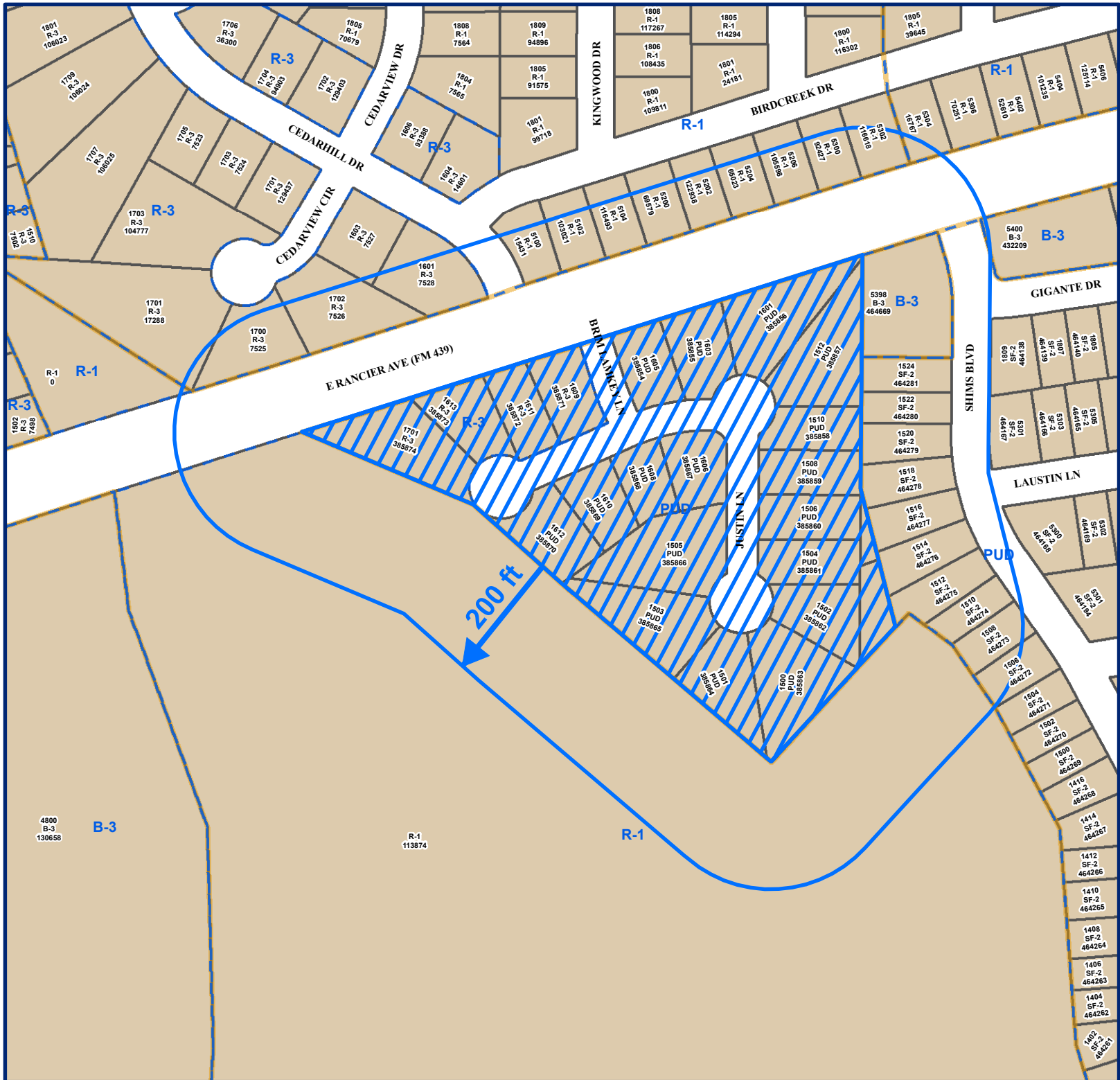
**A0306BC G W FARRIS, 10-3,  
ACRES 4.576; A0306BC  
G W FARRIS, 10-5,  
ACRES 1.765**

**LEGEND**

-  200' Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 3/8/2017



# CONSIDERATIONS

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

## A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

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

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

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

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

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

Whether there have been substantially changed conditions in the neighborhood.

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

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

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

## B. Conditional Use Permit (if applicable)

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

## C. Conditions to Consider

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



# ZONING CASE #Z17-09

PH-17-022

April 4, 2017

# ZONING CASE #Z17-09



- The property is zoned as a Planned Unit Development (PUD) with “SF-2” (Single Family Residential District) and “R-3” (Multifamily Residential District)
- The applicant is requesting “R-2” (Two Family Residential District) for duplex development





## Exhibit 1. Zoning map

8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision

# ZONING CASE #17-09



The project area is undeveloped. The surrounding land uses are:

- Undeveloped to the south
- Single Family and Multifamily Residential uses north of Rancier Avenue
- Single Family Residential and commercial to the east
- Undeveloped to the west



# ZONING CASE #17-09



- The property is designated as 'General Residential' on the FLUM
- The applicant's request is consistent with the FLUM
- The Planning and Zoning Commission recommended approval of the request on March 20, 2017, by a vote of 4 to 0



# City of Killeen

## Legislation Details

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**File #:** PH-17-023A    **Version:** 1    **Name:** FLUM 17-08  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 3/13/2017    **In control:** City Council  
**On agenda:** 4/11/2017    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance requested by Mark Dewayne Stanford to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Commercial' (GC) to 'Multi-Family Residential' (MFR) (FLUM# Z17-08) for 6.34 acres out G. W. Farris Survey, Abstract No. 306, for properties locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road, Killeen, Texas.  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[FLUM Exhibit](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** April 4, 2017  
**TO:** Ronald L. Olson, City Manager  
**FROM:** Ray Shanaa, Executive Director of Planning and Development Services  
**SUBJECT:** COMPREHENSIVE PLAN FUTURE LAND USE MAP (FLUM) AMENDMENT:  
'GENERAL COMMERCIAL' (GC) TO 'MULTI-FAMILY RESIDENTIAL' (MFR)

### **BACKGROUND AND FINDINGS:**

Mark Dewayne Stanford submits this request to amend the Comprehensive Plan's Future Land Use Map (FLUM) to change a 'General Commercial' (GC) designated area to a 'Multi-Family Residential' (MFR) designated area for approximately 6.34 acres out G. W. Farris Survey, Abstract No. 306. The properties are locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road, Killeen, Texas.

**Land Use Plan:** The properties are currently designated as 'General Commercial' (GC) on the Future Land Use Map (FLUM) of the Comprehensive Plan.

**Plan Recommendation:** The 'General Commercial' (GC) designation includes a wide range of commercial, retail, and service uses, at varying scales and intensities depending on the site.

If approved, the proposed revision to the properties would result in a 'Multi-Family Residential' (MFR) designation on the Future Land Use Map (FLUM) of the Comprehensive Plan. This designation calls for multi-unit attached residential units in concentrated developments (5 or more units per building), whether for rent (apartments) or ownership (condominiums).

### **THE ALTERNATIVES CONSIDERED:**

#### **Which alternative is recommended? Why?**

The items below should be reviewed and addressed when a Future Land Use Map amendment is being considered:

- **Scope of Amendment:** Is the proposed map change limited to one or a few parcels, or would it affect a much larger area? *The amendment is for an area of approximately 6.34 acres and should be considered small scale.*
- **Change in Circumstances:** What specific conditions (e.g., population size and/or characteristics, area character and building form, property/structure conditions,

infrastructure or public services, market factors including need for more land in a particular designation, etc.) have changed sufficiently to render the current map designation(s) inappropriate or out-of-date? *Staff is unaware of any conditions that render the current FLUM inappropriate. However, a prospective tax-credit multifamily project, Westwind Apartments, was presented to the Killeen City Council during their workshop of February 7, 2016. During the ensuing workshop discussion, the City Council voiced support for the project and affirmed that support with a resolution of support at the regular meeting of February 14, 2017. Therefore, it is necessary to amend the FLUM in order to facilitate development of the project.*

- **Consistency with Other Plans:** In addition to the Comprehensive Plan, is the proposed map change consistent with the intent and policy direction of any applicable small area plans, utility or drainage plans, or other City plans? *There are no other plans affecting this property. The proposed FLUM amendment is not incompatible with other public works planning efforts.*
- **Adequate Information:** Do City staff, the Planning and Zoning Commission, and/or City Council have enough and appropriate information to move ahead with a decision (e.g., utility capacity, potential traffic impacts, other public service implications, and resident/stakeholder concerns and input)? *The proposed FLUM amendment request will not negatively affect public utility capacity; no TIA has been submitted, so staff is unable to gauge an accurate assessment of traffic impacts.*
- **Stakeholder Input:** What points, concerns, and insights have been raised by area residents, property owners, business owners, or others? With the exception of listing this action as a public hearing item on the Planning and Zoning Commission's agenda, there is no public notice requirement for this amendment action; therefore, staff has not sought, nor received, any stakeholder input. *With the exception of listing this action as a public hearing item on the Planning and Zoning Commission's agenda, there is no public notice requirement for this amendment action; therefore, staff has not received any stakeholder input.*

#### **CONFORMITY TO CITY POLICY:**

This FLUM amendment request conforms to the city's policy as detailed in the Comprehensive Plan.

#### **FINANCIAL IMPACT:**

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

The proposed FLUM amendment does not involve the expenditure of city funds.

**Is this a one-time or recurring expenditure?**

This is not applicable.

**Is this expenditure budgeted?**

This is not applicable.

