



City of Killeen

Agenda City Council

Tuesday, March 25, 2014

5:00 PM

Killeen City Hall
101 North College Street
City Council Chambers

Call to Order and Roll Call

<input type="checkbox"/> Dan Corbin, Mayor	<input type="checkbox"/> Elizabeth Blackstone
<input type="checkbox"/> Steve Harris	<input type="checkbox"/> Terry Clark
<input type="checkbox"/> Jose Segarra	<input type="checkbox"/> Wayne Gilmore
<input type="checkbox"/> Jared Foster	<input type="checkbox"/> Jonathan Okray

Invocation

Pledge of Allegiance

Approval of Agenda

Consent Agenda

[CA-14-035](#) Consider minutes of Regular City Council meeting of March 11, 2014.

Attachments: [Minutes](#)

[CA-14-036](#) Consider a memorandum/resolution authorizing a contract amendment with Jacobs Engineering Group, Inc. to provide additional services for the FEMA Repetitive Flood Claims (RFC) Grant Program.

Attachments: [Council Memorandum](#)
[Amendment](#)

[CA-14-037](#) Consider a memorandum/resolution approving Killeen-Fort Hood Regional Airport Unleaded Fuel Bid 14-06.

Attachments: [Council Memorandum](#)

[CA-14-038](#) Consider a memorandum/resolution approving an interlocal agreement with Bell County for reciprocal fleet fueling opportunities.

Attachments: [Council Memorandum](#)
[Fuel Agreement](#)
[Exhibit A](#)

[CA-14-039](#) Consider a memorandum/resolution accepting the annual audit report for the fiscal year ended September 30, 2013.

Attachments: [Council Memorandum](#)

[CA-14-040](#) Consider a memorandum/resolution in support of Killeen Development I, LP's application to the Texas Department of Housing & Community Affairs for an allocation of 2014 9% housing tax credits in connection with the proposed rehabilitation of Moss Rose Apartments, an existing 75-unit public housing community located at 1202 Avenue E, Killeen, Bell County, Texas.

Attachments: [Council Memorandum](#)
[Resolution of Support](#)

Public Hearings/Ordinances

[PH-14-020](#) HOLD a public hearing and consider an ordinance amending the FY 2013-2014 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing General Fund revenues by \$81,600 and increasing the STEP Overtime Salaries account by \$81,600 in the Police Department.

Attachments: [Council Memorandum](#)
[Ordinance](#)

[PH-14-021A](#) HOLD a public hearing and consider an ordinance amending the FY 2013-2014 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing the Reimbursement Resolution Killeen-Fort Hood Regional Trail account by \$14,555 for the Killeen-Fort Hood Regional Trail, Segment 3 project.

Attachments: [Council Memorandum](#)
[Ordinance](#)

[PH-14-021B](#) Consider a memorandum/resolution authorizing the City Manager to execute an Advance Funding Agreement for the Transportation Enhancement project with the Texas Department of Transportation for the Killeen-Fort Hood Regional Trail Segment 3.

Attachments: [Council Memorandum](#)
[Advanced Funding Agreement](#)
[Transportation Enhancement Funding Letter](#)
[Project Location Map](#)

[PH-14-023](#) HOLD a public hearing and consider an ordinance requested by Myong C. Woodie (Case #Z14-04) to rezone 313 N. 8th Street from Historic Overlay District (HOD) to HOD with a Conditional Use Permit (CUP) for the on-premises sale and consumption of alcohol.

Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)
[Opposition](#)

[PH-14-024](#) HOLD a public hearing and consider an ordinance requested by Billy W. Revis (Case #Z14-05) to rezone 1316 W. Central Texas Expressway from B-5 (Business District) to B-3A (Local Business and Retail Alcohol Sales District). The property is located on the south side of W. Central Texas Expressway, approximately 135 feet east of Old FM 440.

Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)

[PH-14-025](#) HOLD a public hearing and consider an ordinance requested by the Killeen Independent School District (KISD) (Case #Z14-06) to rezone 70 acres, being part of the W. H. Cole Survey, Abstract No. 200, from A (Agricultural District) to SR-1 (Suburban Residential Single-Family District). The property is located along the east right-of-way of Trimmier Road, approximately .85 miles south of Stagecoach Road, Killeen, Texas. The property is locally known as 9132 Trimmier Road, Killeen, Texas.

Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)

[PH-14-026](#) HOLD a public hearing and consider an ordinance requested by Killeen Sunflower, Inc (Case #Z14-07) to rezone approximately 0.92 acres,

being part of the Thomas Robinett Survey, Abstract No. 686 from B-5 (Business District) to R-2 (Two-family Residential District) for a duplex development. The property is located on the west right-of-way of Bachelor Button Blvd at the south west intersection of Bachelor Button Blvd and Watercrest Road, Killeen, Texas.

Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)

[PH-14-027A](#) HOLD a public hearing and consider an ordinance to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Residential' to 'General Commercial' for approximately 5.364 acres, located approximately 1,100 feet south of the E. Elms Road, along the west right-of-way of Old Florence Road, Killeen, Texas.

Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)

[PH-14-027B](#) HOLD a public hearing and consider an ordinance requested by Carol Daude, Trustee of the Margaret Dorothy Stefek Marital Trust, (Case #Z14-08) to rezone 4.261 acres, out of the A. Webb Survey, Abstract No. 857, from R-1 (Single-Family Residential District) to R-2 (Two-Family Residential District) and approximately 5.634 acres from R-1 to B-5 (Business District). The property is located approximately 1,100 feet south of E. Elms Road on the west right-of-way of Old Florence Road, Killeen, Texas.

Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Opposition](#)
[Considerations](#)

[PH-14-028](#) HOLD a public hearing and consider an ordinance requested by G. Wayne Cosper (Case #Z14-09) to rezone 23.148 acres, being part of

the W. H. Cole Survey, Abstract No. 200, from A-R1 (Agricultural Single-Family Residential District), R-1 (Single-Family Residential District) and B-3 (Local Business District) to SR-1 (Suburban Residential Single-Family District). The property is located south of Cosper Ridge Estates, Phase Four and north of Chaparral Road, Killeen, Texas.

Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)

Ordinances / Resolutions

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 March 21, 2014.

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.

Future Workshop Items

The following items have been scheduled for workshop discussion on the dates shown. The final scheduling of these items is dependent upon the presenters/interested parties being available on the dates projected.

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.

- *Girl Scouts Women of Distinction Dinner, April 10, 2014, 6:30 p.m. – 8:00 p.m., Hilton Garden Inn, Temple*

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City of Killeen

Legislation Details

File #: CA-14-035 **Version:** 1 **Name:** Minutes of March 11, 2014 Regular City Council Meeting
Type: Minutes **Status:** Consent Agenda
File created: 3/11/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: Consider minutes of Regular City Council meeting of March 11, 2014.
Sponsors: City Secretary
Indexes:
Code sections:
Attachments: [Minutes](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

City of Killeen
Regular City Council Meeting
Killeen City Hall
March 11, 2014 at 5:00 p.m.

Presiding: Mayor Daniel A. Corbin

Attending: Mayor Pro-Tem Elizabeth Blackstone, Council members Terry Clark, Jared Foster, Wayne Gilmore, Steve Harris, Jonathan Okray, and Jose Segarra
Also attending were City Manager Glenn Morrison, City Attorney Kathryn Davis, City Secretary Dianna Barker, and Sergeant-at-Arms Fulgham.

Mayor Corbin gave the invocation, and Councilmember Gilmore led everyone in the pledge of allegiance.

Approval of Agenda

Motion was made by Mayor Pro-Tem Blackstone to approve the agenda as written. Motion seconded by Councilmember Gilmore. The motion carried unanimously.

Citizens Petitions

- CP-14-002** Discuss Parking on Neighborhood Streets:
Ronald Shelton (402 Perch Cove) - Mr. Shelton is having a problem with a neighbor parking/storing operational vehicle on street/cul-de-sac when there is adequate parking in driveway. Neighbor refuses to move vehicle. Mr. Shelton presented a handout to council.
Scott and Jaine Mathis (403 Perch Cove) - Due to van parked on street, street sweeper hasn't swept in year. Three other vehicles removed this year already, why not that one. Having the vehicle consistently parked there reduces children's playing area. Sometimes trash truck can't get to receptacles.
Wallace and Janice Moore (404 Perch Cove) - Feels van is an eye-sore and wants something done about it.

Consent Agenda

- CA-14-029** Consider minutes of Regular City Council meeting of February 25, 2014.
No changes.
- CA-14-030** Consider a memorandum/resolution authorizing the award of a professional services agreement with The Wallace Group to design the Septic Tank Elimination Program (STEP) Phase IX Project.

Staff comments: Sean Ray

After negotiating a fair and reasonable price for The Wallace Group's engineering service, staff recommends approval of their proposal to design the STEP Phase IX Project for a total amount of \$108,230.00. Funding is available through the Water and Sewer Fund.

CA-14-031 Consider a memorandum/resolution approving the investment report for the quarter ended December 31, 2013.

Staff comments: Susan Anderson - Investment Advisor for city
Investment report summarizes all investment activity for the quarter that ended December 31, 2013. Ms. Anderson briefly went over investment report.

CA-14-032 Consider a memorandum/resolution to authorize the award of a professional services contract to SCS Engineers to prepare a Solid Waste Master Plan and Rate Study.

Staff comments: Scott Osburn
A proposed scope of services from SCS Engineers to develop a solid waste master plan and rate study for the City's Solid Waste Division was provided. The scope includes the development of a 20-year master plan that will be a comprehensive assessment, addressing a range of solid waste issues over the planning period. Funding in the amount of \$140,000 is available. Staff recommends that the City Council authorize the entering into an agreement with SCS Engineers for professional engineering.

CA-14-033 Consider a memorandum/resolution awarding Bid No. 14-05 to Colliver Tire Service for Fleet Services.

Staff comments: Grant Roach
There were two (2) vendors that submitted bids, Coliver Tire Service and Southern Tire Mart. Colliver Tire Service presents the best value based on demonstrated performance and lowest cost. Funds are available. By accepting the bid from Colliver Tire Service, there is no change in the anticipated annual expense since the bid pricing is the same as that currently paid. Contract is for 1 year. Staff recommends awarding the tire services annual contract to Colliver Tire Service.

CA-14-034 Consider a memorandum/resolution for the procurement of network and core switches through the co-operative purchasing network -Texas Department of Information Resources.

Staff comments: Don Fine
The IT Department is seeking approval to purchase network and core switches with costs exceeding \$50,000 to be purchased through one vendor, the Texas Department of Information Resources (DIR).

Motion was made by Mayor Pro-Tem Blackstone to approve Consent Agenda items 29 through 34, as presented. Motion was seconded by Councilmember Okray. Motion carried unanimously.

Public Hearings / Ordinances

PH-14-015A HOLD a public hearing and consider an ordinance amending the FY 2013-2014 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing the Reimbursement Resolution Trimmier Expenditure Account by \$37,448 for the Trimmier Road widening project from US 190 to Bacon Ranch Road.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE FY 2013-2014 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE REIMBURSEMENT RESOLUTION TRIMMIER EXPENDITURE ACCOUNT BY \$37,448 FOR THE TRIMMIER ROAD WIDENING PROJECT FROM US 190 TO BACON RANCH ROAD; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Mayor Corbin read PH-14-15B. Discussion by Mr. Osburn of 15A & 15B was combined.

PH-14-015B Consider a memorandum/resolution authorizing the City Manager to enter into an Advance Funding Agreement with the Texas Department of Transportation for the Trimmier Road Widening project from US 190 to Bacon Ranch Road.

Staff comments: Scott Osburn

The proposed amendment would provide sufficient funds to cover the Texas Department of Transportation Advanced Funding Agreement (AFA) design review costs on the Trimmier Road Widening project from US 190 south to Bacon Ranch Road. The proposed design review cost in the Advanced Funding Agreement is estimated to be \$37,448 for the applicable portion of the Trimmier Road Widening (US 190 to Bacon Ranch Road portion) project.

Staff recommends that the City Council approve this ordinance amending the FY 2013-2014 General Fund Budget.

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

Motion was made by Councilmember Segarra to approve PH-015A & B. Motion was seconded by Councilmember Harris. Motion carried unanimously.

PH-14-016 HOLD a public hearing and consider an ordinance requested by RSBP Developers, Inc. (Case #Z14-01) to rezone Lots 1-3, Block 15, Purser Crossing, Phase One, from R1-A (Single-Family Garden Home Residential District) to R-2 (Two-Family Residential District). The properties are locally known as 3100, 3102 and 3104 John Helen 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 R1-A (SINGLE-FAMILY GARDEN HOME RESIDENTIAL DISTRICT) TO R-2 (TWO-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Staff comments: Tony McIlwain

The applicant is rezoning the properties for residential duplex use. The property is located on the south right-of-way of John Helen Drive, east of Bunny Trail, Killeen, Texas. The applicant's zoning request is consistent with the Comprehensive Plan. The

staff notified three surrounding property owners regarding this request. Staff has received no responses at this time.

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

Mayor Corbin opened the public hearing.

Michelle Lee with Killeen Engineering & Surveying, 2901 E. Stan Schlueter Loop - represented the applicants and encouraged the Council to approve rezoning.

With no one else appearing the public hearing was closed.

Motion was made by Mayor Pro-Tem Blackstone to approve PH-016. Motion was seconded by Councilmember Segarra. Motion carried 6 to 1 with Councilmember Harris opposing.

PH-14-017 HOLD a public hearing and consider an ordinance requested by Lagan Construction, Inc. (Case #Z14-02) to rezone 6.77 acres, part of the Thomas Robinett Survey, Abstract No. 686, from "A" (Agricultural District) to "R-2" (Two-Family Residential District). The property is located west of the terminus of Waterproof Drive, immediately east of Robert M. Shoemaker High School, 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 "A" (AGRICULTURAL DISTRICT) TO "R-2" (TWO-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Staff comments: Tony McIlwain

The applicant is rezoning the property for duplex use. The staff notified forty-eight surrounding property owners regarding this request. Staff has received no responses at this time. The Planning and Zoning Commission recommended approval of the applicant's zoning request by a vote of 7 to 0.

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

Motion was made by Councilmember Gilmore to approve PH-017. Motion was seconded by Councilmember Segarra. Motion carried 5 to 2 with Councilmember Harris and Councilmember Okray opposing.

PH-14-018A HOLD a public hearing and consider a request to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Commercial' to 'General Residential' for approximately 5.77 acres located along the south right-of-way of Watercrest Road adjacent to the intersection of Bachelor Button Boulevard, Killeen, Texas.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'GENERAL COMMERCIAL' TO 'GENERAL RESIDENTIAL' FOR 5.77 ACRES OF LAND LOCATED ALONG THE SOUTH RIGHT-OF-WAY OF WATERCREST ROAD, ADJACENT TO THE

INTERSECTION OF BACHELOR BUTTON BOULEVARD, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Staff comments: Tony McIlwain

This is a request to revise the Comprehensive Plan's Future Land Use Map (FLUM) to change 5.77 acres from a 'General Commercial' designated area to a 'General Residential' designated area. The Planning and Zoning Commission recommend approval of amending the FLUM from 'General Commercial' to 'General Residential' for this area with a unanimous vote of 6 to 0. The amendment to 'General Residential' is entirely compatible with the existing residential development observed in the immediate area.

