

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

ZONING CASE #Z15-10 "B-5" (BUSINESS DISTRICT) WITH A SPECIAL USE PERMIT (SUP) TO "B-5" (BUSINESS DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP)

ORIGINATING DEPARTMENT PLANNING & DEVELOPMENT SERVICES

### Nature of the Request

Dinna Hamilton has submitted this request to rezone 4100 E. Veterans Memorial Boulevard, from "B-5" (Business District) with a Special Use Permit (SUP) to "B-5" (Business District) with a Conditional Use Permit (CUP) to allow for continued use as Mid-Tex Towing. The subject property is locally known as 4100 E. Veterans Memorial Boulevard, Killeen, Texas.

### **District Descriptions:**

**A building or premises in the "B-5" Business District shall be used only for the following purposes:**

- (1) Any use permitted in the "B-4" district.
- (2) Building material and lumber sales (outside storage permitted).
- (3) Storage warehouse. Less than one hundred thousand (100,000) square feet.
- (4) Newspaper or job printing.
- (5) Railroad or bus passenger terminal.
- (6) Tire recapping or retreading.
- (7) Trailer rental or sales.
- (8) Wholesale house.
- (9) Auto parts sales, used. No outside storage, display or dismantling.
- (10) A customarily incidental use.
- (11) Any commercial use not included in any other district, provided such use is not noxious or offensive because of odors, dust, noise, fumes or vibrations.
- (12) Mobile home sales.
- (13) Sale of beer and/or wine for off-premises consumption only.
- (14) Tattooing (as licensed per Texas Health and Safety Code, chapter 146, as amended).

### Conditional Use Permit

**Purpose.** The purpose of the Conditional Use Permit process is to identify those land uses that may be appropriate within a zoning district but, due to their location, function or operation, could have a harmful impact on adjacent properties or the surrounding area, and to provide a procedure whereby such uses may be permitted by further restricting or conditioning the same so as to mitigate or eliminate such potential adverse impacts. The Conditional Use Permit runs with the land, regardless of ownership, until termination of the permit.

**Criteria for approval.** The Planning and Zoning Commission may recommend approval of a Conditional Use Permit by majority vote, but shall recommend disapproval of an application if it finds one or more of the following, or other valid justifications, to be true:

(A) The proposed use will be incompatible with existing or permitted uses on surrounding sites because of use, building height, bulk and scale, setbacks and open spaces, coverage, landscaping and screening, drainage, or access and circulation features;

(B) The proposed use is not suitable to the premises or structure(s) in which it will be conducted;

(C) The proposed use will be detrimental to the public health, safety or welfare, or will negatively affect the property or improvements in the vicinity;

(D) The proposed use fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, odors, or similar hazards or impacts;

(E) The proposed use will materially and adversely affect traffic control or adjacent properties by inappropriate location, lighting or types of signs;

(F) The proposed use fails to provide adequate and convenient off-street parking and loading facilities; or

(G) The proposed use will incorporate the sale or distribution of alcoholic beverages for on-premises consumption except where the applicant seeks a temporary permit, not to exceed two (2) months in duration, to allow for the on-premises sale, distribution or consumption of alcoholic beverages for temporary events in compliance with a Texas Alcoholic Beverage Commission issued permit and the Texas Alcoholic Beverage Code, as amended.

Regardless of whether such conditions have been recommended by the Planning and Zoning Commission, the City Council may establish such conditions of approval as are reasonably necessary to insure compatibility with surrounding uses and to preserve the public health, safety and welfare. Such conditions may include, without limitation, a limited term or duration of the permit; requirements for special yards, lot sizes, open spaces, buffers, fences, walls or screening; requirements for the installation and maintenance of landscaping or erosion control measures; requirements for street improvements, regulation of vehicular ingress or egress and traffic circulation, regulation of signs; regulation of hours or other characteristics of operation; establishment of development schedules for performance or completion; and such other reasonable conditions as the City Council may deem necessary to preserve the health, safety, and welfare of the applicant and the public.

### **Property Specifics**

**Applicant/Property Owner:** Dinna Hamilton

**Property Location:** The property is located along the south right-of-way of E. Veterans Memorial Boulevard and is addressed as 4100 E. Veterans Memorial Boulevard, Killeen, Texas.

**Legal Description:** 0.309 acres out of the A. Dickson Survey, Abstract No. 266, Killeen, Texas.

### **Zoning/Plat Case History:**

This property was last zoned to allow a Special Use Permit (SUP) for an impound yard on July 27, 2010, per Ordinance No. 10-35, for a period of five (5) years.

The property is not platted.

### **Character of the Area**

**Existing Land Uses(s) on the Property:** The property contains an office building, accessory building and enclosed (fenced) parking area on an improved parking surface.

### **Figure 1. Zoning Map**

See Attachment

**Historic Properties:** None

### **Infrastructure and Community Facilities**

#### **Water, Sewer and Drainage Services:**

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: There is adequate water and sewer infrastructure available to the property. The property is legally subdivided and municipal utilities are readily available to the subject property. Public Works personnel have performed only a basic assessment of publicly-dedicated water and sanitary sewer infrastructure that would serve this property. Unknown or unforeseen site conditions may require remedial action to provide safe and adequate water, sewer, or drainage service to the property. Further, City of Killeen development regulations require that capacity analyses related to development of the property are the sole responsibility of the owner. The owner or his agents, acting as the permit applicant for re-development of the subject property, shall coordinate tie in to all publicly dedicated infrastructure with the Public Works Department.

#### **Transportation:**

Existing conditions: E. Veterans Memorial Boulevard is classified as a 110' principal arterial on the City's Thoroughfare Plan.

Proposed Improvements: There are none at this time.

Projected Traffic Generation: There will be no increase in traffic as a result of this consideration.

### **Environmental Assessment**

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

**Regulated Floodplain/Floodway/Creek:** The tract does not lie within a FEMA regulatory Special Flood Hazard Area (SFHA).

### **Land Use Analysis**

**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 consistent with the FLUM of the Comprehensive Plan.

**Public Notification**

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

**Recommendation**

The Planning and Zoning Commission recommended approval of the requested Conditional Use Permit (CUP) with the following conditions:

1. That the CUP for the impound yard is valid for a period of five (5) years;
2. No salvaging or dismantling is allowed on the premises as part of the CUP; and
3. All existing screening shall remain place.