**If not, where will the money come from?**

This is not applicable.

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

This is not applicable.

**RECOMMENDATION:**

The Planning and Zoning Commission recommended disapproval of the applicant's request for an amendment to the Future Land Use Map from 'General Commercial' (GC) to 'Multi-Family Residential' (MFR) by a vote of 4 to 1, with Commissioners Dorroh, Latham, McLaurin and Peters in opposition to the request; Commissioner Purser was in support of the applicant's request. The four commissioners decided that the current FLUM designation is appropriate for the area, and changing it would lead to development that would increase traffic in the area. During the Planning and Zoning Commission's public hearing on this matter, Rebecca Woodul spoke in opposition to the FLUM change.

**DEPARTMENTAL CLEARANCES:**

This item has been reviewed by the Legal Department.

**ATTACHED SUPPORTING DOCUMENTS:**

FLUM Exhibit  
Minutes  
Ordinance  
Application

Figure 1. Future Land Use Map (FLUM)



Note: Subject area has been identified as 'General Commercial'

**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
MARCH 20, 2017**

**CASE FLUM #Z17-08  
‘GENERAL COMMERCIAL’ TO ‘MULTI-FAMILY RESIDENTIAL’**

**A. HOLD a public hearing and consider a request submitted by Mark Dewayne Stanford, to amend the Future Land Use Map (FLUM) of the Comprehensive Plan, to change approximately 6.34 acres, being out of the G. W. Farris Survey, Abstract No. 306, from a ‘General Commercial’ designation to a ‘Multi-Family Residential’ designation for properties located at 901 E. Stan Schlueter Loop and 4611 Trimmier Road, Killeen, Texas.**

Chairman Frederick requested staff comments.

City Planner, Tony McIlwain, stated that this is the first part of a two part request. Mr. Mark Dewayne Stanford is requesting to allow the property to transition from a ‘General Commercial’ designation to a ‘Multi-Family Residential’ designation. The applicant has submitted a concurrent request to rezone the property; the proposed project was presented to the City Council on, February 7th and 14th, 2017. This designation is required if it’s the City Council’s intent to support the proposed tax credit multi-family residential project. The developer intends to develop approximately 6.34 acres for multifamily use. The following factors should be considered: Scope of Amendment; Change in Circumstances, Consistency with Other Plans, Adequate Information, Stakeholder Input.

Chairman Frederick opened the public hearing.

Rebecca Woodul, 4505 Trimmier Road, Killeen, Texas 76542 spoke in opposition.

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

Vice Chair Dorroh motioned to recommend disapproval of the request, stating that the Future Land Use Map designates this area as ‘General Commercial’ and ‘General Residential’ and changing the designation from ‘General Commercial’ to ‘Multi-Family Residential’ would cause added congestion to that area. Commissioner McLaurin seconded the motion. The motion passed 4-1. Commissioner Purser voted in opposition.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to disapprove.

ORDINANCE \_\_\_\_\_

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'GENERAL COMMERCIAL' (GC) TO 'MULTI-FAMILY RESIDENTIAL' (MFR) FOR APPROXIMATELY 6.34 ACRES OF LAND OUT OF THE G.W. FARRIS SURVEY, ABSTRACT NO. 306, BEING LOCALLY KNOWN AS 901 E. STAN SCHLUETER LOOP (FM 3470) AND 4611 TRIMMIER ROAD, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen finds that Chapter 213.003 of the Local Government Code enables municipalities to adopt and amend comprehensive plans in the interest of coordinating long-range development of the municipality.

**WHEREAS**, the Planning and Zoning Commission has received a request from Mark Dewayne Stanford for a revision to the Future Land Use Map (FLUM) of the Comprehensive Plan, to change approximately 6.34 acres of land out of the G. W. Farris Survey, Abstract No. 306, being locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road, Killeen, Texas, from 'General Commercial' (GC) to 'Multi-Family Residential' (MFR); said revision having been duly presented and recommended for disapproval by the Planning and Zoning Commission of the City of Killeen on the 20th day of March 2017, and due notice of the filing of said revision 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 2017, 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 opinion that the amendment should be approved;



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

**SECTION I:** That the land use designation of the approximate 6.34 acres of land locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road, Killeen, Texas, be amended from 'General Commercial' (GC) to 'Multi-Family Residential' (MFR).

**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 2017, 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:**

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**Jose L. Segarra**  
**MAYOR**

**ATTEST:**

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**Dianna Barker**  
**CITY SECRETARY**

**APPROVED AS TO FORM**

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**Kathryn H. Davis**  
**CITY ATTORNEY**

Case #: FLUM #Z17-08

Ord#:17-\_\_



Date Paid:	<u>3/3/17</u>
Amount Paid:	<u>\$ 100.00</u>
Cash/MO #/Check #:	<u># 1523</u>
Receipt #:	<u>506</u>

CASE #: FLUM#217-08

## City of Killeen FLUM Amendment Application

Name(s) of Property Owner: Mark Dwayne Stanford (Independent executor)

Current Address: 4701 Trimmier Rd

City: Killeen State: Texas Zip: 76542 - 3801

Home Phone: ( ) \_\_\_\_\_ Business Phone: ( ) 254 289-9708 Cell Phone: ( ) \_\_\_\_\_

Email: mark.stanford56@gmail.com

Name of Applicant: SCF Killeen 17, LP  
(If different than Property Owner)

Address: 7801 Jack Finney Blvd Suite #101

City: Greenville State: Texas Zip: 75402

Home Phone: ( ) \_\_\_\_\_ Business Phone: 903 450-1520 Cell Phone: 214 806-2216

Email: zach@salemclark.com

Address/Location of property proposed for FLUM amendment: 4801 Trimmier Rd Killeen Texas

Legal Description: A0306BC, G W Farris, 10-3 and A0306BC, G W Farris, 10-5

Metes & Bounds or Lot(s) Block Subdivision

Type of Ownership:  Sole Ownership  Partnership  Corporation  Other

Present FLUM Designation: General Commercial Present Use: R-1 Residential/Vacant Land

Proposed FLUM Designation: Multifamily Residential Proposed Use: Garden Style Apartments

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

\* Letters Testamentary on Oct. 22, 2015

## APPOINTMENT OF AGENT

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

Name of Agent: Zachary Krochtengel

Mailing Address: 7801 Jack Finney Blvd Suite #101

City: Greenville State: Texas Zip: 75404 - \_\_\_\_\_

Home Phone: (214) 806-2216 Business Phone: (903) 450-1520 Email: zach@salemclark.com

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

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

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

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

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

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

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

Signature of Applicant Kelly Garasht Title owner

Printed/Typed Name of Applicant Kelly Garasht Date 2-16-17

Signature of Property Owner Mark D. Stanford Title executor

Printed/Typed Name of Property Owner MARK D. STANFORD Date 2/10/2017

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

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

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

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

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



FLUM AMENDMENT#Z17-08  
'GC' TO 'MFR'

PH-17-023A

April 4, 2017



## Exhibit 1. Future Land Use Map (FLUM)

6.34 acres, being locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road

# FLUM AMENDMENT #Z17-08

- The property is designated as ‘General Commercial’ (GC)
- Current designation encourages wide range of commercial and retail uses
- ‘Multi-Family Residential’ designation encourages multi-unit attached residential in concentrated developments (5 or more units per building), whether for rent (apartments) or ownership (condominiums)

# FLUM AMENDMENT #17-08



The following items should be reviewed when a FLUM is being considered:

- scope of the amendment
- change in circumstances
- consistency with other Plans
- Adequate Information
- Stakeholder Input



# FLUM AMENDMENT #17-08



- The Planning and Zoning Commission recommended disapproval of the request on March 20, 2017, by a vote of 4 to 1
- FLUM amendment is necessary to approve the applicant's concurrent zoning request of "R-3A" (Multifamily Apartment Residential District)



# City of Killeen

## Legislation Details

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**File #:** PH-17-023B    **Version:** 1    **Name:** Zoning 17-08  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 3/13/2017    **In control:** City Council  
**On agenda:** 4/11/2017    **Final action:**

**Title:** HOLD a public hearing and consider an ordinance requested by Mark Dewayne Stanford (Case #Z17-08) to rezone 6.34 acres out of the G. W. Farris Survey, Abstract No. 306, from "R-1" (Single-Family Residential District) to "R-3A" (Multifamily Apartment Residential District), for properties locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road, Killeen, Texas. (Requires a three-fourths (3/4) majority vote.)

**Sponsors:** Planning & Development Dept

**Indexes:**

**Code sections:**

**Attachments:** [Staff Report](#)  
[Aerial Map Exhibit](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Location Map](#)  
[Buffer Map](#)  
[Considerations](#)  
[Responses](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** April 4, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Ray Shanaa, Executive Director of Planning and Development Services

**SUBJECT:** REZONING CASE #Z17-08 "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO "R-3A" (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT) USES

### **BACKGROUND AND FINDINGS:**

Mark Dewayne Stanford submits this request to rezone 6.34 acres out of the G. W. Farris Survey, Abstract No. 306, from "R-1" (Single-Family Residential District) to "R-3A" (Multifamily Apartment Residential District) for a project named *Westwind Apartments*. The project site is located on two undeveloped tracts of land, northwest of the intersection of Trimmier Road and Stan Schlueter Loop (FM 3470) and are addressed as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road, Killeen, Texas. The developer for the project is proposing to construct a 110 unit, tax-credit eligible apartment project. The project area is undeveloped. The surrounding land uses are single-family to the south; institutional to the north (Maranatha Baptist Church); commercial to the east (Shelley's Day Spa and Salon); and institutional further west (Iglesia Cristiana Monte Sinai).