Mayor Corbin opened the public hearing.

Michelle Lee w/Killeen Engineering & Surveying - indicated that no commercial businesses have been interested in the area and spoke in favor of the request.

With no one else appearing the public hearing was closed.

Motion was made by Councilmember Segarra to approve PH-018A. Motion was seconded by Councilmember Okray. Motion carried unanimously.

PH-14-018B HOLD a public hearing and consider an ordinance requested by Killeen Sunflower, Inc. (Case #Z14-03) to rezone 4.854 acres, part of the Thomas Robinett Survey, Abstract No. 686, from B-5 (Business District) to R-2 (Two-Family Residential District). The property is located along the south right-of-way of Watercrest Road between Bachelor Button Boulevard and Foxglove Lane and is locally known as 4602 Watercrest Road, 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-5 (BUSINESS DISTRICT) TO R-2 (TWO-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Staff comments: Tony McIlwain

The applicant is rezoning the property for duplex use. The staff notified eighteen surrounding property owners regarding this request. Staff has received one response in support at this time. The Planning and Zoning Commission recommended approval of the applicant's zoning request by a vote of 6 to 0. The request is consistent with the Comprehensive Plan and the zoning of adjacent areas.

Mayor Corbin opened the public hearing.

Michelle Lee with Killeen Engineering & Surveying - property will fit nicely. Spoke in favor of rezoning.

With no one else appearing the public hearing was closed.

Motion was made by Councilmember Clark to approve PH-018B. Motion was seconded by Councilmember Gilmore. Motion carried unanimously.

PH-14-019 HOLD a public hearing and consider an ordinance amending the FY 2013-14 Annual Budget and Plan of Municipal Services of the City of Killeen to provide for a \$5,000,000 up-front capital equity contribution to Bell County Water Control and Improvement District No. 1, to facilitate the design and construction of a water treatment plant on Stillhouse Lake.

The City Secretary read the caption of the ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS AMENDING THE FY 2013-2014 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE WCID-CAPITAL CONTRIBUTION EXPENDITURE ACCOUNT (550-3405-435.50-96) IN THE WATER AND SEWER FUND IN THE AMOUNT OF \$5,000,000; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

Staff comments: Martie Simpson

Approval of this budget amendment will increase the Water and Sewer Fund expenditures by \$5,000,000. Staff recommends that the City Council approve the ordinance amending the FY 2013-2014 Water and Sewer Fund Budget by \$5,000,000.

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

Motion was made by Mayor Pro-Tem Blackstone to approve PH-019. Motion was seconded by Councilmember Segarra. Motion carried unanimously.

Ordinances / Resolutions

OR-14-010 Consider an ordinance appointing presiding and alternate election judges; precinct number change; and increase in election worker hourly pay.

City Secretary read the caption of the ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING ORDINANCE NO. 14-005 TO APPOINT THE PRESIDING AND ALTERNATE ELECTION JUDGES FOR THE 2014 GENERAL ELECTION; CHANGING THE HOURLY RATE PAID TO THE ELECTION WORKERS; CHANGING THE NAME OF PRECINCT 407 TO 401; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Staff comments: Dianna Barker

This amendment to Ordinance No. 14-005 names the election judges and their alternates, changes the rate of pay to election workers from \$8.50/hour to \$10.00/hour, and changes Precinct 407 to Precinct 401.

Motion was made by Councilmember Okray to approve OR-010. Motion was seconded and amended by Councilmember Clark to follow the national standard and raise the pay for election workers from \$8.50/hour to \$10.10/hour. Motion carried unanimously.

OR-14-011 Consider an ordinance amending Chapter 31 of the Code of Ordinances of the City of Killeen, amending Chapter 31, Article IV, Divisions 3A and 3B, Districts "SR-1" and "SR-

2" Suburban Residential Single-Family Districts.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING CHAPTER 31, ARTICLE IV, DIVISIONS 3A AND 3B, "SR-1" AND "SR-2" SUBURBAN RESIDENTIAL SINGLE-FAMILY DISTRICTS, BY REVISING THE ZONING REGULATIONS AND REQUIREMENTS THEREIN; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Staff comments: Tony McIlwain

The purpose of the amendment is to more align uses in that area. Mr. McIlwain gave a brief overview of the changes. Staff conducted a public hearing on this matter with the Planning and Zoning Commission.

The Planning and Zoning Commission recommended approval of the proposed changes by a vote of 5 to 2.

Motion was made by Councilmember Okray to approve OR-011. Motion was seconded by Mayor Pro-Tem Blackstone. Motion carried unanimously.

OR-14-012 Consider an ordinance amending Chapter 31 of the Code of Ordinances of the City of Killeen, amending Chapter 31, Article IV, Division 12, District "B-3" Local Business District and amending Chapter 31, Article IV, Division 16, "RC-1" Restaurant and Alcohol Sales District.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING CHAPTER 31, ARTICLE IV, DIVISION 12, "B-3" LOCAL BUSINESS DISTRICT, BY REVISING THE ZONING REGULATIONS AND REQUIREMENTS THEREIN; AMENDING CHAPTER 31, ARTICLE IV, DIVISION 16, BY ESTABLISHING A RESTRICTION ON NEW APPLICATIONS FOR "RC-1" RESTAURANT AND ALCOHOL SALES DISTRICT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Staff comments: Tony McIlwain

The Planning and Zoning Commission directed staff to bring the draft ordinance forward as a public hearing item. The Planning and Zoning Commission failed to recommend approval of the ordinance by a vote of 3 to 4. There was no subsequent motion, and staff informed the Commission that the item would be advanced to the City Council for consideration. Staff recommends approval of the ordinance.

Motion was made by Councilmember Foster to approve OR-012. Motion was seconded by Councilmember Harris. Motion carried unanimously.

OR-14-013 Consider a memorandum/resolution for the removal from and appointment to various boards, commissions, committees, and commissions' sub-committees.

Staff comments: Ann Farris

Boards, Commissions, and Commissions Sub-Committees Members - The Mayor and Council make annual appointments and removals to the City's boards, commissions, and commission's sub-committees as well as throughout the year as vacancies occur.

Bell County Health District

Current Member	Status	New Member	Comments
Dr. Charles Lucey	removed		

Community Development Advisory Committee

Current Member	Status	New Member	Comments
Brandon Harlee Sr.	Remove	Eric McConaughey	Not Meeting Attendance Requirements

Motion was made by Councilmember Clark to approve OR-013. Motion was seconded by Councilmember Segarra. Motion carried unanimously.

Adjournment

With no further business, upon motion being made by Mayor Pro-Tem Blackstone, seconded by Councilmember Okray, and unanimously approved, the meeting was adjourned at 6:07 p.m.



City of Killeen

Legislation Details

File #: CA-14-036 **Version:** 1 **Name:** Amendment - Jacobs RFC Grant
Type: Resolution/Consent Agenda **Status:** Consent Agenda
File created: 2/12/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: Consider a memorandum/resolution authorizing a contract amendment with Jacobs Engineering Group, Inc. to provide additional services for the FEMA Repetitive Flood Claims (RFC) Grant Program.
Sponsors: Environmental Services, Public Works Department
Indexes:
Code sections:
Attachments: [Council Memorandum Amendment](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

CONSIDER A CONTRACT AMENDMENT WITH JACOBS ENGINEERING GROUP, INC. TO PROVIDE ADDITIONAL FEMA RFC GRANT PROGRAM IMPLEMENTATION SUPPORT

ORIGINATING DEPARTMENT

Public Works - Environmental Services Division

BACKGROUND INFORMATION

On August 15, 2012, the City received notification, via correspondence from the Texas Department of Public Safety (TDPS), that the City's grant application for participation in the Repetitive Flood Claims (RFC) Grant Program had been accepted and approved by the State of Texas and the Federal Emergency Management Agency in the amount of \$295,622. City Council Resolution 12-074R acknowledged the award of the RFC Grant and authorized the City Manager to delegate the administration of the grant requirements to the City's Environmental Services Division of the Public Works Department; commence negotiations with the subject property owners for the purchase of the same; solicit bids for the necessary demolition and restoration of the properties; and enter into professional service contracts to facilitate the completion of recommendations within the limits established by state law.

On November 26, 2013, the City Manager entered into a professional services agreement for the FEMA RFC program project with Jacobs Engineering Group, Inc. in the amount of \$30,445. There were five properties in Killeen that qualified for this federal grant. Currently, three of the owners have accepted the City's offer and are proceeding in the program.

DISCUSSION/CONCLUSION

The properties are generally located in the South Nolan Creek special flood hazard area and following demolition and land restoration, the area will become green space as required by the RFC Grant Program. The project was delayed due to negotiations with the landowners; as a result, demolition will occur within the mating and nesting season outlined in the Migratory Bird Act. As a result, Migratory Bird Surveys need to be performed on all properties acquired as part of the RFC Grant Program, in accordance with guidance from Texas Parks and Wildlife Department (TPWD) and the United States Fish and Wildlife Service (USFWS). This service was not anticipated at the start of this project and must be completed prior to closing on the purchase of the properties and subsequent demolition of the homes.

FISCAL IMPACT

Funding in the amount of \$20,814 is available in the Fiscal Year 2013-2014, Environmental Services Division, Drainage Utility Fund, Professional Services (575-3476-432.44-20) Account.

RECOMMENDATION

City staff recommends that the City Council authorize the City Manager to execute an amendment to the professional services agreement with Jacobs Engineering Group, Inc. to perform Migratory Bird Surveys for the RFC Grant program in the amount of \$20,814 and that the City Manager be expressly authorized to execute any and all change orders within the amounts set by state and local law.

City of Killeen
Public Works
200 E. Avenue D
Killeen, TX 76540

AMENDMENT 1

Consultant Name: Jacobs Engineering Group Inc.
Street Address: 777 Main Street
City-State-Zip: Fort Worth, TX 76102
Attn: Joan Flowers, CPSWQ

CONTRACT NUMBER: WSA01300

PROJECT NAME: RFC Grant Implementation Support

CONTRACT TYPE: Fixed Price

PURPOSE OF AMENDMENT: Authorize additional services and extend the period of performance

Reduction in Scope of Services: \$ 0

Increase in Scope of Services: \$ 20,814.00 (Additional Services for Migratory Bird Survey as listed in Attachment A - Scope of Services and Attachment B - Fee Proposal)

Amendment Value: \$ 20,814.00

Period of Performance: 1/1/2014 through 10/1/2014

IN WITNESS WHEREOF, AND INTENDING TO BE LEGALLY BOUND, the parties hereto have duly executed this contract amendment by their authorized representatives.

Previous Total \$ 30,445.00 (Basic Services, Lump Sum)
Amendment #1 \$ 20,814.00 (Additional Services, to be billed as Lump Sum)
New Total \$ 51,259.00

City of Killeen

Jacobs Engineering Group Inc.

By: _____

By: Scott Bussell

Signature: _____

Signature:  _____

Title: _____

Title: Vice President

Date: _____

Date: January 9, 2014

December 9, 2013

ATTACHMENT A
SCOPE OF SERVICES

Jacobs Engineering Group Inc. (Jacobs) will perform this scope of professional services for The City of Killeen (Repetitive Flood Claim [RFC]) comprised of four properties encompassing approximately 0.75 acres ("the properties") located in Bell County, Texas.

Jacobs will perform migratory bird surveys of the properties in accordance with guidance from the Texas Parks and Wildlife Department (TPWD) and the United States Fish and Wildlife Service (USFWS) per the requirements of 16 U.S. Code 703-712, the Migratory Bird Treaty Act of 1918 (MBTA). This proposal is valid for a period of 30 days.

A. SCOPE OF SERVICES

I. MIGRATORY BIRD SURVEY

The Migratory Bird Treaty Act of 1918 states that it is unlawful to kill, capture, collect, possess, buy, sell, trade, or transport any migratory bird, nest, young, feather, or egg in part or in whole, without a federal permit issued in accordance with the Act's policies and regulations. This protection applies to most native bird species, including ground nesting species. The following information presents the scope of services for conducting the migratory bird survey.

A. Coordination with USFWS and TPWD

The USFWS and TPWD will be consulted to ensure compliance with the MBTA and to subsequently notify them of the presence of migratory bird species prior to any construction activities at the properties.

1. Letters will be sent to TPWD, the USFWS Regional Field Office, and the USFWS Migratory Bird Office notifying them of construction activities planned to occur at the properties and to conduct migratory bird surveys at the properties in conformance with the MBTA prior to construction.

2. Perform coordination with the TPWD and USFWS to determine if they have any required modifications to the survey procedure. Should the TPWD or USFWS require more than minimal modifications to the survey procedure (effort exceeding eight hours), then this effort would be performed as an additional service. Preliminary coordination with the

USFWS indicates that they are in agreement with the survey procedure identified by Jacobs.

B. Field Survey of Properties

Two preconstruction field surveys of the properties will be conducted during the nesting season (spring/summer) between February 15th and October 1st to determine the presence or absence of migratory birds, their eggs, or their nests. Following the nesting season survey, one additional survey will be conducted between October 2nd and February 14th to determine if migratory bird activity is occurring outside of the designated nesting season. The absence of foliage during the winter survey would also afford better visibility of any potential nests at the properties.

1. Perform a desktop review of pertinent information prior to conducting fieldwork. This will include a review of recent USFWS and TPWD lists of the migratory bird species of Texas, aerial photographs, and USGS topographic maps, and any prior site specific environmental studies/reports (to be provided by the Client).
2. Perform and document field investigations of the property during and outside of the nesting season to determine the presence or absence of MBTA bird species. Jacobs will adhere to guidance provided by TPWD, the USFWS Regional Field Office, or the USFWS Migratory Bird Office when performing the surveys.
3. The properties will be surveyed using a Global Positioning System (GPS), with sub-meter accuracy. Migratory bird sightings and nest locations will be logged into the GPS unit and any trees containing active nests will be flagged for future identification. Any observed active ground nesting locations would be marked with a flagged stake. Jacobs will utilize site-specific data (property survey) to be provided by the Client, or others as directed by the Client, for the purpose of identifying the property boundaries and limits. Due to the relatively small size of the properties (0.75 acres), the entire project area will be visually surveyed for evidence of migratory bird activity during the surveys.
4. Representative photographs will be taken of migratory birds, their nests, eggs and surrounding habitats present on the properties, to the extent possible. If active nests are located on the properties, the nesting sites should be checked by the City prior to construction to ensure that the young have fledged. In addition, no construction activity should occur until the young have fledged.

C. Preparation of Technical Memorandum

Upon completion of the migratory bird survey, the final results, findings and information gathered will be compiled, evaluated, and then incorporated into a Technical Memorandum to be provided to the Client, TPWD, and USFWS. Two paper copies and one digital (PDF) copy of the Technical Memorandum will be provided to the Client and one paper copy will be provided to each the TPWD and USFWS.

General purpose statement regarding the Technical Memorandum content:

1. Methods Used:

- a. Identification of the Property Owner/Applicant.
- b. Description of the approach used to conduct the migratory bird survey.

2. Results of the Migratory Bird Survey:

- a. Vicinity map depicting the location of the property and showing the limits of the site investigated.
- b. Identify and describe observations made during the site visit.
- c. Approximate size of area evaluated for migratory birds.
- d. Name and characterization of any identified migratory birds or nests.
- e. Description of any physical features of the property.
- f. Information on existing site conditions for present and past land uses.
- g. Characterization of habitat.
- h. Identification of any suitable migratory bird nesting habitat.
- i. Characterization of vegetative communities and dominant species.
- j. Representative photographs of the property with the date the photos were taken.
- k. Aerial photograph with the property defined.
- l. USGS 7.5 minute USGS topographic quad with the property defined.
- m. TPWD and USFWS lists of migratory birds of Texas.

3. Conclusions and Recommendations:

- a. Determine the presence or absence of migratory birds or their nests and identify actions necessary to ensure compliance with the MBTA.
- b. Map depicting locations and species of observed migratory birds or their nests.
- c. Identify nests or habitat which are currently occupied, or were occupied in the past, or may be susceptible to use in the future by migratory birds.

Deliverables: One (1) paper copy each of the coordination letters provided to the TPWD and USFWS. Two (2) paper copies and one (1) digital copy of the Technical Memorandum will be provided to the Client. One (1) paper copy will be provided to both the TPWD and USFWS.

B. ASSUMPTIONS

The following assumptions apply to the described scope of services.

1. The study protocol assumes that approximately 5-10 different migratory bird species could be observed during the site investigations.
2. The study protocol assumes that approximately 1-5 active nests could be observed during the nesting season investigation and 1-5 inactive nests could be observed during the winter site investigation.
3. The Client will provide access to the property to Jacobs for the purpose of conducting the site investigation and migratory bird survey.

C. ADDITIONAL SERVICES

The Client may require additional services to those described in Section A above. Jacobs will provide these services and be compensated, additional to the total contract amount.

Additional Services may consist of, but are not be limited to, the following:

1. Revise the migratory bird survey procedure based upon comments and guidance provided by the TPWD and/or USFWS.
2. Additional coordination with TPWD and USFWS to determine necessary avoidance, minimization, and mitigation measures to protect identified migratory bird species or nests prior to construction.
3. Preparation and coordination of an Avian Protection Plan (APP) to provide a tool for avian risk reduction and compliance with the MBTA.
4. Request of a "Bird Letter" from the USFWS outlining enforcement discretion and the USFWS' willingness not to prosecute for MBTA takings if the client agrees to follow accepted "Best Management Practices."
5. Preparation of technical specifications for mitigation resulting from impacts/takings to migratory birds, their nests, eggs, or habitat.
6. Meetings with the Client and others as designated by the Client.
7. Conduct a threatened and endangered species investigation.
8. Conduct a jurisdictional waters of the U.S. determination.

9. Coordination of permitting in accordance with the Bald and Golden Eagle Act with USFWS if Eagle nesting activity is observed at the property.
10. Coordination of permitting activity in accordance with the Endangered Species Act with USFWS if Threatened or Endangered migratory bird activity is observed at the properties

D. JACOBS' CONTACT FOR ALL CORRESPONDENCE

Please direct all correspondence to: Joan Flowers
Jacobs Engineering Group Inc.
777 Main Street
Fort Worth, Texas 76102
(817) 735-6068



City of Killeen

Legislation Details

File #: CA-14-037 **Version:** 1 **Name:** Aviation Fuel Bid 14-06
Type: Resolution/Consent Agenda **Status:** Consent Agenda
File created: 2/20/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: Consider a memorandum/resolution approving Killeen-Fort Hood Regional Airport Unleaded Fuel Bid 14-06.
Sponsors: Aviation Department
Indexes:
Code sections:
Attachments: [Council Memorandum](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

KILLEEN-FORT HOOD REGIONAL AIRPORT BID RECOMMENDATION - BID 14-06 MOTOR FUEL UNLEADED

ORIGINATING DEPARTMENT

AVIATION

BACKGROUND INFORMATION

The Aviation Department stocks and resells unleaded gasoline to the tenant rental car companies at the Killeen-Fort Hood Regional Airport. The average monthly sales volume is about 6,000 gallons per month. Due to the nature of this fuel business and the fact that payment of all state and federal taxes are required, the airport bulk motor fuel supply was not included in the scope of services with the Texas fleet Fuel contract that was approved by Council on August 27, 2013.

DISCUSSION/CONCLUSION

An invitation for bid was advertised in the Killeen Daily Herald on January 26 and February 2, 2014. It was also advertised on various procurement web sites that the City is associated with. The bid package was available for download on the City's web site. Four (4) prospective vendors are known to have received the invitation for bid included: Big Chief Dist. Co., Inc., Killeen, TX; RKA Petroleum Companies, Inc., Romulus, MI; Gold Star Petroleum, Inc., Spring, TX; and Sunguard, Temple, TX.

On Thursday, February 13, 2014, at 2:15 p.m., bids were opened and read aloud for the procurement of the Aviation Department's annual requirement for unleaded motor fuel.

Three (3) bids were received from the following: Big Chief Dist. Co., Inc., Killeen, TX; RKA Petroleum Companies, Inc., Romulus, MI; and Gold Star Petroleum, Inc., Spring, TX.

Bidder	Type	Rack Price	Profit	Tax	Total Price
Big Chief Dist. Co.	UL	\$2.5283	\$0.0950	\$0.384	\$3.0073
Gold Star Petroleum	UL	\$2.5283	\$0.3500	\$0.384	\$3.2623
RKA Petroleum	UL	\$2.5283	\$0.2903	\$0.384	\$3.2026

Wholesale fuel prices fluctuate daily due to a number of market factors. To establish a fair and standardized method to bid for fuel, all bidders were directed to bid based upon the Oil Price Information (OPIS) Gross unbranded rack average for the Waco, Texas rack as of 10:00 a.m., on February 6, 2014, which was \$2.5283 per gallon (without tax). All fuel bid prices are indexed from that amount and include all state and federal taxes, plus the bidder's gross profit (or mark-up). That gross profit bid amount of the awarded bidder will then be used throughout the term of contract to establish the price that the City will actually pay per gallon for the fuel on any particular day. (Current day's OPIS Waco Unbranded Rack Average + \$0.384 state and

federal tax + bidder's profit per gallon = total unit price per gallon). Regardless of the wholesale price change, the bidder's profit per gallon remains the same.

The term of the proposed contract for the bid is one year with an option for a one year extension if mutually agreed to by both parties.

Staff has determined that the bid from Big Chief Distributing is the lowest bid and it meets all the minimum requirements established in the specifications.

FISCAL IMPACT

Funds are budgeted in the Aviation Department Cost of Goods - Motor Gas Account #525-0505-521.50-19. The budgeted amount for FY 13-14 Cost of Goods - Motor Gas is \$295,200.

RECOMMENDATION

Staff recommends that City Council award a one year purchase contract of unleaded motor fuel to Big Chief Distributing of Killeen, TX, at the February 6, 2014, indexed price of \$3.0073 per gallon, authorize the City Manager to enter into a contract with the same, and authorize the City Manager to execute any and all change orders and extensions in the amounts established by state and local law.



City of Killeen

Legislation Details

File #: CA-14-038 **Version:** 1 **Name:** Interlocal Agreement w/Bell County
Type: Resolution/Consent Agenda **Status:** Consent Agenda
File created: 2/21/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: Consider a memorandum/resolution approving an interlocal agreement with Bell County for reciprocal fleet fueling opportunities.
Sponsors: Support Services Department, Fleet Services
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Fuel Agreement](#)
[Exhibit A](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

Interlocal Agreement with Bell County regarding reciprocal fleet refueling

ORIGINATING DEPARTMENT

Support Services/Fleet Services

BACKGROUND INFORMATION

The City of Killeen and Bell County both purchase fuel from Texas Fleet Fuel, manage on-site refueling stations at their fleet facilities, and leverage off-site refueling capabilities across the national Fuel Man network. The use of on-site refueling stations helps minimize fuel costs when city/county vehicles are in that area.

On August 26, 2013, Bell County staff requested that the City of Killeen allow County vehicles to refuel at the Fleet facility on Little Nolan Road when in Killeen. Bell County offered to reciprocate by allowing City vehicles to refuel at the County fueling station in Belton. Each entity will still be responsible to pay for the fuel using their Fuel Man cards. Support Services recommended this initiative be delayed until the City of Killeen completed its transition to Texas Fleet Fuel in November 2013.

Support Services met with the Bell County Auditor's office on December 10, 2013, and received the proposed interlocal agreement. The Killeen City Attorney then reviewed the agreement and made a slight revision.

DISCUSSION/CONCLUSION

Use of this reciprocal agreement is likely to be minimal; however, approval helps both parties minimize costs. There is no cost for this agreement. Each city/county vehicle has a unique fuel card and Texas Fleet Fuel would charge the appropriate entity.

The agreement would have an initial term of four (4) years and would renew automatically for additional one (1) year terms; it can be terminated with 30 days written notice by either party.

FISCAL IMPACT

This agreement would enable cost saving opportunities for both entities with no anticipated negative financial impact on the City.

RECOMMENDATION

Staff recommends the approval of this interlocal agreement to minimize costs and enhance cooperation.

FUEL AGREEMENT

This Agreement is entered into this ____ day of _____, 2014 by and between Bell County, Texas (the "County") and the City of Killeen, Texas (the "City").

Each of the County and the City own fuel tanks which they use to fuel their respective vehicles. A list of the City and County fuel tanks in existence of the date of this Agreement is attached as Exhibit A.

The County agrees that the City may use County fuel tanks to fuel City vehicles. The City agrees that the County may use City fuel tanks to fuel County vehicles.

Both the City and County administer their fuel program by a company called Texas Fleet Fuel. Texas Fleet Fuel assigns a PIN number to each employee and a Fuel Credit Card to each vehicle so that Texas Fleet Fuel may keep accurate accounting of the amount of fuel purchased for each vehicle. Texas Fleet Fuel accounting system will invoice County purchases of fuel to the County and City purchases of fuel to the City. Each party pays for the performance of governmental functions or services and makes those payments from current revenues available to the paying party.

The City shall be liable to the County for any damages done by a City driver to County fuel facilities. The County shall be liable to the City for any damages done by County drivers to the City's fuel facilities.

This agreement shall have a term of four years from the date shown above, and shall renew automatically for additional one year term(s); provided, either the City or the County may terminate this agreement by providing 30 days written notice to the other party.

This Agreement is subject to the Texas Interlocal Cooperation Contracts law, Chapter 791 of the Texas Government Code. Each of the City and the County find that this Agreement is in their respective interest to allow each of them to carry out governmental functions and services for their respective citizens.

City of Killeen, Texas

By: _____

Bell County, Texas

By: _____
County Judge

EXHIBIT A

Bell County Fuel Location

Road and Bridge Yard
702 W. Avenue O
Belton, TX 76513

City of Killeen Fuel Location

Fleet Services
2003 Little Nolan Road
Killeen, TX 76542



City of Killeen

Legislation Details

File #: CA-14-039 **Version:** 1 **Name:** Annual Audit Report for the fiscal year ended September 30, 2013
Type: Resolution/Consent Agenda **Status:** Consent Agenda
File created: 3/6/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: Consider a memorandum/resolution accepting the annual audit report for the fiscal year ended September 30, 2013.
Sponsors: City Auditor, Finance Department
Indexes:
Code sections:
Attachments: [Council Memorandum](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

Acceptance of the annual audit report for the fiscal year ended September 30, 2013

ORIGINATING DEPARTMENT

City Auditor

BACKGROUND INFORMATION

The City Council previously approved the engagement of Weaver, LLP to perform the independent audit of the City's financial records for the fiscal year ended September 30, 2013.

DISCUSSION/CONCLUSION

Weaver, LLP has completed their audit, and a draft copy of the Comprehensive Annual Financial Report has been provided to the City Council. Representatives of Weaver, LLP will appear at the City Council Workshop on March 18, 2014 to present the results of the audit to the City Council. The goal of the audit was to provide reasonable assurance that the financial statements of the City of Killeen for fiscal year ended September 30, 2013 are free of material misstatement. The audit report has been formatted to comply with all required provisions of the Governmental Accounting Standards Board.

FISCAL IMPACT

The fees associated with the performance of the annual audit were budgeted and are available in several professional services accounts located in the major funds.

RECOMMENDATION

The staff recommends that the City Council approve the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2013.



City of Killeen

Legislation Details

File #: CA-14-040 **Version:** 1 **Name:** Resolution-Housing Tax Credits
Type: Resolution/Consent Agenda **Status:** Consent Agenda
File created: 3/19/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: Consider a memorandum/resolution in support of Killeen Development I, LP's application to the Texas Department of Housing & Community Affairs for an allocation of 2014 9% housing tax credits in connection with the proposed rehabilitation of Moss Rose Apartments, an existing 75-unit public housing community located at 1202 Avenue E, Killeen, Bell County, Texas.
Sponsors: Community Development
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Resolution of Support](#)

Date	Ver.	Action By	Action	Result
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CITY COUNCIL MEMORANDUM

AGENDA ITEM

SUPPORT OF HOUSING TAX CREDIT APPLICATION TO TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS FROM KILLEEN DEVELOPMENT I LP

ORIGINATING DEPARTMENT

COMMUNITY DEVELOPMENT

BACKGROUND INFORMATION

The housing tax credit program was created by the Tax Reform Act in 1986 - Section 42 of the tax code. It is the primary means of directing private capital towards the creation of affordable rental housing. The program allows a credit or reduction in tax liability in exchange for equity in the development of affordable rental housing units. The Texas Department of Housing & Community Affairs (TDHCA) administers the program and applications are accepted on an annual basis.

DISCUSSION/CONCLUSION

The Killeen Housing Authority has developed a non-profit organization known as Greater Killeen Housing Alliance, Inc. and has partnered with Housing Solutions Alliance (the developer) to submit an application as Killeen Development I, LP for housing tax credits to TDHCA for the proposed rehabilitation of Moss Rose Apartments, an existing 75 unit public housing community located at 1202 East Avenue E, Killeen, Texas. The award of housing tax credits for 2014 consideration are expected to be announced in July 2014 by TDHCA.

FISCAL IMPACT

This resolution does not have a fiscal impact on the city budget. The resolution is supportive in nature of the redevelopment of Moss Rose Apartments to further enhance the existing units with extensive renovations to provide for an improved appearance and stimulate neighborhood revitalization.

RECOMMENDATION

The City of Killeen support the application for the potential award of 9% housing tax credits from Texas Department of Housing & Community Affairs for the redevelopment of Moss Rose Apartments, Killeen, Texas.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, EXPRESSING SUPPORT FOR THE APPLICATION OF KILLEEN DEVELOPMENT I, LP TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR 2014 COMPETITIVE NINE-PERCENT HOUSING TAX CREDITS AND FOR THE REHABILITATION OF MOSS ROSE APARTMENTS LOCATED AT 1202 EAST AVENUE E, IN THE CITY OF KILLEEN, BELL COUNTY, TEXAS 76541

WHEREAS, Killeen Development I, LP (“Applicant”) has brought to the City of Killeen a proposal to rehabilitate an existing affordable rental housing community consisting of 75-units, named Moss Rose Apartments located at 1202 East Avenue E, in the City of Killeen, Bell County, Texas 76541.