### **District Descriptions:**

**A building or premises in an "R-3A" Multifamily Apartment Residential District shall be used only for the following purposes:**

- (a) Uses. A building or premises in an "R-3A" Multifamily Apartment Residential District shall be used only for the following purposes:
- (1) Any use permitted in the "R-1" or "R-2" districts
  - (2) Multifamily structures containing five (5) or more separate dwelling units, including large apartment complexes with high rise structures
  - (3) Boarding and lodging houses
  - (4) Fraternity or sorority houses
  - (5) Licensed group or community homes housing six (6) or more persons
  - (6) Dormitories for educational or employment purposes as a primary use
  - (7) Any group housing activity not otherwise identified in another multifamily or business district
  - (8) 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 requesting zoning under this division shall be subject to the requirements of 31-256.9 of this division, if applicable

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

**Plan Recommendation:** The 'General Commercial' character encourages a wide range of commercial, retail, and service uses, at varying scales and intensities depending on the site.

**Consistency:** The zoning request is not consistent with the intent of the Comprehensive Plan; therefore, the applicant has submitted a concurrent FLUM amendment request to 'Multi-Family Residential' (MFR) to align this project with the intended scope of development.

### **THE ALTERNATIVES CONSIDERED:**

#### **Which alternative is recommended? Why?**

The City Council shall take the following Pharr v. Tippitt guidelines into consideration making a decision on a zoning request:

*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*

**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. However, there will be a future fiscal impact for the maintenance of publicly-dedicated infrastructure.

**Is this a one-time or recurring expenditure?**

The maintenance of publicly dedicated infrastructure will be on-going.

**Is this expenditure budgeted?**

This specific item is not discretely budgeted.

**If not, where will the money come from?**

Various Public Works accounts

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

Staff has not yet determined the true future life cycle costs for the maintenance of all publicly dedicated infrastructure associated with this development.

**RECOMMENDATION:**

The Planning and Zoning Commission recommended disapproval of the applicant's zoning request from "R-1" (Single-Family Residential District) to "R-3A" (Multifamily Apartment Residential District) by a vote of 4 to 1, with Commissioners Dorroh, Latham, McLaurin and Peters in opposition to the request; Commissioner Purser was in support of the applicant's request. The four Commissioners shared concerns regarding the potential for increased traffic as a result of the proposed multifamily residential project. The staff notified ten (10) surrounding property owners regarding this request and received protest from Mr. James E. Woodul Jr. of 4505 Trimmier Road. Since the zoning request was recommended for disapproval, it will require a favorable vote of three-fourths (3/4) of all the members of the City Council for approval.

**DEPARTMENTAL CLEARANCES:**

This item has been reviewed by the Legal Department.

**ATTACHED SUPPORTING DOCUMENTS:**

Aerial Map Exhibit

Minutes

Ordinance

Application

Location Map

Buffer Map

Considerations

Responses

**Figure 1. Aerial Map**



**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
MARCH 20, 2017**

**CASE #Z17-08  
R-1 to R-3A**

**B. HOLD a public hearing and consider a request submitted by Mark Dewayne Stanford, to rezone approximately 6.34 acres, being out of the G. W. Farris Survey, Abstract No. 306, from “R-1” (Single-Family Residential District) to “R-3A” (Multifamily Apartment Residential District). The properties are located at 901 E. Stan Schlueter Loop and 4611 Trimmier Road, Killeen, Texas.**

Chairman Frederick requested staff comments.

City Planner, Tony McIlwain, stated that this is part B of the request. The subject properties are the site for a prospective tax-credit multifamily project, *Westwind Apartments*, which was presented to the Killeen City Council during their workshop of February 7, 2017. During the ensuing workshop discussion, the City Council voiced support for the project and affirmed that support with a resolution of support at the regular meeting of February 14, 2017.

The staff notified ten (10) surrounding property owners regarding this request. One response in opposition was received from Mr. James E. Woodul Jr. of 4505 Trimmier Road, Killeen, Texas. Staff recommends approval of the applicant’s rezone request. The recommendation needs to be consistent with the FLUM request.

Mr. Zachary Krochtengel, 7801 Jack Finney Blvd. Suite #101, Greenville, Texas, was present to represent this request.

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

Vice Chair Dorroh motioned to recommend disapproval of the request. Commissioner McLaurin seconded the motion. The motion passed 4-1. Commissioner Purser voted in opposition.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to disapprove.



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

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

**WHEREAS**, Mark Dewayne Stanford has presented to the City of Killeen a request for amendment of the zoning ordinance of the City of Killeen by changing the classification of approximately 6.34 acres out of the G. W. Farris Survey, Abstract No. 306, being locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road, from “R-1” (Single-Family Residential District) to “R-3A” (Multifamily Apartment Residential District), said request having been duly presented and recommended for disapproval by the Planning and Zoning Commission of the City of Killeen on the 20th day of March 2017, 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 2017, at the City Hall, City of Killeen;

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

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

**SECTION I.** That the zoning classification of approximately 6.34 acres out of the G. W. Farris Survey, Abstract No. 306, from “R-1” (Single-Family Residential District) to “R-3A” (Multifamily Apartment Residential District). The project site is composed of 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier 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 2017, 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:**

\_\_\_\_\_  
**Jose L. Segarra, MAYOR**

**ATTEST:**

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

**APPROVED AS TO FORM**

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

Case #17-08  
Ord. #17-\_\_\_\_



Date Paid:	<u>2/22/17</u>
Amount Paid:	\$ <u>300.00</u>
Cash/MO #/Check #:	# _____
Receipt #:	_____

CASE #: 217-08

## City of Killeen Zoning Change Application

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

Name(s) of Property Owner: MARK DeWAYNE STANFORD  
 Current Address: 4701 TRIMMIER Rd.  
 City: Killeen State: Texas Zip: 76542 - 3801  
 Home Phone: ( ) \_\_\_\_\_ Business Phone: (254) 289-9308 Cell Phone: ( ) \_\_\_\_\_  
 Email: mark.stanford56@gmail.com

Name of Applicant: SCF Killeen Family LP  
 (If different than Property Owner)

Address: 7801 Jack Finney Blvd Suite 101  
 City: Greenville State: Texas Zip: 75402  
 Home Phone: ( ) \_\_\_\_\_ Business Phone: (903) 450-1520 Cell Phone: (215) 806-2216  
 Email: Zach@salemclark.com

Address/Location of property to be rezoned: 4701  
4801 Trimmier Rd Killeen Texas

Legal Description: A0306BC, G W Farris, 10-3 and A0306BC, G W Farris, 10-5

Metes & Bounds or Lot(s) Block Subdivision

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

Type of Ownership:  Sole Ownership  Partnership  Corporation  Other

Present Zoning: R-1 Present Use: Residential/Vacant Land

Proposed Zoning: R-3A Proposed Use: Garden Style Apartment Complex

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

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

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

## APPOINTMENT OF AGENT

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

Name of Agent: Zachary Krochtengel

Mailing Address: 7801 Jack Finney Blvd Suite #101

City: Greenville State: Texas Zip: 75402 - \_\_\_\_\_

Home Phone: (214) 806-2216 Business Phone: (903) 450-1520 Email: zach@salemclark.com

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

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

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

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

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

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

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

Signature of Applicant Kelly Garrett Title OWNER

Printed/Typed Name of Applicant Kelly Garrett Date 2-16-17

Signature of Property Owner Mark D. Stanford Title executed

Printed/Typed Name of Property Owner MARK D. STANFORD Date 02/10/2017

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

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

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

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

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



**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

Z17-08

**ZONING FROM:**

R-1 To R-3A

**APPLICANT:**

SCF KILLEEN FAMILY LP




**PROPERTY OWNER:**

MARK DEWAYNE STANFORD

**LEGAL DESCRIPTION:**

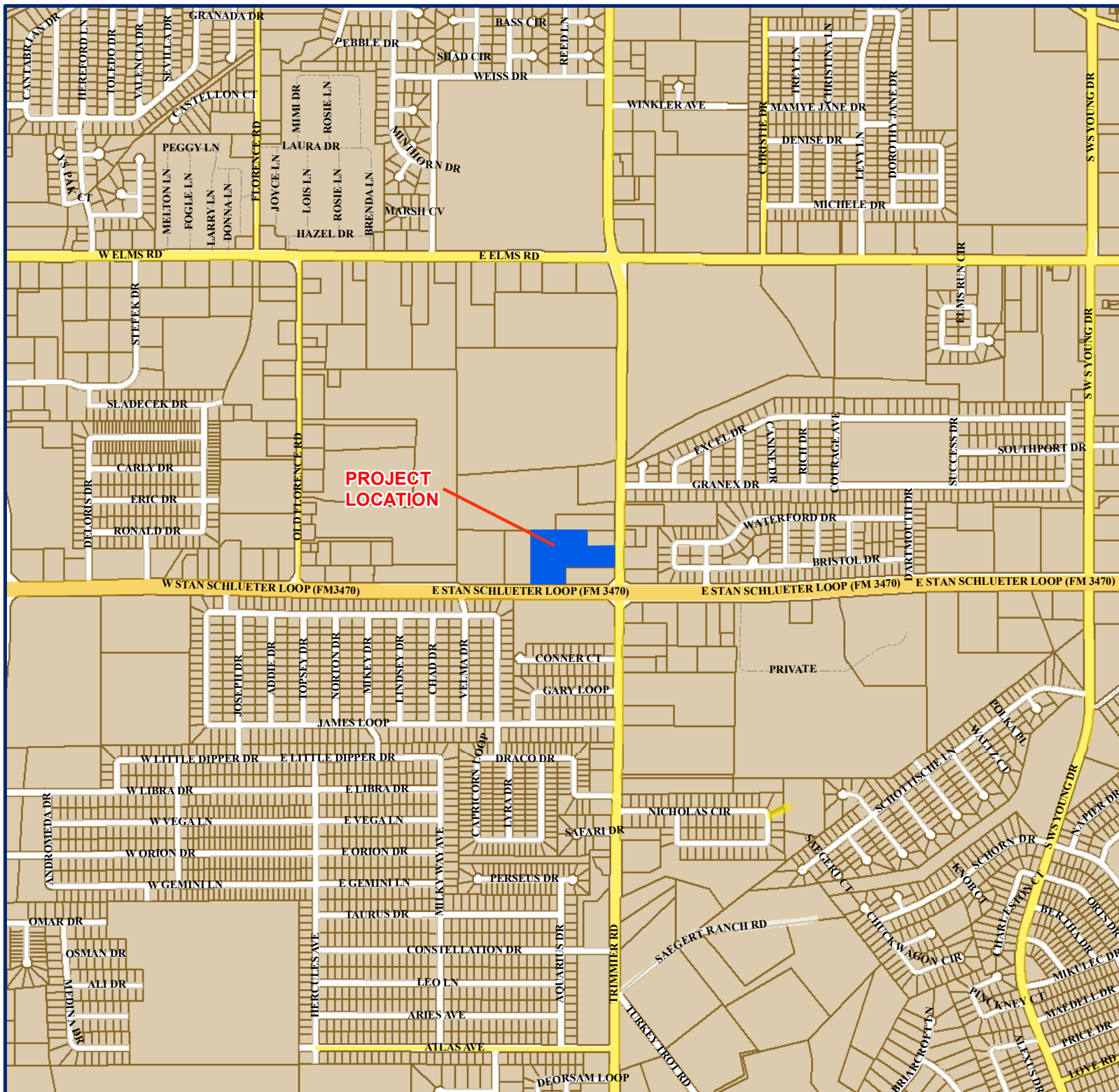
A0306BC G W FARRIS, 10-3,  
ACRES 4.576; A0306BC  
G W FARRIS, 10-5,  
ACRES 1.765

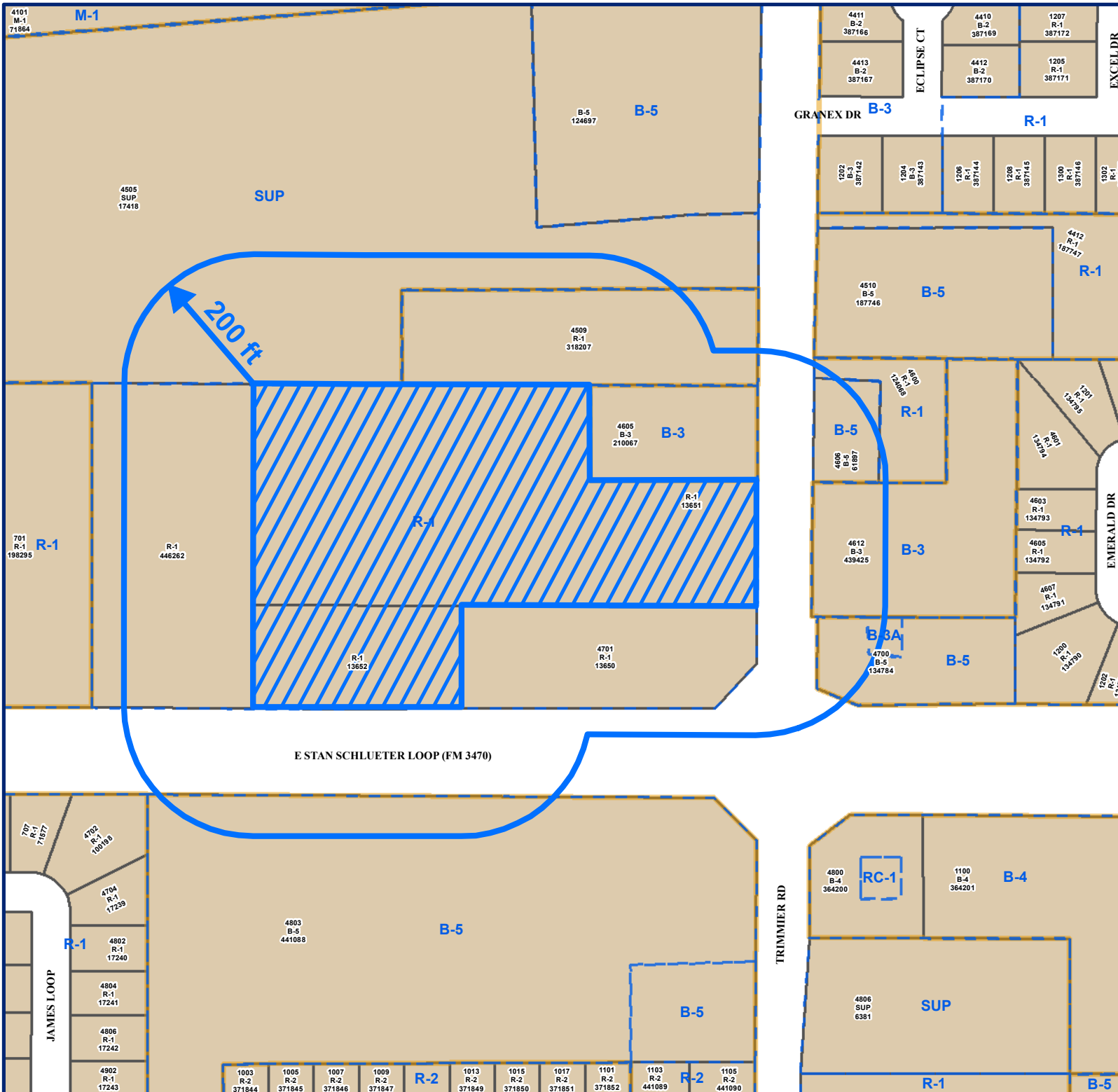
**Legend**

-  Zoning Case
-  Parcel
-  City Limits



Date: 2/24/2017





**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**  
Z17-08







**ZONING FROM:**  
R-1 To R-3A

**APPLICANT:**  
SCF KILLEEN FAMILY LP

**PROPERTY OWNER:**  
MARK DEWAYNE STANFORD

**LEGAL DESCRIPTION:**  
A0306BC G W FARRIS, 10-3,  
ACRES 4.576; A0306BC  
G W FARRIS, 10-5,  
ACRES 1.765

**LEGEND**

-  200' Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 2/24/2017

# CONSIDERATIONS

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

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

Is the request in accordance with the comprehensive plan?

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

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

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

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

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

Whether there have been substantially changed conditions in the neighborhood.

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

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

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

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

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

## **C. Conditions to Consider**

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

----- CUT HERE -----

YOUR NAME: James E. Woodul Jr	PHONE NUMBER: 254-458-2079 (C) 254-634-4658 (H)
CURRENT ADDRESS: 4505 TRIMMIER RD, Killeen, TX 76542	
ADDRESS OF PROPERTY OWNED: 4505 TRIMMIER RD	
COMMENTS: R-1 to R-3A	
See attached comments	
SIGNATURE: James E. Woodul Jr	SPO #Z17-08/ 03

PO BOX 1329 KILLEEN, TEXAS 76540-1329 254-501-7630 254-501-7630 FAX 254-501-7630  
WWW.CI.KILLEEN.TX.US

RECEIVED  
MAR 17 2017  
PLANNING



KILLEEN	
YOUR NAME: Pastor Martin Holland	PHONE NUMBER: 254-526-7679
CURRENT ADDRESS: 4509 Trimmer Road, Killeen, TX 76542	
ADDRESS OF PROPERTY OWNED:	
COMMENTS:	R-1 to R-3A
<p>We are very concerned about this re-zoning because of the run off of water that already exist and this proposal will cause us some serious flooding issues. We believe this proposal will greatly increase the number of accidents on Stan Schlueter due to the addition of traffic on a already problem some area. There are also other concerns we have <del>that</del> will address later.</p>	
SIGNATURE: <i>Mat Holland</i>	SPO #217-08

RECEIVED

MAR 21 2017

KILLEEN	
YOUR NAME: Pastor Martin Holland	PHONE NUMBER: 254-526-7679
CURRENT ADDRESS: 4509 Trimmer Road, Killeen, TX 76542	
ADDRESS OF PROPERTY OWNED:	
COMMENTS:	R-1 to R-3A
<p>We are very concerned about this re-zoning because of the run off of water that already exist and this proposal will cause us some serious flooding issues. We believe this proposal will greatly increase the number of accidents on Stan Schlueter due to the addition of traffic on a already problem some area. There are also other concerns we have <del>that</del> will address later.</p>	
SIGNATURE: <i>Mat Holland</i>	SPO #217-08

RECEIVED

MAR 21 2017



ZONING CASE #Z17-08  
“R-1” TO “R-3A”

PH-17-023B

April 4, 2017

# ZONING CASE #Z17-08



- The property is zoned as “R-1” (Single Family Residential District)
- The applicant is requesting “R-3A” (Multifamily Apartment Residential District) for development of a 110 unit development to be known as Westwind Apartments



## Exhibit 1. Zoning map

6.34 acres, being locally known as 901 E. Stan Schlueter Loop (FM 3470) and 4611 Trimmier Road

# ZONING CASE #17-08



The project area is undeveloped. The surrounding land uses are:

- Single-family residential to the south
- Religious/ Institutional to the north
- Commercial to the east
- Religious/ institutional further west

# ZONING CASE #17-08

- The property is designated as ‘General Commercial’ on the FLUM; not consistent
- The Planning and Zoning Commission recommended disapproval of the request on March 20, 2017, by a vote of 4 to 1
- Will require a  $\frac{3}{4}$  majority vote of all City Council members to approve the applicant’s “R-3A” (Multifamily Apartment Residential District) request



# City of Killeen

## Legislation Details

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**File #:** PH-17-024A    **Version:** 1    **Name:** FLUM 17-10  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 3/20/2017    **In control:** City Council  
**On agenda:** 4/11/2017    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance requested by M.A. Hoard Construction Co. II, LTD. to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Commercial' (GC) to 'General Residential' (GR) (FLUM# Z17-10) for 2.3 acres, being Lot 41, Block 1, Grover Park. The property is locally known as 6501 Vahrenkamp Drive, Killeen, Texas.  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[FLUM Exhibit](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		





## STAFF REPORT

**DATE:** April 4, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Ray Shanaa, Executive Director of Planning and Development Services

**SUBJECT:** COMPREHENSIVE PLAN FUTURE LAND USE MAP (FLUM) AMENDMENT:  
'GENERAL COMMERCIAL' (GC) TO 'GENERAL RESIDENTIAL' (GR)

### **BACKGROUND AND FINDINGS:**

M.A. Hoard Construction Co. II submits this request to amend the Comprehensive Plan's Future Land Use Map (FLUM) to change a 'General Commercial' (GC) designated area to a 'General Residential' (GR) designated area for Lot 41, Block 1, Grover Park. The property is located at 6501 Vahrenkamp Drive, Killeen, Texas.

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

**Plan Recommendation:** The 'General Commercial' (GC) designation includes a wide range of commercial, retail and service uses, at varying scales and intensities depending on the site.

If approved, the proposed revision to the property would result in a 'General Residential' designation on the Future Land Use Map (FLUM) of the Comprehensive Plan. The 'General Residential' character encourages detached residential dwellings as the primary focus, attached housing types subject to compatibility and open space standards (e.g. duplexes), planned developments with a mix of housing types subject to compatibility and open space standards, public/institutional, parks, and other public spaces. The characteristics of this designation include:

- Predominantly "R-1" zoning district with less openness and separation between dwellings compared to Suburban Residential areas
- Auto-oriented character that can be offset with architectural standards, landscaping, and limited uniform subdivision designs
- Neighborhood-scale commercial emerging over time for well-suited areas

### **THE ALTERNATIVES CONSIDERED:**

#### **Which alternative is recommended? Why?**

The items below should be reviewed and addressed when a Future Land Use Map amendment is being considered:

- **Scope of Amendment:** Is the proposed map change limited to one or a few parcels, or would it affect a much larger area? *The amendment would affect approximately 2.3 acres and should be considered a small scale amendment.*
- **Change in Circumstances:** What specific conditions (e.g., population size and/or characteristics, area character and building form, property/structure conditions, infrastructure or public services, market factors including need for more land in a particular designation, etc.) have changed sufficiently to render the current map designation(s) inappropriate or out-of-date? *The surrounding area has developed with a mixture of commercial uses and residential development of single-family, two family, and multifamily zoning.*
- **Consistency with Other Plans:** In addition to the Comprehensive Plan, is the proposed map change consistent with the intent and policy direction of any applicable small area plans, utility or drainage plans, or other City plans? *The proposed map change is not inconsistent with other City planning efforts (Water and Wastewater Master Plan, Thoroughfare Plan, Parks Master Plan).*
- **Adequate Information:** Do City staff, the Planning and Zoning Commission, and/or City Council have enough and appropriate information to move ahead with a decision (e.g., utility capacity, potential traffic impacts, other public service implications, and resident/stakeholder concerns and input)? *Staff has sufficient information regarding utility capacity and roadway level of service for this area.*
- **Stakeholder Input:** What points, concerns, and insights have been raised by area residents, property owners, business owners, or others? *With the exception of listing this action as a public hearing item on the Planning and Zoning Commission's agenda, there is no public notice requirement for this amendment action.*

**CONFORMITY TO CITY POLICY:**

This FLUM amendment request conforms to the city's policy as detailed in the Comprehensive Plan.

**FINANCIAL IMPACT:**

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

The proposed FLUM amendment does not involve the expenditure of city funds.

**Is this a one-time or recurring expenditure?**

This is not applicable.

**Is this expenditure budgeted?**

This is not applicable.

**If not, where will the money come from?**

This is not applicable.

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

This is not applicable.

**RECOMMENDATION:**

The Planning and Zoning Commission recommended approval of the applicant's request for amendment to the Future Land Use Map from 'General Commercial' (GC) to 'General Residential' (GR) by a vote of 3 to 2, with Commissioners McLaurin and Peters in opposition to the request. The dissenting Commissioners agreed with the opposing two residents that the current FLUM designation is appropriate for the area.

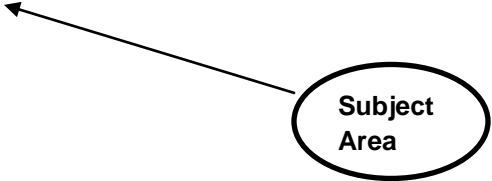
**DEPARTMENTAL CLEARANCES:**

This item has been reviewed by the Legal Department.

**ATTACHED SUPPORTING DOCUMENTS:**

FLUM Exhibit  
Minutes  
Ordinance  
Application

**Figure 1. Future Land Use Map (FLUM)**



**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
MARCH 20, 2017**

**CASE FLUM #Z17-10  
'GENERAL COMMERCIAL' TO 'GENERAL RESIDENTIAL'**

**A. HOLD a public hearing and consider a request submitted by M. A. Hoard Construction Co. II, Ltd., to amend the Future Land Use Map (FLUM) of the Comprehensive Plan, to change Lot 41, Block 1, Grover Park, from a 'General Commercial' designation to a 'General Residential' designation. The property is locally known as 6501 Vahrenkamp Drive, Killeen, Texas.**

Chairman Frederick requested staff comments.

City Planner, Tony McIlwain, stated that the property owner does not want to develop commercial use up against the existing residential uses and this will be a buffer between the residential and commercial uses. The amendment would affect approximately 2.3 acres, and should be considered a small scale amendment. Staff recommends approval of amending the FLUM from 'General Commercial' to 'General Residential' for approximately 2.3 acres. An amendment to the FLUM for this property is entirely consistent and appropriate for this area.

Mr. Pedro Quintero, 415 E. Avenue D, Killeen, Texas, spoke in support of the request.

Chairman Frederick opened the public hearing.

Ricky Smith, 4608 Chelsea Drive and Adalberto Ortiz, 4501 Chelsea Drive, Killeen, Texas spoke in opposition.

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

Vice Chair Dorroh motioned to recommend approval of the designation of the property from a 'General Commercial' designated area to a 'General Residential' designated area. Commissioner Purser seconded the motion. The motion passed 3-2. Commissioner McLaurin and Commissioner Peters were in opposition, they stated that they supported the surrounding property owner's opposition.

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

ORDINANCE \_\_\_\_\_

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'GENERAL COMMERCIAL' (GC) TO 'GENERAL RESIDENTIAL' (GR) FOR LOT 41, BLOCK 1, GROVER PARK, BEING LOCALLY KNOWN AS 6501 VAHRENKAMP DRIVE, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen finds that Chapter 213.003 of the Local Government Code enables municipalities to adopt and amend comprehensive plans in the interest of coordinating long-range development of the municipality.

**WHEREAS**, the Planning and Zoning Commission has received a request from M. A. Hoard Construction Co. II, LTD. for a revision to the Future Land Use Map (FLUM) of the Comprehensive Plan, to change Lot 41, Block 1, Grover Park, being locally known as 6501 Vahrenkamp Drive, Killeen, Texas, from 'General Commercial' (GC) to 'General Residential'(GR); said revision having been duly presented and recommended for approval of 'General Residential' (GR) by the Planning and Zoning Commission of the City of Killeen on the 20th day of March 2017, and due notice of the filing of said revision 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 2017, 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 opinion that the amendment should be approved;

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

**SECTION I:** That the land use designation of Lot 41, Block 1, Grover Park, being locally known as 6501 Vahrenkamp Drive, Killeen, Texas, be amended from ‘General Commercial’ (GC) to ‘General Residential’(GR).

**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 2017, 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:**

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**Jose L. Segarra**  
**MAYOR**

**ATTEST:**

---

**Dianna Barker**  
**CITY SECRETARY**

**APPROVED AS TO FORM**

---

**Kathryn H. Davis**  
**CITY ATTORNEY**

Case #: FLUM #Z17-10  
Ord#:17-\_\_\_



Date Paid:	<u>3/3/17</u>
Amount Paid:	\$ <u>100.00</u>
Cash/MO #/Check #:	# <u>2238</u>
Receipt #:	<u>503</u>

CASE #: FLUM 17-10

## City of Killeen FLUM Amendment Application

Name(s) of Property Owner: M.A. Hoard Construction Co. II, Ltd.