WHEREAS, the Applicant has filed an application to the Texas Department of Housing and Community Affairs (TDHCA) for an allocation of 2014 Competitive 9% Housing Tax Credits (HTC) for the construction and redevelopment of Moss Rose Apartments.

WHEREAS, pursuant to the rules that govern the allocation of HTCs by TDHCA, applicants who provide a resolution from the governing body of a municipality expressing support for a development located within its jurisdiction will improve the overall success of its application.

WHEREAS, the Applicant has requested from the City Council of the City of Killeen support for its application to TDHCA and for the rehabilitation of Moss Rose Apartments.

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

The City of Killeen supports Applicant’s application to TDHCA for HTCs and for the rehabilitation of Moss Rose Apartments for affordable rental housing located at 1202 East Avenue E, in the City of Killeen, Bell County, Texas 76541, and that this formal action has been taken to put on record the opinion expressed by the City of Killeen as of the date of this resolution.

The undersigned is authorized, empowered and directed for and on behalf of the City Council, as the governing body of the City of Killeen, to certify this resolution to TDHCA.

DULY RESOLVED by the City Council of the City of Killeen, Texas on this the _____ day of March, 2014.

Daniel A. Corbin, Mayor

ATTEST:

APPROVED:

_____, City Secretary

_____, City Attorney



City of Killeen

Legislation Details

File #: PH-14-020 **Version:** 1 **Name:** FY 13-14 STEP Amendment
Type: Ordinance/Public Hearing **Status:** Public Hearing/Ordinances
File created: 1/27/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: HOLD a public hearing and consider an ordinance amending the FY 2013-2014 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing General Fund revenues by \$81,600 and increasing the STEP Overtime Salaries account by \$81,600 in the Police Department.
Sponsors: Police Department
Indexes: FY 2013-14 Budget, STEP Grant
Code sections:
Attachments: [Council Memorandum](#)
[Ordinance](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

Amending the FY 2013-2014 annual budget and plan of municipal services of the City of Killeen by increasing General Fund revenues by \$81,600 and increasing the STEP Overtime Salaries account in the Police Department by \$81,600.

ORIGINATING DEPARTMENT

Police Department

BACKGROUND INFORMATION

In August of 2013, the City of Killeen was awarded a Selective Traffic Enforcement Program (STEP) Grant in the amount of \$81,600 in reimbursable funding.

The STEP Grant authorized Police Officers to work on an overtime basis addressing speed violations on designated portions of US Highway 190, Central Texas Expressway, Veterans Memorial Blvd., WS Young Dr., Clear Creek Rd., and Trimmier Rd. These roads were selected based on comparison analysis of posted speed laws and percentage of non-compliance identified that presented the greatest safety risk to the general driving public. The Impaired Driver Mobilization (IDM) program is approved city wide.

DISCUSSION/CONCLUSION

Although the grant application was approved by City Council, the grant award was not issued until after the beginning of the fiscal year and no funding was initially projected within the 2013/2014 budget cap to address this increase in revenue. This ordinance amendment will adjust the beginning balances of the STEP Grant Revenue account and the Police Overtime account to adjust for the increase in funding and expenditures related to the STEP Grant.

FISCAL IMPACT

This amendment will increase revenues in the general fund by \$81,600 and increase expenditures in the Police Department budget in the general fund by \$81,600. This net effect on the fund will be zero.

RECOMMENDATION

Staff recommends that the City Council approve this ordinance amending the FY 2013-2014 General Fund Budget.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS AMENDING THE FY 2013-2014 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING GENERAL FUND GRANT REVENUES BY \$81,600 AND INCREASING VARIOUS EXPENDITURE ACCOUNTS IN THE POLICE DEPARTMENT BUDGET BY \$81,600; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a budget for operating the General Fund of the City of Killeen for the Fiscal Year October 1, 2013 to September 30, 2014, has been adopted by City Council, in accordance with the City Charter; and

WHEREAS, it is the desire of the Killeen City Council to increase General Fund Grant Revenues by \$81,600 for proceeds from the Police Department STEP Grant; and

WHEREAS, it is the desire of the Killeen City Council to increase the General Fund Police Department budget by \$81,600 to expend proceeds from the Police Department STEP Grant; and

WHEREAS, the need for the additional funds within the Police Department budget requires a budget amendment;

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

SECTION I. That Ordinance 13-067 adopting a budget for operating the municipal government of the City of Killeen for the Fiscal Year October 1, 2013 to September 30, 2014, be amended as to the portion of said budget as follows,

POLICE STEP GRANT AND POLICE DEPARTMENT OVERTIME EXPENDITURE ACCOUNT

Account Number	Account Name	Original Budget	Budget Increase	Amended Budget
010-0000-382.11-00	Police Step Grant	\$0	(\$81,600)	(\$81,600)
010-6000-441.40-22	Police STEP Overtime	\$11,170	\$81,600	\$92,770

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SECTION II. That the City Council finds that the public notice and public hearing requirements of Section 56 of the City Charter have been complied with prior to the enactment of this ordinance.

SECTION III. That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

SECTION IV. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION V. That the original ordinance shall remain in full force and effect, save and except as amended by this ordinance.

SECTION VI. That this ordinance shall be effective after its passage and publication according to the law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this _____ day of _____, 2014, 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

Daniel A. Corbin, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM:

Kathryn H. Davis, CITY ATTORNEY



City of Killeen

Legislation Details

File #: PH-14-021A **Version:** 1 **Name:** Budget Amendment - Regional Trl - AFA
Type: Ordinance/Public Hearing **Status:** Public Hearing/Ordinances
File created: 2/20/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: HOLD a public hearing and consider an ordinance amending the FY 2013-2014 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing the Reimbursement Resolution Killeen-Fort Hood Regional Trail account by \$14,555 for the Killeen-Fort Hood Regional Trail, Segment 3 project.
Sponsors: Public Works Department, Transportation Department
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Ordinance](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

ORDINANCE AMENDING THE FY 2013-2014 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE REIMBURSEMENT RESOLUTION KILLEEN-FORT HOOD REGIONAL TRAIL, SEGMENT 3 PROJECT BY \$14,555 FOR THE KILLEEN-FORT HOOD REGIONAL TRAIL, SEGMENT 3 PROJECT

ORIGINATING DEPARTMENT

PUBLIC WORKS - TRANSPORTATION DIVISION

BACKGROUND INFORMATION

Segment 3 of the Regional Trail consists of 1.35 miles from Watercrest Road to West Elms Road along the South Nolan Creek residential section. By entering into an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT), the City agrees to commit to the project's design, development, construction, maintenance and funding. The City further agrees to provide a local match. As part of the match, the AFA requires payment of the design review costs.

DISCUSSION/CONCLUSION

The proposed amendment would provide sufficient funds to cover the TxDOT AFA design review costs on the Killeen-Fort Hood Regional Trail Segment 3 project. Payment of the City's share of costs is a condition associated with utilizing \$1,455,498 of Texas Enhancement Grant funds for this portion of the Killeen-Fort Hood Regional Trail Segment 3 project. The proposed design review costs in the AFA are estimated to be \$14,555 for the applicable portion of the Killeen-Fort hood Regional Trail, Segment 3, project. These funds may be reimbursed from the proceeds of debt if issued at a later date.

FISCAL IMPACT

With the approval of this budget amendment, the General Fund Budget for FY 2013-2014 will be revised to reflect an increase in expenses of \$14,555.

RECOMMENDATION

Staff recommends that the City Council approve this ordinance amending the FY 2013-2014 General Fund Budget.

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS AMENDING THE FY 2013-2014 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE GENERAL FUND BUDGET BY \$14,555 IN THE REIMBURSEMENT RESOLUTION KILLEEN-FORT HOOD REGIONAL TRAIL SEGMENT 3 EXPENDITURE ACCOUNT TO FUND THE ADVANCED FUNDING AGREEMENT FOR THE KILLEEN-FORT HOOD REGIONAL TRAIL SEGMENT 3, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a budget for operating the General Fund of the City of Killeen for the Fiscal Year October 1, 2013 to September 30, 2014, has been adopted by City Council, in accordance with the City Charter; and

WHEREAS, it is the desire of the Killeen City Council to increase the Reimbursement Resolution Killeen-Fort Hood Regional Trail Segment 3 account budget by adding funding for the Advanced Funding Agreement of the Killeen-Fort Hood Regional Trail Segment 3 Widening project; and

WHEREAS, these funds may be reimbursed from bond proceeds if issued; and

WHEREAS, the need for additional funds within the General Fund budget requires a budget amendment;

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

SECTION I. That Ordinance 13-067 adopting a budget for operating the municipal government of the City of Killeen for the Fiscal Year October 1, 2013 to September 30, 2014, be amended as to the portion of said budget as follows,

Account Number	Account Name	Original Budget	Budget Increase	Amended Budget
010-9501-492.50-68	Reimbursement Resolution Killeen-Fort Hood Regional Trail Segment 3	\$0	\$14,555	\$14,555

SECTION II. That the City Council finds that the public notice and public hearing requirements of Section 56 of the City Charter have been complied with prior to the enactment of this ordinance.

SECTION III. That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

SECTION IV. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION V. That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect save and except as amended by this ordinance.

SECTION VI. That this ordinance shall be effective after its passage and publication according to the law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this 25th day of March, 2014, 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

Daniel A. Corbin, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM:

Kathryn H. Davis, CITY ATTORNEY



City of Killeen

Legislation Details

File #: PH-14-021B **Version:** 1 **Name:** Killeen-Fort Hood Regional Trail Seg 3
Type: Resolution/Public Hearing **Status:** Public Hearing/Ordinances
File created: 1/27/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: Consider a memorandum/resolution authorizing the City Manager to execute an Advance Funding Agreement for the Transportation Enhancement project with the Texas Department of Transportation for the Killeen-Fort Hood Regional Trail Segment 3.
Sponsors: Public Works Department, Transportation Department
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Advanced Funding Agreement](#)
[Transportation Enhancement Funding Letter](#)
[Project Location Map](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

CONSIDER AUTHORIZING THE CITY MANAGER TO EXECUTE AN ADVANCED FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) TO CONSTRUCT A KILLEEN-FORT HOOD REGIONAL TRAIL SEGMENT 3

ORIGINATING DEPARTMENT

PUBLIC WORKS - TRANSPORTATION DIVISION

BACKGROUND INFORMATION

On September 14, 2012, the Texas Department of Transportation (TxDOT), in cooperation with the Federal Highway Administration, issued a call for project nominations for the statewide Transportation Enhancement Program (TE). Under the program, 80% of an eligible project's costs can be reimbursed with the nominating entity (sponsor) providing at least 20% of the projects allowable costs. Cost-reimbursement programs require sponsors to pay for a project's costs and then the funding agency providing reimbursement for costs throughout various stages of the project. Projects are funded through a statewide competitive process with funds limited to those authorized in the Enhancement Program. On November 13, 2012, the City Council authorized the City Manager to submit a TE application to TxDOT for the Andy K. Wells Hike and Bike Trail Extension project (CCM-R 12-097R).

On July 26, 2013, the City received notification that it had been selected to receive \$1,455,498 for a TE award. The City of Killeen's proposed project ranked 4th out of 81 prospective projects that were submitted to TxDOT (see attachment - Transportation Enhancement Program Project Selection).

DISCUSSION/CONCLUSION

The proposed Killeen-Fort Hood Regional Trail project, in its entirety, calls for 7.8 miles of multi-use trail connecting the Andy K. Wells Hike and Bike Trail in northeast Killeen (downtown) with the Texas A&M University - Central Texas campus in south Killeen via Fort Hood Road.

Segment 3 of the regional trail, a 1.35 mile section from Watercrest Road to West Elms Road running along the South Nolan Creek residential section, is the portion included in this project proposal.

Components of the trail include: trail constructed of concrete, low water crossings and neighborhood connections with ramps, signage, striping and street crossings. Trail amenities will include: trailhead, bicycle racks, pet waste stations, trash receptacles, gateway signage, seating areas, and trail lighting. Drainage improvements providing runoff from the street outfalls to the creek via a drainage system that addresses issues affecting neighborhoods on each side of the creek between Watercrest Road and West Elms Road are also included.

TxDOT gives priority consideration to projects that request federal funds for construction associated costs only. The project budget estimates a total project cost of \$2,256,664, with \$1,940,664 being construction project costs. The City would provide approximately \$485,166 (25% of estimated construction related costs) and will be reimbursed up to \$1,455,498 (approximately 75% of estimated construction project costs).

On February 25, 2014, a Reimbursement Resolution was submitted to City Council requesting reimbursement for cost related to various projects, including city trails, whereby funds will be advanced from the General Fund and be repaid from the proceeds from the sale of the General Obligation Bonds and Certificates of Obligation Bonds once they are received.

By entering into an Advance Funding Agreement (AFA) with TxDOT, the City is agreeing to commit to the project's design, development, construction, maintenance and funding. The City further agrees to provide a local match of 25%, or greater, of the total project cost, including being responsible for all non-federally fundable items and 100% of all overruns. At this time, entering into the Advanced Funding Agreement requires payment of the Local's share of TxDOT's ADM PE Cost of \$4,852 and TxDOT's ADM Cost for Construction of \$9,703 for a total of \$14,555 payable from the City to TxDOT.

FISCAL IMPACT

The total fiscal impact associated with this action is \$2,256,664, of which \$1,940,664 is Federally funded as an award and will be reimbursed from the Texas Department of Transportation and \$316,000 is to be funded by the City of Killeen for design and \$485,166 is to be funded by the City of Killeen for construction (total City contribution of \$801,166). A proposed future General Obligation Bond issuance reflected in the Reimbursement Resolution considered by City Council on February 25, 2014 will reimburse the General Fund and track expenditures in the Reimbursement Resolution Killeen-Fort Hood Regional Trail Segment 3 account #010-9501-492.50-68 when proceeds from the sale of the General Obligation Bonds are received. In accordance with part B of this section (budget amendment ordinance), at this time, an initial payment of \$14,555 from the City to TxDOT for design review is required to be sent with the executed Advanced Funding Agreement.

RECOMMENDATION

City staff recommends that the City Council authorize the City Manager to enter into an Advance Funding Agreement with the Texas Department of Transportation for the Texas Enhancement funding and issue payment in the amount of \$14,555 to the Texas Department of Transportation to move forward with the project.

CSJ #0909-36-145 Fed.# STP 2014(090)TE
Waco District (#9)
Code Chart 64 #22300
Project: Killeen Fort Hood Regional Trail,
Segment 3
Federal Highway Administration
CFDA #20.205
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
For A TRANSPORTATION ENHANCEMENT (TE) PROJECT**

This Advance Funding Agreement for a Transportation Enhancement Project (the Agreement) is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State", and the City of Killeen, acting by and through its duly authorized officials called the "Local Government."