Current Address: P.O. Box 10669

City: Killeen State: Texas Zip: 76547

Home Phone: ( <sup>254</sup> ) \_\_\_\_\_ Business Phone: ( <sup>254</sup> ) 681-1845 Cell Phone: ( <sup>254</sup> ) 289-1408

Email: mhoard2589@aol.com

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

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

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

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

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

Address/Location of property proposed for FLUM amendment: 6501 Vahrenkamp Drive, Killeen

Legal Description: Grover Park, Block 1, Lot 41

Metes & Bounds or Lot(s) Block Subdivision

Type of Ownership:  Sole Ownership  Partnership  Corporation  Other

Present FLUM Designation: GC Present Use: Vacant

Proposed FLUM Designation: MFR Proposed Use: Duplex Development

This property was conveyed to owner by deed dated February 1, 2007 and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Instrument Number 2007-00005168 of the Bell County Deed Records. (Attached)



## APPOINTMENT OF AGENT

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

Name of Agent: Quintero Engineering, LLC

Mailing Address: P.O. Box 4386

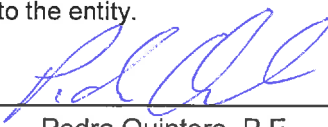
City: Killeen State: Texas Zip: 76540 - \_\_\_\_\_

Home Phone: (254) 493-0744 Business Phone: (254) 493-9962 Email: pquintero@quinteroeng.com

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

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

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

Signature of Agent  Title President

Printed/Typed Name of Agent Pedro Quintero, P.E. Date 03/02/2017

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

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

Signature of Applicant  Title Manager

Printed/Typed Name of Applicant Mark Hoard Date 3-2-17

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

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

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

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

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

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

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



# FLUM AMENDMENT#Z17-10 'GC' TO 'GR'

PH-17-024A

April 4, 2017



## Camilla Rd Real Property

Lot 41, Block 1, Grover Park, being locally know as 6501  
Vahrenkamp Drive

# FLUM AMENDMENT #Z17-08

- The property is designated as ‘General Commercial’ (GC)
- Current designation encourages wide range of commercial and retail uses
- ‘General Residential’ designation encourages detached residential dwellings; attached housing types subject to compatibility and open space standards (e.g., duplexes, townhomes, patio homes)

# FLUM AMENDMENT #17-08



The following items should be reviewed when a FLUM is being considered:

- scope of the amendment
- change in circumstances
- consistency with other Plans
- Adequate Information
- Stakeholder Input

# FLUM AMENDMENT #17-08



- The Planning and Zoning Commission recommended approval of the request on March 20, 2017, by a vote of 3 to 2
- FLUM amendment is necessary to approve the applicant's concurrent zoning request of "R-2" (Two family Residential District)



# City of Killeen

## Legislation Details

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**File #:** PH-17-024B    **Version:** 1    **Name:** Zoning 17-10  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 3/20/2017    **In control:** City Council  
**On agenda:** 4/11/2017    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance requested by M.A. Hoard Construction Co. II, LTD. (Case #Z17-10) to rezone Lot 41, Block 1, Grover Park, from "B-5" (Commercial District) to "R-3A" (Multifamily Apartment Residential District), for property being locally known as 6501 Vahrenkamp Drive, Killeen, Texas.  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Aerial Map Exhibit](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Location Map](#)  
[Buffer Map](#)  
[Opposition Map](#)  
[Considerations](#)  
[Response](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/4/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** April 4, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Ray Shanaa, Executive Director of Planning and Development Services

**SUBJECT:** REZONING CASE #Z17-10 "B-5" (BUSINESS DISTRICT) TO "R-3A" (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT) USES

### **BACKGROUND AND FINDINGS:**

M.A. Hoard Construction Co. II, LTD. submits this request to rezone Lot 41, Block 1, Grover Park, from "B-5" (Business District) to "R-3A" (Multifamily Apartment Residential District). The property is locally known as 6501 Vahrenkamp Drive, Killeen, Texas.

### **District Descriptions:**

**A building or premises in an "R-3A" Multifamily Apartment Residential District shall be used only for the following purposes:**

- (a) Uses. A building or premises in an "R-3A" Multifamily Apartment Residential District shall be used only for the following purposes:
- (1) Any use permitted in the "R-1" or "R-2" districts
  - (2) Multifamily structures containing five (5) or more separate dwelling units, including large apartment complexes with high rise structures
  - (3) Boarding and lodging houses
  - (4) Fraternity or sorority houses
  - (5) Licensed group or community homes housing six (6) or more persons
  - (6) Dormitories for educational or employment purposes as a primary use
  - (7) Any group housing activity not otherwise identified in another multifamily or business district
  - (8) 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 requesting zoning under this division shall be subject to the requirements of 31-256.9 of this division, if applicable.

The project area is undeveloped and sits between observed "R-1" zoned single-family homes to the west and "R-2" zoned duplex development to the north. There is a large commercial storage facility to the east and an undeveloped "R-3A" zoned tract of land along the south right-of-way of Vahrenkamp Drive.



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

**Plan Recommendation:** The 'General Commercial' character encourages a wide range of commercial, retail and service uses, at varying scales and intensities depending on the site.

**Consistency:** The zoning request is not consistent with the intent of the Comprehensive Plan; therefore, the applicant has submitted a concurrent FLUM amendment request to 'General Residential' (GR) to align this project with the intended scope of development.

### **THE ALTERNATIVES CONSIDERED:**

#### **Which alternative is recommended? Why?**

The City Council shall take the following Pharr v. Tippitt guidelines into consideration making a decision on a zoning request:

*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*

### **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; however, the City will assume the maintenance of future publicly dedicated infrastructure.

**Is this a one-time or recurring expenditure?**

The maintenance of future publicly dedicated infrastructure will be on-going.

**Is this expenditure budgeted?**

Development of this property has not occurred; therefore, this discrete item is not currently budgeted.

**If not, where will the money come from?**

Various Public Works accounts

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

This is not applicable at this time.

**RECOMMENDATION:**

The Planning and Zoning Commission recommended approval of the applicant's zoning request from "B-5" (Business District) to "R-2" (Two Family Residential District) by a vote of 3 to 2, with Commissioners McLaurin and Peters in opposition to the request. The dissenting Commissioners supported the residents' shared concerns regarding the potential for increased traffic as a result of the proposed residential project. The staff notified thirty-four (34) surrounding property owners regarding this request and received protests from the following individuals: James E. Skinner, 4605 Lauren Mackenzie Drive; Rick and Michaela Smith, 4608 Chelsea Drive; Chris Albright, 4701 Lauren Mackenzie Drive and Adalberto Ortiz, 4501 Chelsea Drive. The residents stated they had concerns about traffic and pedestrian safety in the neighborhood. Following the Planning and Zoning Commission meeting, staff received an opposition response from Phillip and Bridget Balque of 4401 Lauren Mackenzie Drive.

**DEPARTMENTAL CLEARANCES:**

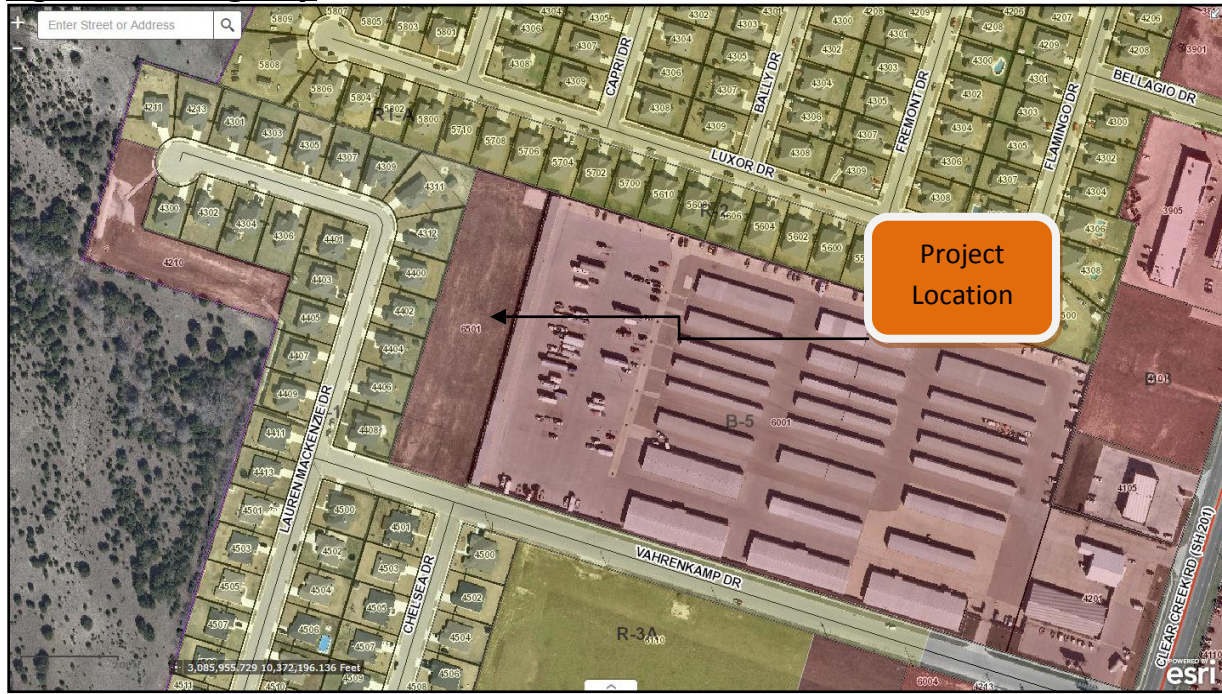
This item has been reviewed by the Legal Department.

**ATTACHED SUPPORTING DOCUMENTS:**

Aerial Map Exhibit  
Minutes  
Ordinance  
Application

Location Map  
Buffer Map  
Opposition Map  
Considerations  
Response

**Figure 1. Zoning Map**



**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
MARCH 20, 2017**

**CASE #Z17-10  
B-5 to R-3A**

**B. HOLD a public hearing and consider a request submitted by M. A. Hoard Construction Co. II, Ltd., to rezone Lot 41, Block 1, Grover Park, from “B-5” (Business District) to “R-3A” (Multifamily Apartment Residential District). The property is locally known as 6501 Vahrenkamp Drive, Killeen, Texas.**

Chairman Frederick requested staff comments.

City Planner, Tony McIlwain, stated that the applicants request is to allow duplex development. Staff recommends approval of the applicant’s “R-2” (Two Family Residential District) zoning for the property. The “R-2” zoning request satisfies the applicant’s development intent. The staff notified thirty-four (34) surrounding property owners regarding this request. Staff has received no responses.

Mr. Pedro Quintero, Quintero Engineering, L.L.C., 415 E. Avenue D, Killeen, Texas, was present to represent this request.

Chairman Frederick opened the public hearing.

The following spoke in opposition: James E. Skinner, 4605 Lauren Mackenzie Drive; Rick and Michaela Smith, 4608 Chelsea Drive; Chris Albright, 4701 Lauren McKenzie Drive and Adalberto Ortiz, 4501 Chelsea Drive. The residents stated they had concerns about traffic and pedestrian safety in the neighborhood.

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

Vice Chair Dorroh motioned to recommend approval of the “R-2” (Two Family Residential District) request. Commissioner Latham seconded the motion. The motion passed 3-2, with Commissioners McLaurin and Peters in opposition to the applicant’s request. The dissenting Commissioners stated that they supported the resident’s concerns regarding increased traffic.

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

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

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM “B-5” (BUSINESS DISTRICT) TO “R-3A” (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, M. A. Hoard Construction Co. II, LTD. has presented to the City of Killeen a request for amendment of the zoning ordinance of the City of Killeen by changing the classification of Lot 41, Block 1, Grover Park, being locally known as 6501 Vahrenkamp Drive, Killeen, Texas, from “B-5” (Business District) to “R-3A” (Multifamily Apartment Residential District), said request having been duly presented and recommended for approval of “R-2” (Two Family Residential District) by the Planning and Zoning Commission of the City of Killeen on the 20th day of March 2017, 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 2017, 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 “R-2” zoning request should be approved;

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

**SECTION I.** That the zoning classification of Lot 41, Block 1, Grover Park, being locally known as 6501 Vahrenkamp Drive, Killeen, Texas, be changed from “B-5” (Business District) to “R-2” (Two Family Residential District).

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

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

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

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 11th day of April 2017, 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:**

\_\_\_\_\_  
**Jose L. Segarra, MAYOR**

**ATTEST:**

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

**APPROVED AS TO FORM**

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

Case #17-10  
Ord. #17-\_\_\_\_



Date Paid:	<u>3/3/17</u>
Amount Paid:	<u>\$ 300.00</u>
Cash/MO #/Check #:	<u># 2237</u>
Receipt #:	<u>502</u>

CASE #: Z17-10

## City of Killeen Zoning Change Application

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

Name(s) of Property Owner: M.A. Hoard Construction Co. II, Ltd.

Current Address: P.O. Box 10669

City: Killeen State: Texas Zip: 76547

Home Phone: ( ) \_\_\_\_\_ Business Phone: (254) 681-1845 Cell Phone: (254) 289-1408

Email: mhoard2589@aol.com

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

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

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

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

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

Address/Location of property to be rezoned: 6501 Vahrenkamp Drive, Killeen

Legal Description: Grover Park, Block 1, Lot 41

Metes & Bounds or Lot(s) Block Subdivision

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

Type of Ownership:  Sole Ownership  Partnership  Corporation  Other

Present Zoning: B-5 Present Use: Vacant

Proposed Zoning: R-3A Proposed Use: Multifamily Apartment Residential

Conditional Use Permit for: N/A

This property was conveyed to owner by deed dated February 1, 2007 and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Instrument Number 2007-00005168 of the Bell County Deed Records. (Attached)

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



## APPOINTMENT OF AGENT

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

Name of Agent: Quintero Engineering, LLC

Mailing Address: P.O. Box 4386

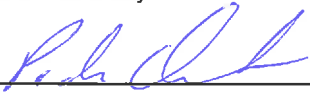
City: Killeen State: Texas Zip: 76540

Home Phone: (254) 493-0744 Business Phone: (254) 493-9962 Email: pquintero@quinteroeng.com

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

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

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

Signature of Agent  Title President

Printed/Typed Name of Agent Pedro Quintero, P.E. Date 03/02/2017

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

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

Signature of Applicant  Title Manager

Printed/Typed Name of Applicant Mark Hoard Date 3-2-17

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

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

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

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

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

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

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



**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

Z17-10

**ZONING FROM:**

B-5 To R-3A

**APPLICANT:**

M.A. HOARD  
CONSTRUCTION CO. II, LTD.

**PROPERTY OWNER:**

M.A. HOARD  
CONSTRUCTION CO. II, LTD.

**LEGAL DESCRIPTION:**

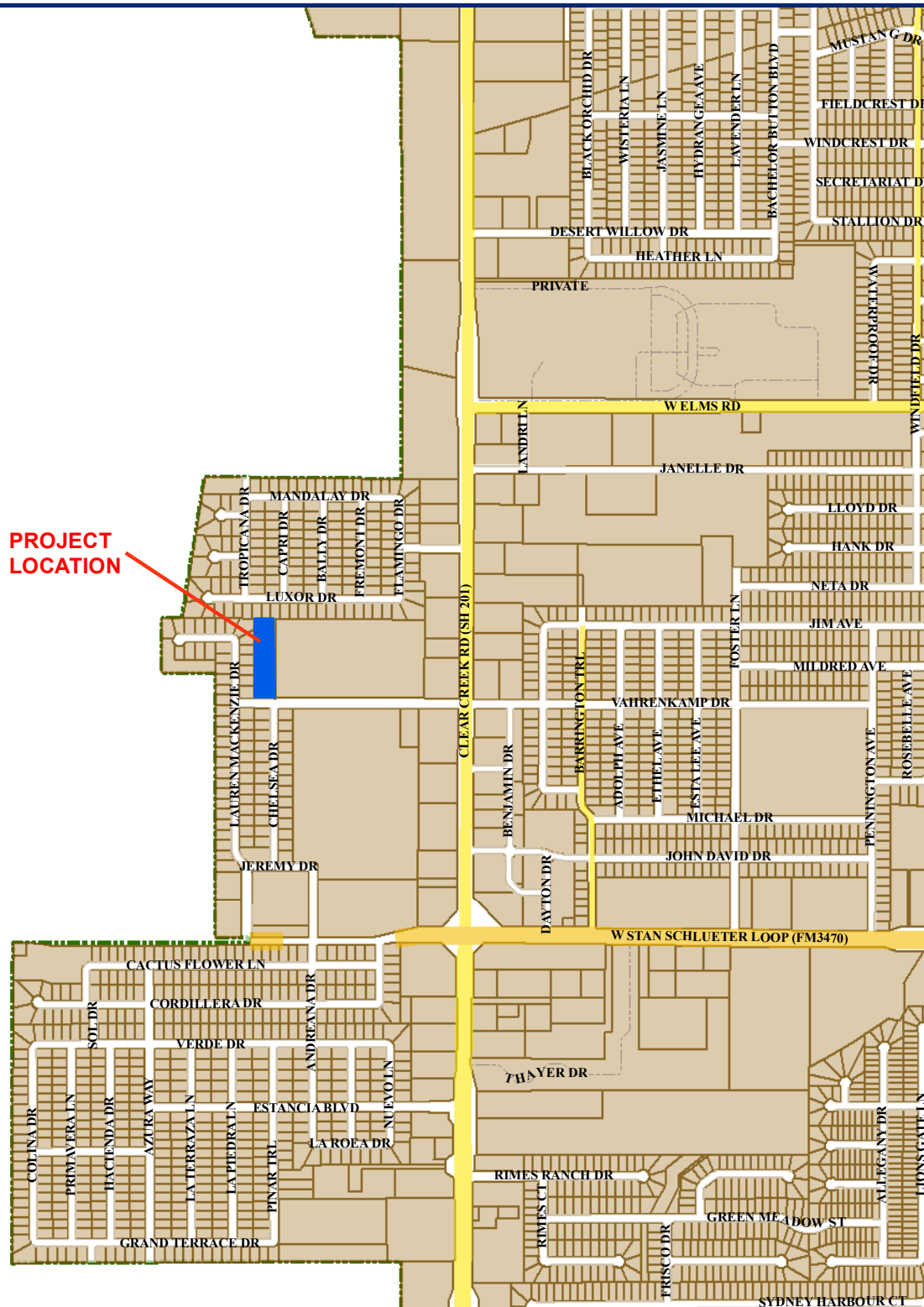
GROVER PARK, BLOCK 001,  
LOT 0041

**Legend**

-  Zoning Case
-  Parcel
-  City Limits



Date: 3/7/2017





**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

Z17-10

**ZONING FROM:**

B-5 To R-3A

**APPLICANT:**

M.A. HOARD  
CONSTRUCTION CO. II, LTD.







**PROPERTY OWNER:**

M.A. HOARD  
CONSTRUCTION CO. II, LTD.