WITNESSETH

WHEREAS, the Local Government prepared and submitted to the State a nomination form for consideration under the Transportation Enhancement Program for the project which is briefly described as Killeen Fort Hood Regional Trail, Segment 3, called the "Project"; and

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes; and

WHEREAS, Title 23 U.S.C. Section 134 requires that Metropolitan Planning Organizations and the States' Transportation Agencies to develop transportation plans and programs for urbanized areas of the State; and

WHEREAS, the Texas Transportation Code, Sections 201.103 and 222.052 establish that the State shall design, construct and operate a system of highways in cooperation with local governments; and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds; and

WHEREAS, the Texas Transportation Commission (the "Commission") passed Minute Order Number 113642 dated July 25, 2013 awarding funding for projects in the 2012 Program Call of the Transportation Enhancement Program, including the Project; and

WHEREAS, the rules and procedures for the selection and administration of the Transportation Enhancement Program are established in 43 TAC Sections 11.200 et seq.; and

WHEREAS, the governing body of the Local Government has approved entering into this Agreement by resolution or ordinance dated November 13, 2012, which is attached hereto and made a part hereof as Attachment A;

NOW THEREFORE, the State and the Local Government agree as follows:

AGREEMENT

1. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until terminated as provided in Article 2.

2. Termination of the Agreement

- A.** The termination of this Agreement shall extinguish all rights, duties, obligations and liabilities of the State under this Agreement and may be terminated by any of the following conditions:
1. By mutual written consent and agreement of all parties;
 2. By any party with 90 days written notice; or
 3. By either party, upon the failure of the other party to fulfill the obligations as set forth in this Agreement. Any cost incurred due to such breach of contract shall be paid by the breaching party.
- B.** If the potential termination of the Agreement is due to the failure of the Local Government to fulfill its contractual obligations, the State will notify the Local Government that possible breach of contract has occurred. The Local Government should make every effort to remedy the breach within a period mutually agreed upon by both parties.
- C.** If the Local Government withdraws from the Project after this Agreement is executed, it shall be responsible for all direct and indirect Project costs as identified by the State's cost accounting system.
- D.** A project may be eliminated from the program as outlined below. If the Project is eliminated for any of these reasons, this Agreement will be appropriately terminated. A project may be eliminated from the program, and this Agreement terminated, if:
1. The Local Government fails to satisfy any requirements of the program rules cited as 43 TAC §11.200 et seq.
 2. The implementation of the Project would involve significant deviation from the activities as proposed in the nomination form.
 3. The Local Government withdraws from participation in the Project.
 4. This is a construction project and construction has not been let by August 31, 2016.
 5. This is not a construction project and project activities have not been completed by _____, 20__.
 6. The State determines that federal funding may be lost due to the Project not being implemented and completed.
 7. Funds are not appropriated, in which case this Agreement shall be terminated immediately with no liability to either party. Payment under this Agreement beyond the current fiscal biennium is subject to availability of appropriated funds.
 8. The Local Government fails to attend progress meetings at least twice yearly, as scheduled by the State.

3. Amendments

This Agreement may be amended due to changes in the work, the amount of funding required to complete the Project or the responsibilities of the parties. Such amendment must be made through a mutually agreed upon, written amendment that is executed by the parties.

4. Scope of Work, Use of Project, and Project Location

The scope of work for the Project, which is shown in Attachment B, the Project Location Map, described in the nomination form and as approved by the Texas Transportation Commission, consists of: Constructing 1.35 mile concrete trail (varying in width from 12' to 14') along the South Nolan Creek northwest bank between Watercrest Road and West Elms Road. This work will include multiple low water crossings and neighborhood spur connections that will allow for safer access along and across the creek.

Any project changes proposed must be submitted in writing by the Local Government to the State. Changes may also require an amendment to the Agreement and the approval of the Federal Highway Administration (FHWA), the State, or the Commission. Any changes undertaken without written approval and Agreement amendment may jeopardize not only the federal funding for the changes, but the federal funding of the entire Project.

5. Right of Way and Real Property Acquisition

- A.** Right of way and real property acquisition shall be the responsibility of the Local Government. Title to right of way and other related real property must be acceptable to the State before funds may be expended for the improvement of the right of way or real property. If the Local Government is the owner of any part of the Project site under this Agreement, the Local Government shall permit the State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- B.** The Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to the State and its representatives for review and inspection.
- C.** The Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence of title or rights shall be acceptable to the State, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.
- D.** The State will not reimburse the Local Government for any real property acquired before execution of this agreement and before federal spending authority is approved.

- E.** The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to the State for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- F.** The Local Government agrees to make a determination of property values for each real property parcel to be purchased with federal funds by methods acceptable to the State and to submit to the State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership, acreage, and recommended compensation. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of the documentation and reports used in calculating each parcel's value. Expenses incurred by the Local Government in performing this work may be eligible for reimbursement after the Local Government has received written authorization by the State to proceed with determination of real property values. The State will review the data submitted and will base its reimbursement for parcel acquisitions on these in determining the fair market values.
- G.** Condemnation shall not be used to acquire real property for this enhancement Project.
- H.** Reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed eighty percent (80%) of the cost of the real property purchased in accordance with the terms and provisions of this Agreement. Reimbursement will be in an amount not to exceed eighty percent (80%) of the State's predetermined fair market value of each parcel, or the net cost thereof, whichever is less. In addition, reimbursement will be made to the Local Government for necessary payments to appraisers for expenses incurred in order to assure good title. Any costs associated with the relocation of displaced persons and personal property as well as incidental expenses incurred in acquiring property to implement the Project will be the responsibility of the Local Government and current property owner, at no cost to the State.
- I.** If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this Agreement. The separate agreement must establish that the Project will be dedicated for public use for a period of time commensurate with the federal investment, but not less than ten years after project completion. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of the Project after completion. This Agreement must be approved by the State prior to its execution. A copy of the executed Agreement shall be provided to the State.
- J.** The Local Government agrees to execute individually or produce a legal document as necessary to provide for the Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
- K.** Local governments receiving federal funds must retain an inventory of funded items and monitor projects in accordance with 23 CFR 710 and 49 CFR 18, and with the procedures provided in the State's Local Government Project Procedures manual. The Local Government agrees to monitor the Project to ensure: (1) continued use of the property for approved activities, and (2) the repayment of the Federal funds, as appropriate.

1. The Local Government agrees to the review of their Project accounts and site visits by the State during the development of the Project at any time.
 2. Upon Project completion, the State will continue to perform periodic visits to confirm the Project's continued use and upkeep.
- L. Forty five (45) days prior to any construction contract let date, the Local Government shall provide a certification to the State that all real property has been acquired.

6. Utilities

The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work, unless specified in the Transportation Enhancement Nomination form and approved by the State. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction begins.

7. Environmental Assessment and Mitigation

Development of the Project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- A. The Local Government is responsible for the identification and assessment of any environmental problems associated with the development of the Project.
- B. The Local Government is responsible for the cost of any environmental problem's mitigation and remediation. These costs will not be reimbursed or credited towards the Local Government's financial share of the Project unless specified in the nomination form and approved by the State.
- C. The Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment.
- D. Forty five (45) days prior to any construction contract let date, the Local Government shall provide a certification to the State that all environmental problems have been remediated. Additionally, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

8. Compliance with Texas Accessibility Standards and ADA

All parties to this Agreement shall ensure that the plans for and the construction of the Project subject to this Agreement are in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

9. Architectural and Engineering Services

Architectural and engineering services will be provided by the Local Government. In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and the Local Government will be seeking reimbursement for these services; and with Texas Government Code 2254, Subchapter A, in all cases. Professional services contracts for federally funded projects must conform to federal requirements.

- A. The architectural contract documents shall be developed in accordance with the standards of the American Institute of Architects, the U.S. Secretary of the Interior's *Standards for Historic Preservation Projects, Standards and Guidelines for Archeology and Historic Preservation, the National Register Bulletin Number 36: Guidelines for Evaluating and Registering Historical Archeological Sites* and in consultation with the State Historic Preservation Officer, as applicable. The engineering plans shall be developed in accordance with the State's applicable *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the two American Association of State Highway and Transportation Officials' (AASHTO) publications, "*A Policy on Geometric Design of Highways and Streets*" and "*Guide for the Development of Bicycle Facilities*," as applicable. All contract procurement procedures and documents must adhere to the applicable requirements established in the *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges*. The use of other systems of specifications shall be approved by the State in writing in advance.
- B. When architectural and engineering services are provided by or through the Local Government, the Local Government shall submit any plans it has completed to the State for review and approval. The Local Government may also submit the plans to the State for review anytime prior to completion. The Local Government shall make the necessary revisions determined by the State. The Local Government will not let the construction contract until all required plans have received State approval.
- C. When architectural and engineering services are provided by or through the State, then the following applies:
The State is responsible for the delivery and performance of any required architectural or preliminary engineering work. The Local Government may review and comment on the work as required to accomplish the Project purposes. The State will cooperate fully with the Local Government in accomplishing these Project purposes to the degree permitted by state and federal law.

10. Construction Responsibilities

- A. The Local Government shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.

- B. All contract letting and award procedures must be approved by the State prior to letting and award of the construction contract, whether the construction contract is awarded by the State or by the Local Government.
- C. All contract change order review and approval procedures must be approved by the State prior to start of construction.
- D. Upon completion of the Project, the party constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion.
- E. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR Part 635, Subpart B.
- F. Any field changes, supplemental agreements, or revisions to the design plans that may occur after the construction contract is awarded will be mutually agreed to by the State and the Local Government prior to authorizing the contractor to perform the work. Prior to completion of the Project, the party responsible for construction will notify the other party to this Agreement of the anticipated completion date. All parties will be afforded the opportunity to assist in the final review of the construction services performed by the contractor.

11. Project Maintenance

- A. Upon completion of the Project, the Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period of time commensurate with the federal investment or State rules, whichever is greater. Should the Local Government at any time after Project completion decide it can no longer maintain and operate the Project for its intended purpose, the Local Government shall return the federal funds in accordance with CFR federal recapture requirements. Should the Local Government consider conveying the property, the State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction, detailing any required recapture, must be obtained from FHWA prior to the transaction. Advance notice from the Local Government of their intended action must be submitted to the State for an FHWA review a minimum of sixty (60) days prior to any action being taken by the Local Government. The Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from the Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.
- B. Any manufacturer warranties extended to the Local Government as a result of the Project shall remain in the name of the Local Government. The State shall not be responsible for honoring any warranties under this Agreement.
- C. Should the Local Government derive any income from the development and operation of the Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property shall be set aside for future maintenance. A project income report shall be submitted to the

State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures established under OMB-133 and with the property management standards established in Title 49 CFR §18.32.

- D. Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of the Project.

12. Local Project Sources and Uses of Funds

- A. A Project Budget Estimate is provided in Attachment C, showing the total estimated development cost of the Project. This estimate shows the itemized cost of real property, utilities, environmental assessments and remediation, construction, and any other substantial items of cost. To be eligible for reimbursement, costs must have been included in the itemized budget section of the nomination form approved by the Texas Transportation Commission. The State and the Federal Government will not reimburse the Local Government for any work performed before federal spending authority is formally obligated to the Project by the Federal Highway Administration. After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- B. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training *in Local Government Procedures Qualification for the Texas Department of Transportation* before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.
- C. A Source of Funds estimate based on the budget provided in the project nomination form is included as Attachment C. Attachment C shows the percentage and estimated dollar amounts to be contributed to the Project by state and local sources, as well as the maximum amount in federal Transportation Enhancement funds assigned by the Commission to the project. The parties agree that the Agreement may be amended from time to time as required to meet the funding commitments based on revisions to the Transportation Improvement Program, FPAA, or other federal document.
- D. The Local Government will be responsible for all non-federal participation costs associated with the Project, including any overruns in excess of the Project cost estimate and any operating or maintenance expenses.
- E. The State will be responsible for securing the federal share of funding required for the development and construction of the Project, in an amount not to exceed eighty percent (80%) of the actual cost of the work up to the amount of funds approved for the Project by the Texas

Transportation Commission. Federal funds will be reimbursed on a cost basis. Project costs incurred prior to Project selection by the Texas Transportation Commission and approval by the State to proceed are not eligible for reimbursement.

- F.** Following execution of this Agreement, but prior to the performance of any review work by the State, the Local Government will pay an amount sufficient to cover the estimated cost for the State's review. The Local Government shall advance to the State one percent (1%) of the State's administrative and associated cost for review of the plans, specifications, and estimate. The Local Government must also advance to the State zero percent (0%) of the Project's estimated preliminary engineering cost, if the State is administering the architectural or engineering contract. The estimated amount of this advance for this Project's preliminary engineering is \$ 4,852, in cash. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government must advance to the State two percent (2%) of the State's administrative and associated costs for letting and construction. The Local Government shall also remit its remaining financial share for the Project's estimated construction and construction engineering costs, if the State is letting the Project. The amount to be advanced for this Project's Construction is estimated to be \$ 9,703, in cash.
- G.** In the event the State determines that additional funding is required by the Local Government at any time during the Project, the State will notify the Local Government in writing. The Local Government is responsible for twenty-five percent (25%) of the authorized Project cost and one hundred percent (100%) of any overruns above the federally authorized amount. The Local Government will make payment to the State within thirty (30) days from receipt of the State's written notification.
- H.** Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government will remit a warrant made payable to the "Texas Department of Transportation Trust Fund." The warrant will be deposited by the State in an escrow account to be managed by the State. Until the final Project accounting, funds in the escrow account may only be applied by the State to the Project.
- I.** Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party. If, after final Project accounting, excess funds remain in the escrow account, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.
- J.** In the event the Project is not completed, the State may seek reimbursement from the Local Government of the expended federal funds. The Local Government will remit the required funds to the State within sixty (60) days from receipt of the State's notification.
- K.** If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than state or federal regulations, or if any other locally proposed changes, including but not limited to plats or re-plats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by the Local Government. The cost of providing right of way acquired by the State shall mean the

total expenses in acquiring the property interests through negotiations, including, but not limited to, expenses related to relocation, removal, and adjustment of eligible utilities.

- L. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the Agreement or indirectly through a contract or subcontract under the Agreement. Acceptance of funds directly under the Agreement or indirectly through a contract or subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- M. The State will not pay interest on any funds provided by the Local Government.
- N. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.
- O. The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly, and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

13. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City Manager	Director of Contract Services Office
City of Killeen	Texas Department of Transportation
P.O. Box 1329	125 E. 11 th Street
Killeen, Texas 76540	Austin, Texas 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

14. Legal Construction

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall

not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

15. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

16. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Local Government.

17. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft® Word or similar format. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate, including types of activities and month in which the activity will be completed, in the format required by the State. This requirement applies whether the Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

18. Compliance with Laws

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

19. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

20. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

21. Procurement and Property Management Standards

The parties shall adhere to the procurement standards established in Title 49 CFR §18.36 and with the property management standard established in Title 49 CFR §18.32.

22. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the Federal Highway Administration (FHWA), and the U.S. Office of the Inspector General, or their duly authorized representatives for review and inspection at its office during the Agreement period and for four (4) years from the date of completion of work defined under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

23. Civil Rights Compliance

The Local Government shall comply with the regulations of the U. S. Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

24. Disadvantaged Business Enterprise Program Requirements

- A.** The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B.** The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C.** The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D.** The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E.** The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

25. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a contract, subcontract, or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

26. Lobbying Certification

In executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite imposed by Title 31 U.S.C. §1352 for making or entering into this transaction. Any person who fails to file the

required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

27. Insurance

- A. Should this Agreement authorize the Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.
- B. For projects including buildings, the Local Government agrees to insure the building according to Department specifications and further agrees to name the Federal Government as a "Loss Payee" should the building be destroyed.

28. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms:
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
 - 1. Obtain and provide to the State a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides for more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR web-site whose address is: <https://www.sam.gov/portal/public/SAM/>;
 - 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and
 - 3. Report the total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

29. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B. If threshold expenditures of \$500,000 or more are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if

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applicable) to TxDOT's Audit Office, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>.

- C. If expenditures are less than \$500,000 during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$500,000 expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

30. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT

Signature

Typed or Printed Name

Title

Date

THE STATE OF TEXAS

Janice Mullenix
Director of Contract Services
Texas Department of Transportation

Date

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ATTACHMENT A RESOLUTION OF LOCAL GOVERNMENT

REG 11-13-12
ITEM # CA-4
CCM/R 12-091R

CITY COUNCIL MEMORANDUM

AGENDA ITEM

**CONSIDER AUTHORIZING THE CITY MANAGER
TO SUBMIT A TRANSPORTATION ENHANCEMENT
PROGRAM APPLICATION TO THE TEXAS
DEPARTMENT OF TRANSPORTATION (TxDOT) TO
CONSTRUCT A HIKE AND BIKE TRAIL**

**ORIGINATING
DEPARTMENT**

PUBLIC WORKS

BACKGROUND

In cooperation with the Federal Highway Administration, the Texas Highway Commission issued a call for project nominations for the statewide Transportation Enhancement Program (TE) on August 30, 2012. The call began on September 14, 2012 and will close on November 16, 2012. Under the program, 80% of eligible project construction costs can be reimbursed with the nominating entity providing at least 20% of the project's construction costs. Cost-reimbursement programs require sponsors to pay for project costs up front with the funding agency providing reimbursement for costs throughout various stages of the project. Projects are funded through a statewide competitive process with funds limited to those authorized in the Enhancement program.

In the two previous project calls, the City of Killeen has secured funding for two (2) Hike and Bike Trails. These projects have been extremely successful and a tremendous benefit to the residents of Killeen. In addition to providing an alternative to motorized travel, they serve the community's need for additional recreation and fitness venues.

DISCUSSION/CONCLUSION

After consulting the City of Killeen Master Trail Plan and the KTMPO Regional Thoroughfare Plan, staff has identified a 1.35-mile trail project (from Watercrest Road to West Elm Road) as an eligible project (**See Exhibit 1**). The proposed segment is part of the City of Killeen's Comprehensive Plan, which consists of a 9.2 mile regional trail. This regional trail would connect the Andy K. Wells Trail in northeast Killeen (downtown) with the Central Texas A&M campus in south Killeen via Ft. Hood (**See Exhibit 2**). The proposed regional trail would connect densely populated residential areas of Killeen and Ft. Hood with commercial, educational, employment, and public transportation opportunities throughout Killeen and the larger Central Texas region. The proposed 1.35 mile project will increase transportation choices and access to transportation and will have a positive impact on community life. It is anticipated that the proposed trail would ultimately connect with the larger trail network identified in the Killeen-Temple Metropolitan Planning Organization's Regional Thoroughfare Plan.

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The cost to design the project and perform the environmental assessment is the responsibility of the City. The **Nomination Budget** for the trail project is as follows:

Project Components	Funded By	Cost	City Participation
Engineering Fees	100% City	\$270,000	\$270,000
Environmental Assessment	100% City	\$46,000	\$46,000
Construction Costs	25% City 75% Grant	\$1,940,664	\$485,166
Total Project Cost		\$2,256,664	\$704,133

FISCAL IMPACT

In the 2002 bond election, voters approved funds for a west side park. If awarded the grant, the City will issue General Obligation bonds designated from the 2002 bond election to meet the fiscal commitment.

RECOMMENDATION

Recommend that the City Council authorize the City Manager to submit a Transportation Enhancement Program application to the Texas Department of Transportation for the Andy K. Wells Trail Extension Project.


“The City of Killeen supports funding this project as shown in the nomination budget (including the 25% local match for construction costs) and commits to the project’s development, implementation, construction, maintenance, management, and financing. The City of Killeen is willing and able to enter into an agreement with TxDOT by resolution or ordinance should the project receive funding.”

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

That the above-stated recommendation is hereby approved and authorized.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this 13th day of November, 2012, 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

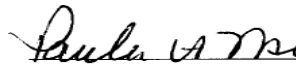


Daniel Corbin
MAYOR

APPROVED AS TO FORM:


Kathryn H. Davis
CITY ATTORNEY

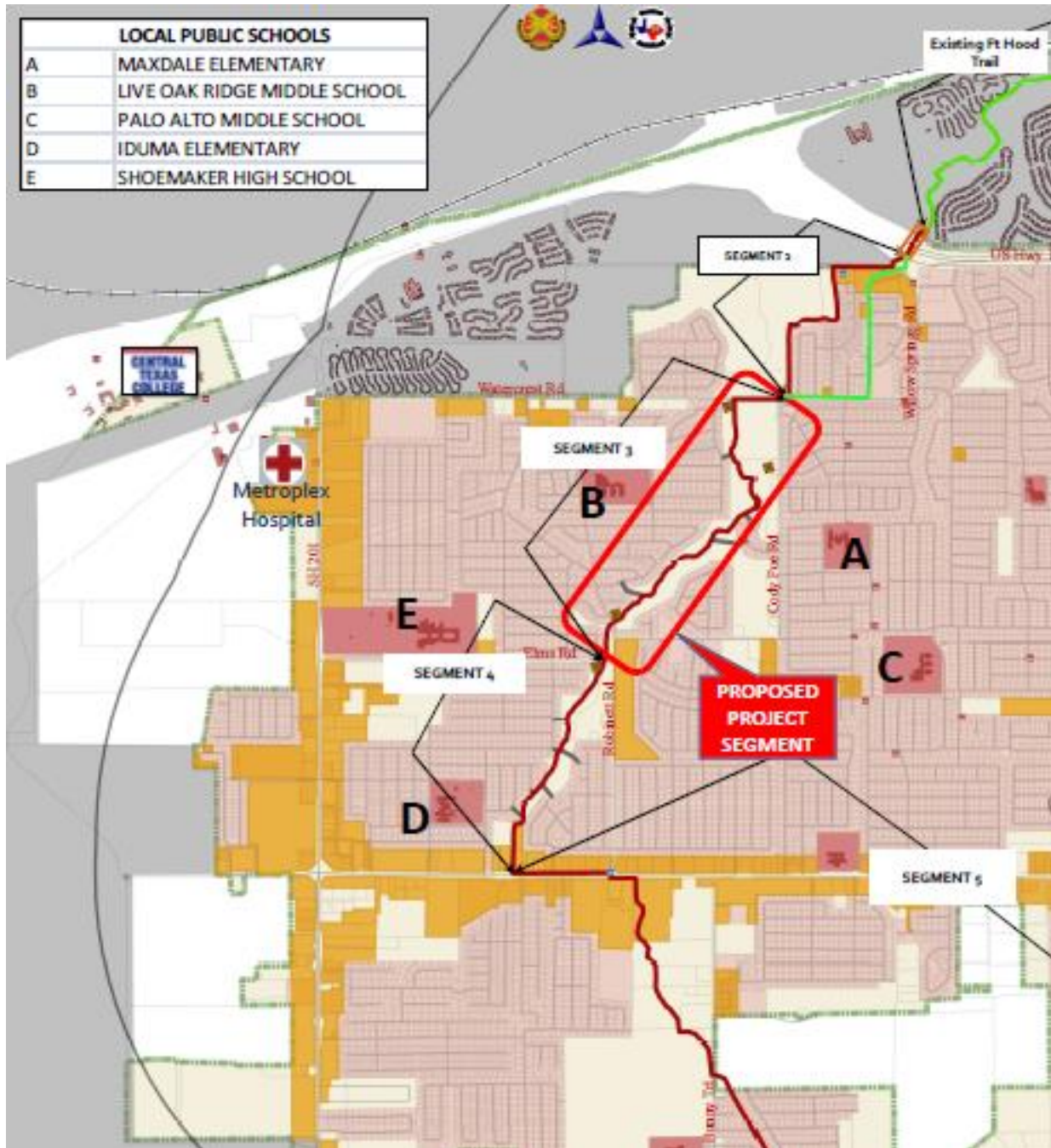
ATTEST:


Paula A. Miller
CITY SECRETARY



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ATTACHMENT B PROJECT LOCATION MAP



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ATTACHMENT C
PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS
Off System - TE Project Budget Estimate

LG Performs PE Work or Hires Consultant / Local Let Project to Construction Contract

Description of Project Cost to be incurred:	Total Estimated Cost = Authorized Amount	Federal Participation (75% or <) Max TE \$1,455,498		State Participation = 0		Local Participation (25% or greater)		
		%	Cost	%	Cost	%	Cost	
Locals will retain their local match for those services administered/contracted themselves.								
Planning, research, surveying, education for non-construction related projects	\$0	0%	\$0	0%	\$0	100%	\$0	
Utilities	\$0	0%	\$0	0%	\$0	100%	\$0	
Environmental Cost	\$0	0%	\$0	0%	\$0	100%	\$0	
Right of Way – by LG	\$0	0%	\$0	0%	\$0	100%	\$0	
Subtotal by Local Gov't	\$0	0%	\$0	0%	\$0	100%	\$0	
TxDOT Administrative cost incurred - PE:	Based on 1% of estimated Total Project Costs in Nomination's budget						*Due within 30 days	
TxDOT - PE Phase – Direct State Cost reviews, clearances, admin., coordination, etc.	\$19,407	75%	\$14,555			25%	*\$4,852	
TxDOT Administrative cost incurred - CE:	Based on 2% of estimated Total Project Costs in Nomination's budget						**Due 60 days prior	
TxDOT - Construction Phase – Direct State Costs-oversight, inspection, site visits, etc.	\$38,813	75%	\$29,110	0%	\$0	25%	**\$9,703	
Direct Project Construction COST	Locals retain their local participation below to apply to project cost directly							
Construction Contract – work bid items, letting fees, clearances, permits, etc. ,CE	\$1,882,444	75%	\$1,411,833	0%	\$0	25%	\$470,611	
Other Associated Construction Cost	\$0	0%	\$0	0%	\$0	0%	\$0	
Subtotal Construction	\$1,940,664	75%	\$1,455,498	0%	\$0	25%	\$485,166	
TOTAL	\$1,940,664	75%	\$1,455,498	0%	\$0	25%	\$485,166	

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The Estimated Total Participation by the Local Government is \$485,166, plus 100% of overruns. Payment of the Local's share of TxDOT's ADM PE Cost to be incurred is \$4,852, due within 30 days from execution of the AFA contract. Payment of the Local's share of TxDOT's ADM Cost for Construction to be incurred is \$9,703, due 60 days prior to the Construction contract being advertised for bids. This is an estimate. The eligible percent of required local match as stated in the nomination is 25% or greater. The final amount of Local Government participation will be based on actual costs and values. The Maximum TE federal funds available for the project are \$1,455,498.



July 26, 2013

George Lueck, P.E.
Director of Transportation
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

Dear Mr. Lueck:

On behalf of the Texas Transportation Commission and the Texas Department of Transportation (TxDOT), I am pleased to advise you that the Killeen-Fort Hood Regional Trail, Segment 3, submitted for the Transportation Enhancement Program has been selected for funding. The maximum federal funding available for this project is \$1,455,498.

Please be advised that project nominators are required to execute a project agreement with TxDOT. According to the program rules, the agreement must be executed within one year of this notification letter. Failure to execute the agreement within the allotted time period will jeopardize the federal funding. Also, please note that no reimbursement costs can be incurred until the agreement is executed and the Federal Highway Administration authorizes funding for the project.

A representative from TxDOT's Waco District Office will be contacting you in the near future to initiate the development of the project agreement and to discuss the requirements associated with implementing a federal-aid transportation project.

Again, I want to congratulate you on your selected project.

Sincerely,

Mark A. Marek, P.E.
Director, Design Division

cc: Bobby Littlefield, Jr., Waco District Engineer, TxDOT
Jim Reed, Waco District Enhancement Coordinator, TxDOT

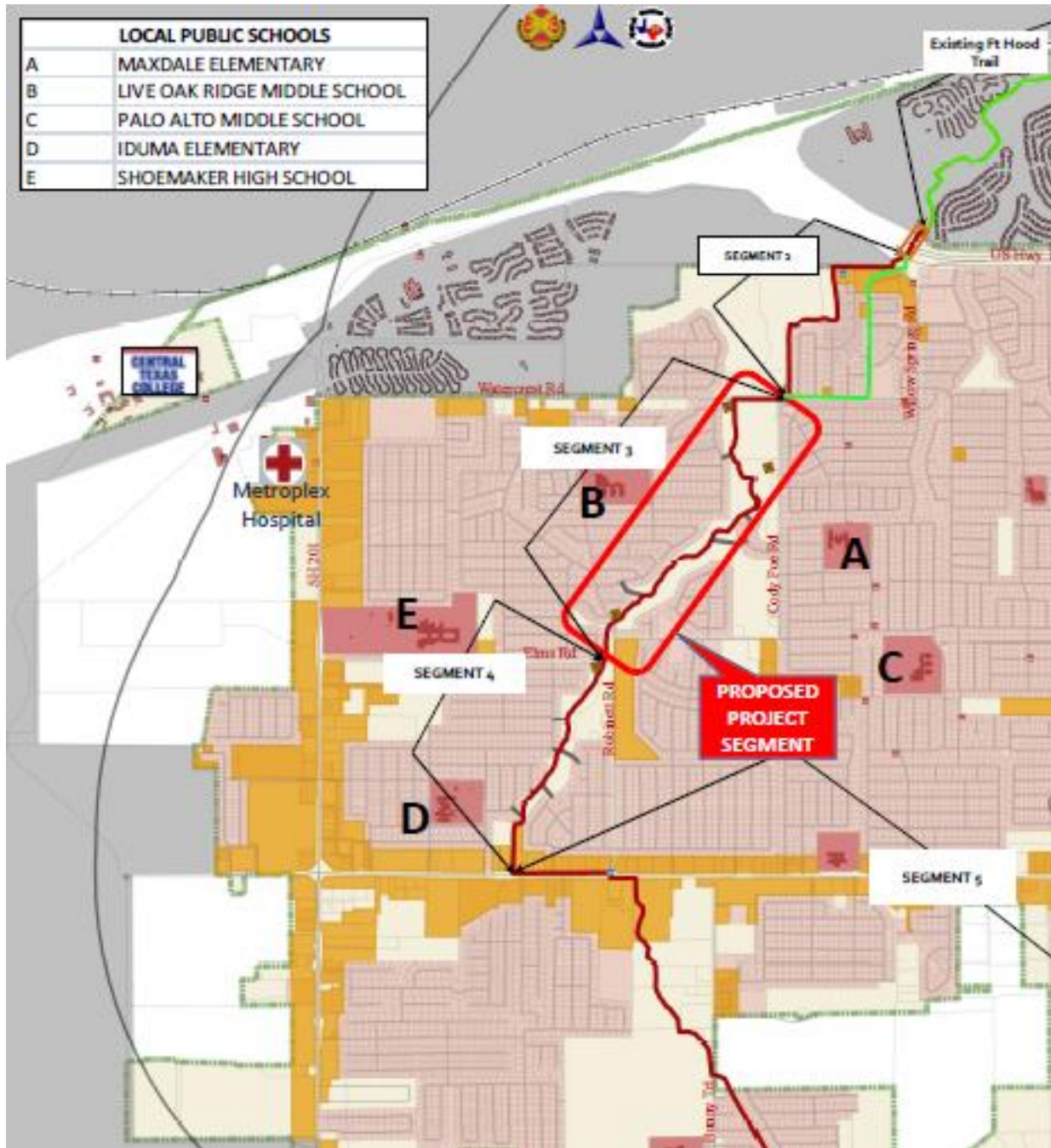
OUR GOALS

MAINTAIN A SAFE SYSTEM • ADDRESS CONGESTION • CONNECT TEXAS COMMUNITIES • BEST IN CLASS STATE AGENCY

An Equal Opportunity Employer

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PROJECT LOCATION MAP





City of Killeen

Legislation Details

File #: PH-14-023 **Version:** 1 **Name:** Zoning 14-04
Type: Ordinance/Public Hearing **Status:** Public Hearing/Ordinances
File created: 3/3/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: HOLD a public hearing and consider an ordinance requested by Myong C. Woodie (Case #Z14-04) to rezone 313 N. 8th Street from Historic Overlay District (HOD) to HOD with a Conditional Use Permit (CUP) for the on-premises sale and consumption of alcohol.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)
[Opposition](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

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

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

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

HOD District Descriptions:

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

The following standards or requirements shall apply to the HOD:

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

Conditional Use Permit:

The City Council by an affirmative majority vote may by ordinance grant a Conditional Use Permit as provided in section 31-456 of this chapter for any business land use or any use identified in the full list of the Killeen Downtown Action Agenda adopted by City Council in February 2007 (Resolution 07-023R) for a specific parcel in the district and may impose appropriate conditions and safe guards to assure that these land uses are compatible with the character of the district setting and buildings. Conditional Use Permits granted shall be

considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed.

Property Specifics

Applicant/Property Owner: Myong C. Woodie

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

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

Zoning/Plat Case History:

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

Character of the Area

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

Figure 1. Zoning Map

See Attachment

Historic Properties: None

Infrastructure and Community Facilities

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer, and drainage utility services are available to the property.

Transportation:

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

Proposed Improvements: None

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

Environmental Assessment

Topography: The property is flat.

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

Land Use Analysis

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

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

Consistency: The request is consistent with the Comprehensive Plan.

Public Notification

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

Recommendation

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

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

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

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

Figure 1. Zoning Map



Figure 2. Aerial Map



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 HOD (HISTORIC OVERLAY DISTRICT) TO HOD WITH CUP (CONDITIONAL USE PERMIT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Myong Woodie 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 part of Lot 12, Block 11, Original Town of Killeen from HOD (Historic Overlay District) to HOD with CUP (Conditional Use Permit) for the on-premises sale and consumption of alcohol, said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 3rd day of March 2014, 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 25th day of March 2014, 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 HOD (Historic Overlay District) to HOD with CUP (Conditional Use Permit) to allow the on-premises sale and consumption of alcohol, for part of Lot 12, Block 11, Original Town of Killeen, and being locally known as 313 N. 8th Street, 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 25th day of March 2014, 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:

Daniel A. Corbin, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney

Case #14-04
Ord # 14-

**PLANNING AND ZONING COMMISSION MEETING
MARCH 3, 2014**

**CASE # Z14-04
HOD TO HOD W/CUP**

HOLD a public hearing and consider a request by Myong Woodie to rezone Part of Lot 12, Block 11, Killeen Original from HOD (Historic Overlay District) to HOD (Historic Overlay District) with CUP (Conditional use Permit) for a karaoke bar with on premises sale and consumption of alcohol. The property is locally known as 313 N. 8th Street, Killeen, Texas.

Vice Chair Dorroh requested staff comments.

Senior Planner, Shelly Shelton stated that Ms. Woodie would like to rezone her Karaoke bar to HOD (Historic Overlay District) with a CUP (Conditional Use Permit) to allow on-premises sale and consumption of alcohol. The property is locally known as 313 N. 8th Street, Killeen, Texas. And, the City has not enacted the 300-foot restriction in HOD.

The staff notified 19 surrounding property owners within a 200' notification boundary regarding this request. Staff received one protest from Mr. Paul Jo, 311 N. 8th Street, Killeen, Texas. Mr. Jo asked for the sale of alcohol cease at 10:00 p.m. but did not state any reason for the request.

Staff recommends approval of the applicant's conditional use permit request.

Eric Kelley, 1418 Summer Glen, Harker Height, Texas, was present to represent this request. In response to the protest from Mr. Jo, Mr. Kelley stated that 10:00 p.m. is the busiest time in a karaoke bar so it would not be profitable to cease liquor sales at that time.

Vice Chair Dorroh opened the public hearing. With no one requesting to speak, the public hearing was closed.

Commissioner Dehart made a motion to approve the request, Commissioner Butler seconded the motion. The motion passed 7-0.

Vice Chair Dorroh stated that this will be forwarded to City Council on March 25, 2014, with a recommendation to approve.



Date Paid:	_____
Amount Paid:	\$ _____
Cash/MO #/Check #:	# _____
Receipt #:	_____

CASE #: 31404

City of Killeen Zoning Change Application

[] General Zoning Change [] Conditional Use Permit

Name(s) of Property Owner: Myong Woodie
 Current Address: 1418 Summer Green Dr
 City: Harker Heights State: TX Zip: 76548
 Home Phone: (254) 338-7122 Business Phone: (254) 554-3522 Cell Phone: (254) 338-7122
 Email: N/A

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

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: () _____ Business Phone: () _____ Cell Phone () _____

Email: _____

Address/Location of property to be rezoned: 313 N 8th Killeen

Legal Description: _____

Metes & Bounds or Lot(s) Block Subdivision

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

Type of Ownership: Sole Ownership Partnership Corporation Other

Present Zoning: B-1 Present Use: BACNANT

Proposed Zoning: HDD w/cup Proposed Use: B-1 w/cup

Conditional Use Permit for: Karaoke Bar

This property was conveyed to owner by deed dated 12/7/2013 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: ERIC L KELLEY / Eric Kelley
 Mailing Address: 1118 Summer Glen Dr
 City: Walker Micht State: TX Zip: 76549
 Home Phone: () _____ Business Phone: (214) 466-4701 Email: _____

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 Eric L Kelley Title _____
 Printed/Typed Name of Agent _____ Date _____
 Signature of Agent _____ Title _____
 Printed/Typed Name of Agent _____ Date _____
 Signature of Applicant _____ Title _____
 Printed/Typed Name of Applicant _____ Date _____
 Signature of Property Owner Myself for work 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:

#Z14-04





ZONING FROM:

**HOD TO HOD
WITH CUP**

PROPERTY OWNER:

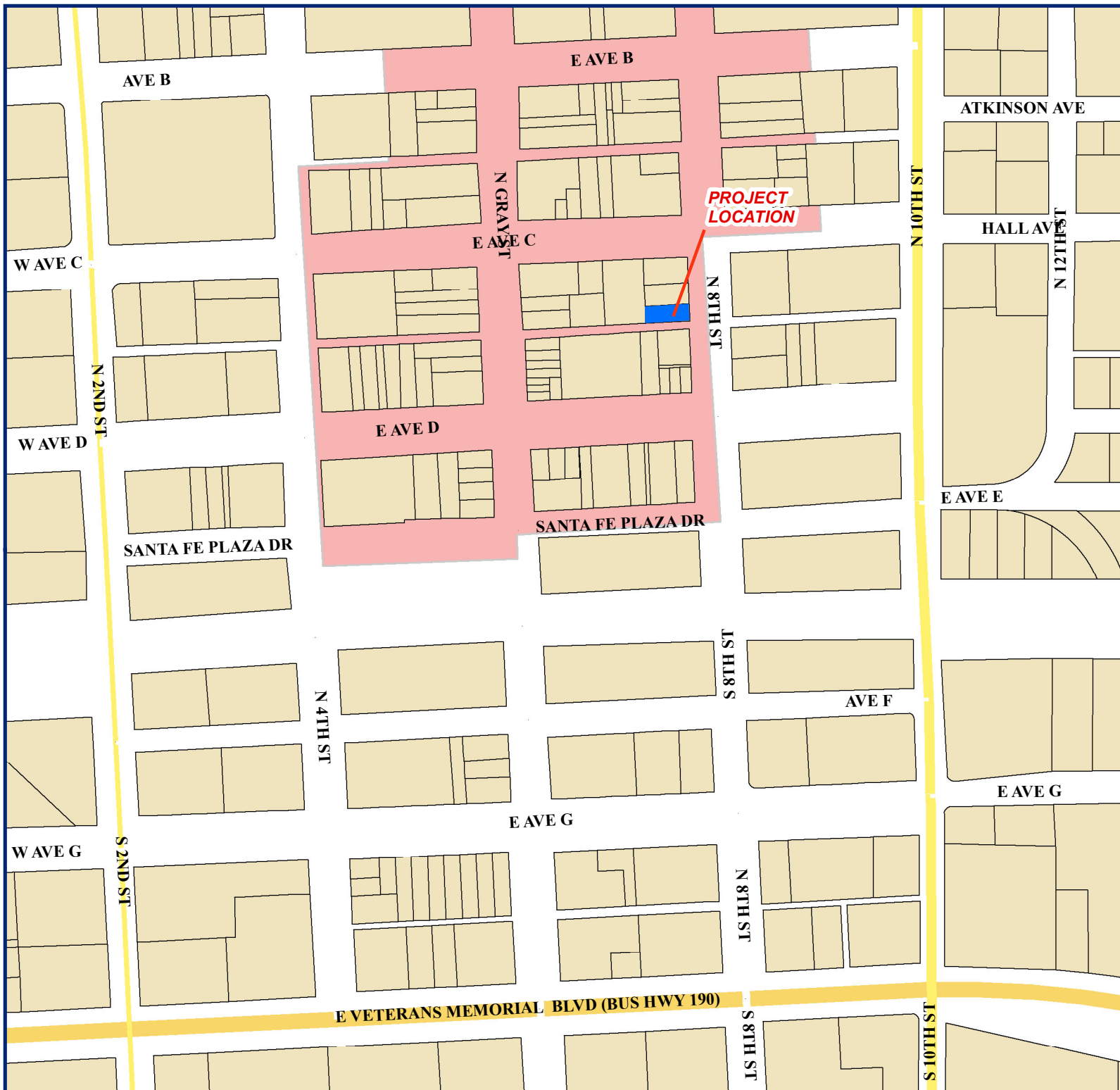
MYONG WOODIE

LEGEND

-  Zoning Cases
-  Parcel
-  Historic Overlay Districts
-  City Limits



Date: 2/13/2014












**PLANNING AND
DEVELOPMENT SERVICES**

**ZONING CASE:
#Z14-04**

**ZONING FROM:
HOD TO HOD
WITH CUP**

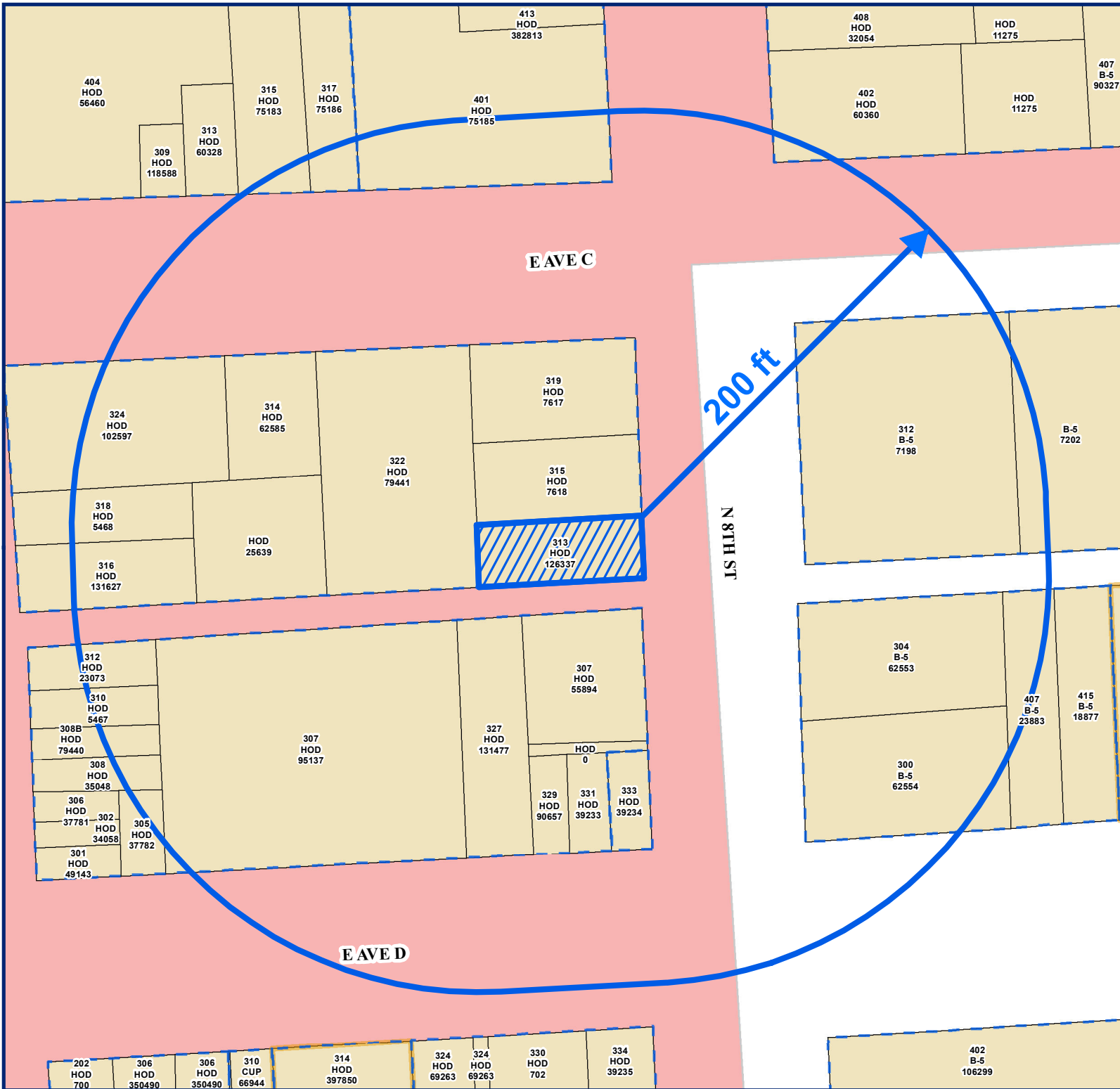
**PROPERTY OWNER:
MYONG WOODIE**

LEGEND

-  Buffer_of_#14-04
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  Historic Overlay Districts
-  City Limits



Date: 2/13/2014



CONSIDERATIONS

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

A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

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

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

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

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

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

Whether there have been substantially changed conditions in the neighborhood.