**LEGAL DESCRIPTION:**

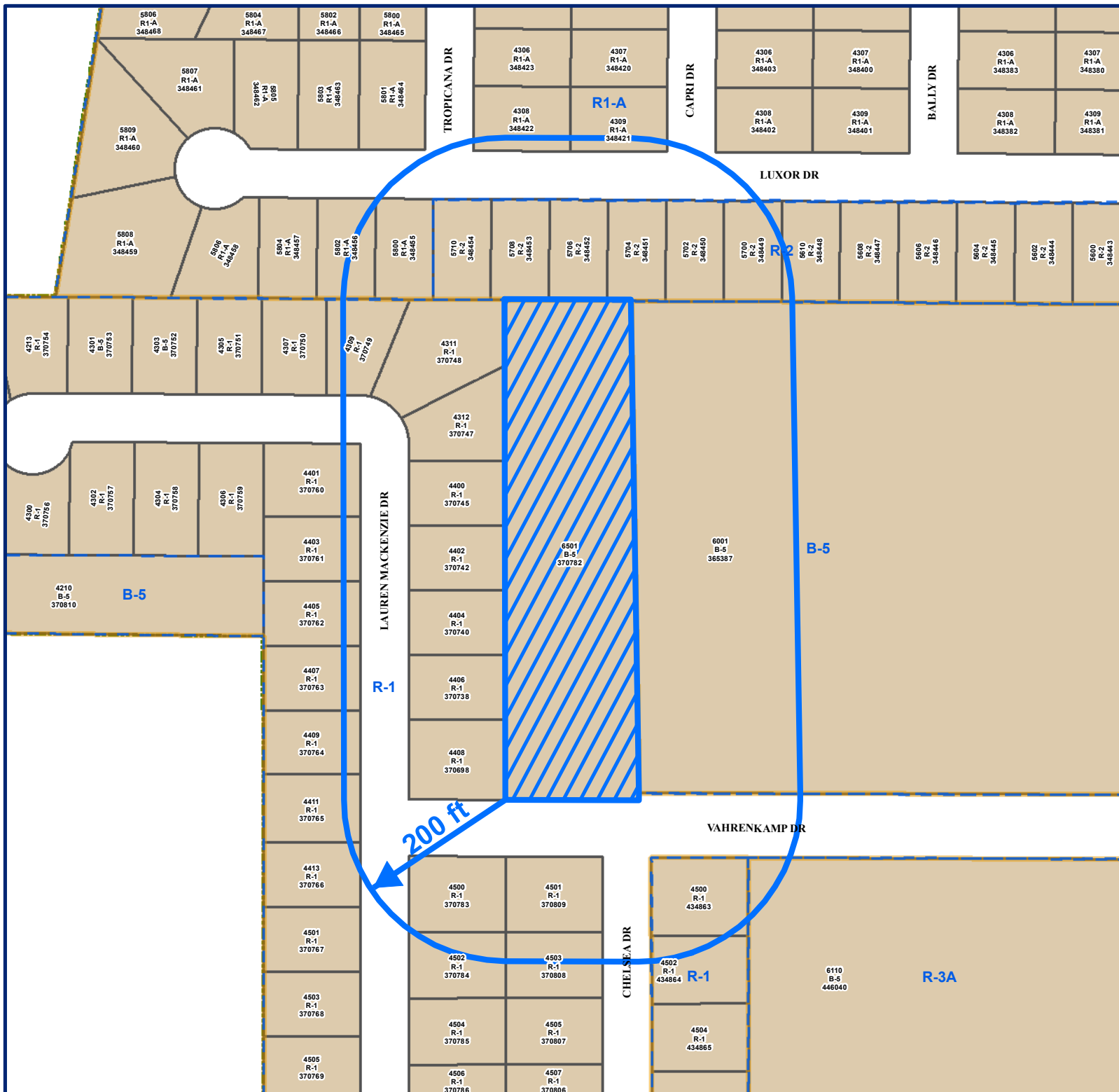
GROVER PARK, BLOCK 001,  
LOT 0041

**LEGEND**

-  200' Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 3/7/2017





**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

Z17-10

**ZONING FROM:**

B-5 To R-3A

**APPLICANT:**

M.A. HOARD  
CONSTRUCTION CO. II, LTD.








**PROPERTY OWNER:**

M.A. HOARD  
CONSTRUCTION CO. II, LTD.

**LEGAL DESCRIPTION:**

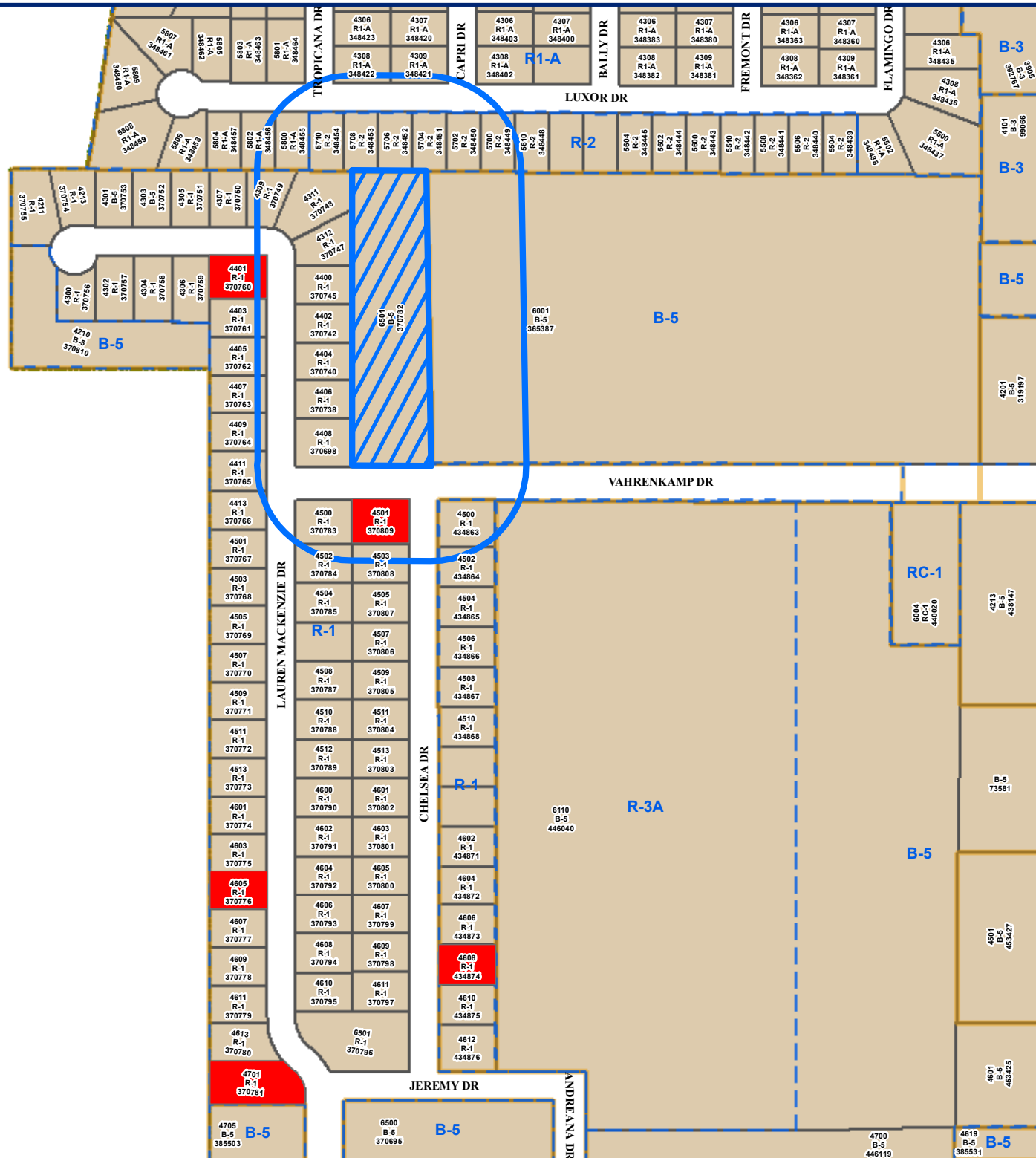
GROVER PARK, BLOCK 001,  
LOT 0041

**LEGEND**

-  200' Buffer
-  Opposition
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 3/23/2017



# CONSIDERATIONS

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

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

Is the request in accordance with the comprehensive plan?

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

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

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

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

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

Whether there have been substantially changed conditions in the neighborhood.

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

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

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

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

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

## **C. Conditions to Consider**

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

YOUR NAME: PHILLIP & BRIDGET BALQUE	PHONE NUMBER: 254 630 9164 809 703 3705
CURRENT ADDRESS: 4401 LAUREN MACKENZIE DR, KILLEEN, TX 76549	
ADDRESS OF PROPERTY OWNED: SAME AS ABOVE	
COMMENTS:	B-5 to R-3A
WE OPPOSE THE REZONING REQUEST.	
<b>RECEIVED</b>	
MAR 21 2017	
<b>PLANNING</b>	
SIGNATURE: Phillip & Bridget Balque Sr.	SPO #Z17-10/ 13



**ZONING CASE #Z17-10**  
**“B-5” TO “R-3A”**

**PH-17-024B**

**April 4, 2017**



# ZONING CASE #Z17-10

- The property is zoned as “B-5” (Business District)
- The applicant initially requested “R-3A” (Multifamily Apartment Residential District)





## Exhibit 1. Zoning map

Lot 41, Block 1, Grover Park, being locally known as 6501 Vahrenkamp Drive



# ZONING CASE #17-10

The project area is undeveloped. The surrounding land uses are:

- Single Family residential to the south
- Two Family Residential to the north
- Commercial to the east
- Single Family residential to the west



# ZONING CASE #17-10

- The property is designated as ‘General Commercial’ on the FLUM; not consistent
- Several Residents not in favor of the request
- The Planning and Zoning Commission recommended approval of “R-2” (Two Family Residential District) on March 20, 2017, by a vote of 3 to 2