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

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


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

B. Conditional Use Permit (if applicable)

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

C. Conditions to Consider

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

YOUR NAME: PAUL JO	PHONE NUMBER: 254-526-4447
CURRENT ADDRESS: 311 N 8th ST, KILLEEN, TX. 76541	
ADDRESS OF PROPERTY OWNED:	
COMMENTS:	HOD to HOD w/CUP
I AM NOT IN FAVOR OF THE SALE OF ALCOHOL IN A KARAOKE BAR. I FEEL THAT	
THERE SHOULD A LIMIT OF TIME TO SALE ALCOHOL UNTIL 10pm ONLY.	
I PREFER IF IT WAS A KARAOKE COFFEE/CAFE INSTEAD OF BAR.	
SIGNATURE: 	SPO #Z14-04/ <i>01-03</i>

P.O. BOX 1329 · KILLEEN, TEXAS 76540-1329 · 254.501.7630 · 254.501.7628 FAX
 WWW.CI.KILLEEN.TX.US

RECEIVED

FEB 27 2014

PLANNING



City of Killeen

Legislation Details

File #: PH-14-024 **Version:** 1 **Name:** Zoning 14-05
Type: Ordinance/Public Hearing **Status:** Public Hearing/Ordinances
File created: 3/3/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: HOLD a public hearing and consider an ordinance requested by Billy W. Revis (Case #Z14-05) to rezone 1316 W. Central Texas Expressway from B-5 (Business District) to B-3A (Local Business and Retail Alcohol Sales District). The property is located on the south side of W. Central Texas Expressway, approximately 135 feet east of Old FM 440.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

**ZONING CASE #Z14-05 FROM B-5
(BUSINESS DISTRICT) TO B-3A (LOCAL
BUSINESS AND RETAIL ALCOHOL SALES
DISTRICT)**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

This request is to rezone 1316 W. Central Texas Expressway from B-5 (Business District) to B-3A (Local Business and Retail Alcohol Sales District) to allow for package store sales. The property is located on the south side of W. Central Texas Expressway, approximately 135 feet east of Old FM 440.

B-3A Use regulations:

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

- Any use permitted in the B-3 district, in accordance with the requirements of this division.
- Package stores to be operated under, and in accordance with, a valid Texas Alcoholic Beverage Commission issued package store permit provided that such establishment:
 - complies with all applicable rules and regulations established under the Texas Alcoholic Beverage Code (TABC) and/or promulgated by the Texas Alcoholic Beverage Commission, as amended. Said rules and regulations are hereby adopted and incorporated herein for all purposes; and
 - is not located within: three hundred (300') feet of a church, public or private school or public hospital; one thousand (1000') feet of a public school if a request is submitted to city council by the board of trustees of a school district under Section 38.007, Texas Education Code; or one thousand (1000') feet of a private school if a request is submitted to city council by the governing body of the private school. The measurement of the distances shall be as provided under TABC § 109.33 and in accordance with the procedures established by the TABC, as amended, which is hereby adopted and incorporated herein for all purposes. The city council may, however, allow a variance from this distance requirement in accordance with TABC §109.33(e).
- Uses listed in the B-3A Local Business and Retail Alcohol Sales District shall not be incorporated by right into less restrictive zoning districts, including, without limitation, the B-3, B-4, or B-5 districts, but shall be considered to be a stand-alone zoning district, except as provided for in this division.

Property Specifics

Applicant/Property Owner: Billy W. Revis

Property Location: The property is located on the south side of W. Central Texas Expressway, approximately 135 feet east of Old FM 440.

Legal Description: Lot 3, Block 2, K West Center.

Zoning/Plat Case History:

- There is no recent rezone activity for this property.
- The property is platted as Lot 3, Block 2, K West Center.

Character of the Area

Existing Land Uses(s) on the Property: This is the site of an existing furniture retail operation.

Figure 1. Zoning Map

See Attachment

Historic Properties: None

Infrastructure and Community Facilities

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer, and drainage utility services are available to the property.

Transportation:

Existing Conditions: W. Central Texas Expressway is classified as a 70' collector on the City's Thoroughfare Plan.

Proposed Improvements: There are facade requirements for this project if the zoning change is approved.

Projected Traffic Generation: There will be a minimal increase in traffic as a result of this zoning action.

Environmental Assessment

Topography: The property is at an elevation of 916'.

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

Land Use Analysis

Land Use Plan: The property is designated as 'General Commercial' on the Adopted Future Land Use Map (FLUM) a component of the Comprehensive Plan.

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

Consistency: The request for a change of zoning is consistent with the Comprehensive Plan.

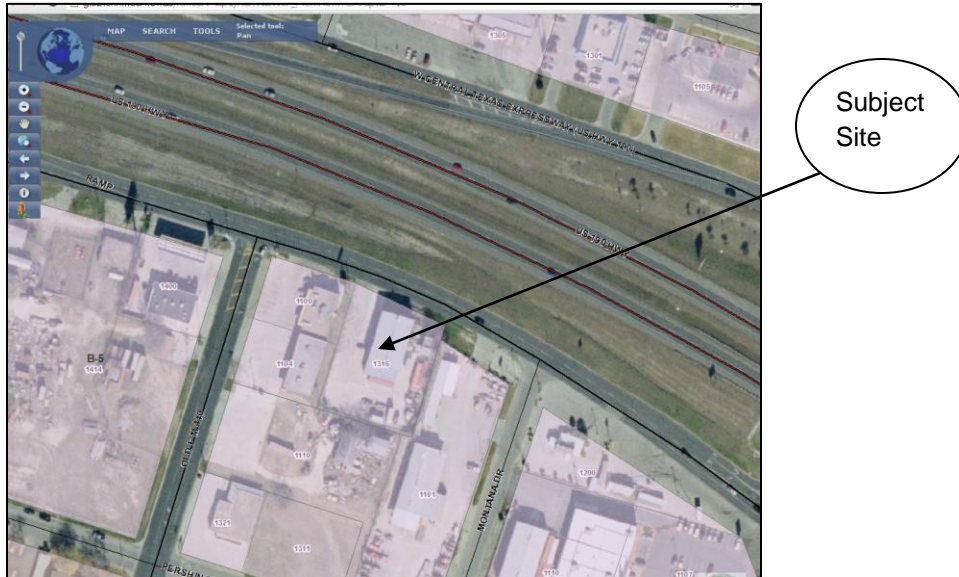
Public Notification

The staff notified seven surrounding property owners regarding this request. Staff has received no responses.

Recommendation

The Planning and Zoning Commission recommend approval of the applicant's change of zoning request by a vote of 7 to 0. It is consistent with the Comprehensive Plan and meets all of the TABC distance requirements.

Figure 1. Zoning Map



ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY WITHIN THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-5 (BUSINESS DISTRICT) TO B-3A (LOCAL BUSINESS AND RETAIL ALCOHOL SALES DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Billy W. Revis 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 1316 W. Central Texas Expressway, from B-5 (Business District) to B-3A (Local Business and Retail Alcohol Sales District), said request having been duly presented and recommended for approval of B-3A zoning, by the Planning and Zoning Commission of the City of Killeen, on the 3rd day of March 2014, 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 25th day of March 2014, 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 part of Lot 3, Block 2, K West Center, being locally addressed as 1316 W. Central Texas Expressway, Killeen, Texas, be changed from B-5 (Business District) to B-3A (Local Business and Retail Alcohol Sales 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 25th day of March 2014, 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:

Daniel A. Corbin, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney

Case #14-05

Ord. # 14

**PLANNING AND ZONING COMMISSION MEETING
MARCH 3, 2014**

**CASE # Z14-05
B-5 TO B-3A**

HOLD a public hearing and consider a request by Billy W. Revis to rezone Lot Pt 3, Block 2, K West Center from B-5 (Business District) to B-3A (Local Business and Retail Alcohol Sales District) for a package liquor store. The property is locally known as 1316 W. Central Texas Expressway, Killeen, Texas.

Vice Chair Dorroh requested staff comments.

Senior Planner, Shelly Shelton stated that the property is located approximately 135 feet east of Old FM 440. The property is not within 300 feet of a school, church or hospital. The property is being used for a furniture store. The applicant is aware of the façade requirements of the B-3A zoning district. The property is platted and there is adequate infrastructure. The proposed development is not within any FEMA regulatory Special Flood Hazard Area.

The staff notified seven (7) surrounding property owners within a 200' notification boundary regarding this request. No Responses were received.

Staff recommends approval of the applicant's B-3A request.

Myleny Domanite, 4401 Twin Oaks Circle, Killeen, Texas, was present to represent this request. Ms. Domanite stated that she currently owned the furniture store and will open the liquor store.

Vice Chair Dorroh opened the public hearing. With no one else requesting to speak, the public hearing was closed.

Commissioner Alvarez motioned to recommend approval of the zoning request. Commissioner Steine seconded the motion. The motion passed 7-0.

Vice Chair Dorroh stated that this will be forwarded to City Council on March 25, 2014, with a recommendation to approve.



Date Paid:	<u>1-30-14</u>
Amount Paid:	\$ <u>200.00</u>
Cash/MO #/Check #:	# <u>0014</u>
Receipt #:	<u>0014</u>

CASE #: Z14-05

31-306

City of Killeen Zoning Change Application

[] General Zoning Change [] Conditional Use Permit

Name(s) of Property Owner: BILLY W. REVIS, ETAL

Current Address: P.O. Box 691059

City: KILLEEN State: TX Zip: 76549

Home Phone: () _____ Business Phone: (²⁵⁴) 634-0704 Cell Phone: (²⁵⁴) 628-9300

Email: billyrevis@hotmail.com

Name of Applicant: MYLENE E. DOMANITE
(If different than Property Owner)

Address: 4401 TWIN OAKS CIR

City: Killeen State: TX Zip: 76542

Home Phone: (~~254~~) 554-6031 Business Phone: () _____ Cell Phone: (²⁵⁴) 535-4678

Email: midsweetminn7@gmail.com

Address/Location of property to be rezoned: 1316 W. CENTEX EXPWY, KILLEEN

Legal Description: LOT PT 3 (3 LESS TR OUT OF NE COR), BLOCK 2, K WEST CENTER

Metes & Bounds or Lot(s) Block Subdivision

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

Type of Ownership: Sole Ownership Partnership Corporation Other

Present Zoning: B-5 Present Use: FURNITURE STORE

Proposed Zoning: B3A4D Proposed Use: LIQUOR STORE

Conditional Use Permit for: _____

This property was conveyed to owner by deed dated 1/29/97 and recorded in Volume 3574, Page 616, 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: MYLENE DOMANITE

Mailing Address: 4401 TWIN OAKS CIR

City: Killeen State: TX Zip: 76542

Home Phone: ~~(254) 554-6081~~ Business Phone: ~~(254) 535-4678~~ Email: MDSWEETMINOU@GMAIL.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.

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Signature of Agent Mylene Domanite Title Agent

Printed/Typed Name of Agent MYLENE DOMANITE Date 1/30/2014

Signature of Agent _____ Title _____

Printed/Typed Name of Agent _____ Date _____

Signature of Applicant _____ Title _____

Printed/Typed Name of Applicant _____ Date _____

Signature of Property Owner Billy W. Revis Title Owner

Printed/Typed Name of Property Owner BILLY W. REVIS Date 1/23/14

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:

#Z14-05




ZONING FROM:

B-5 TO B-3A

PROPERTY OWNER:

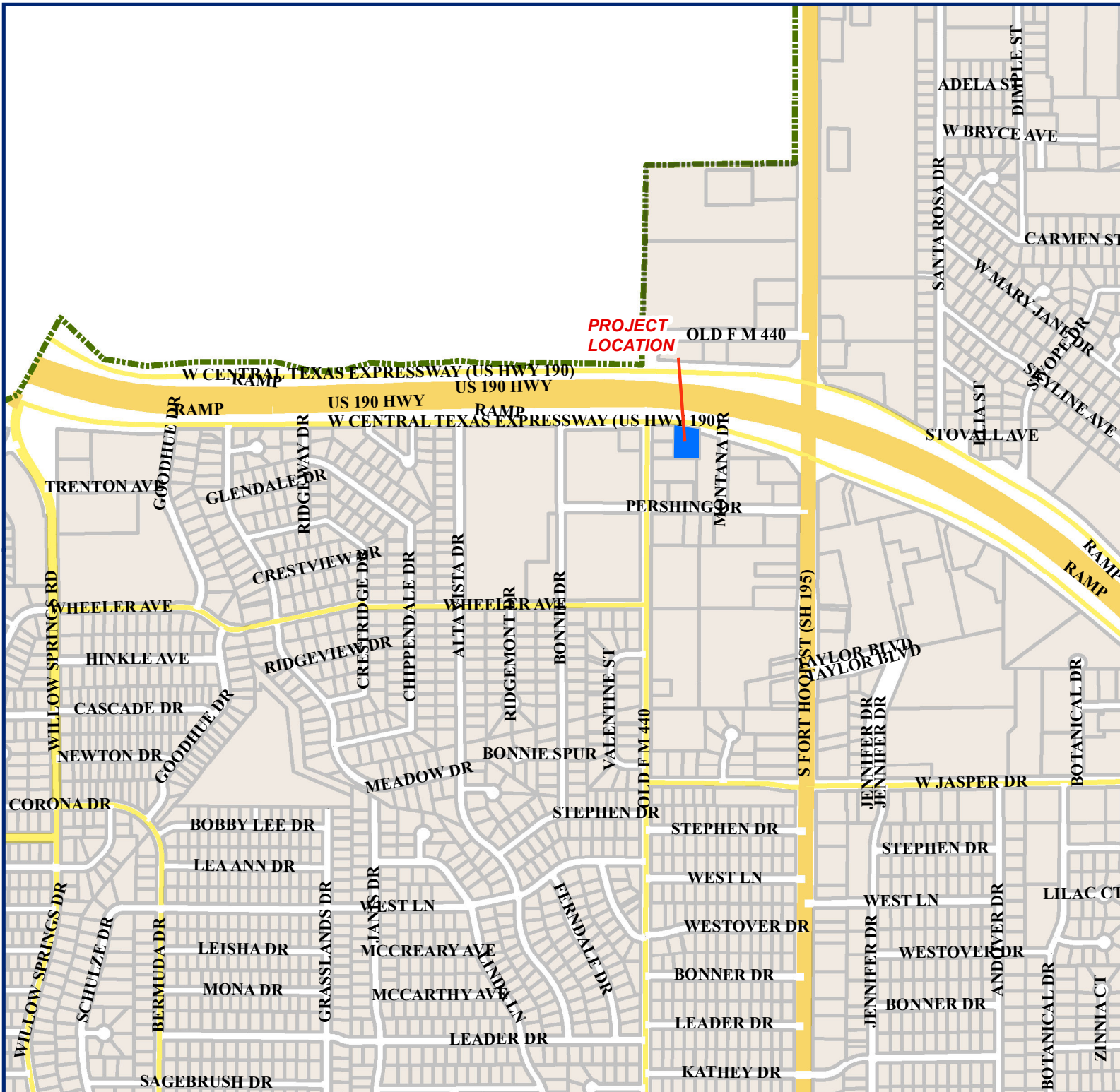
BILLY W REVIS

LEGEND

-  Zoning Cases
-  Parcel
-  City Limits



Date: 2/13/2014











**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:
#Z14-05

ZONING FROM:
B-5 TO B-3A

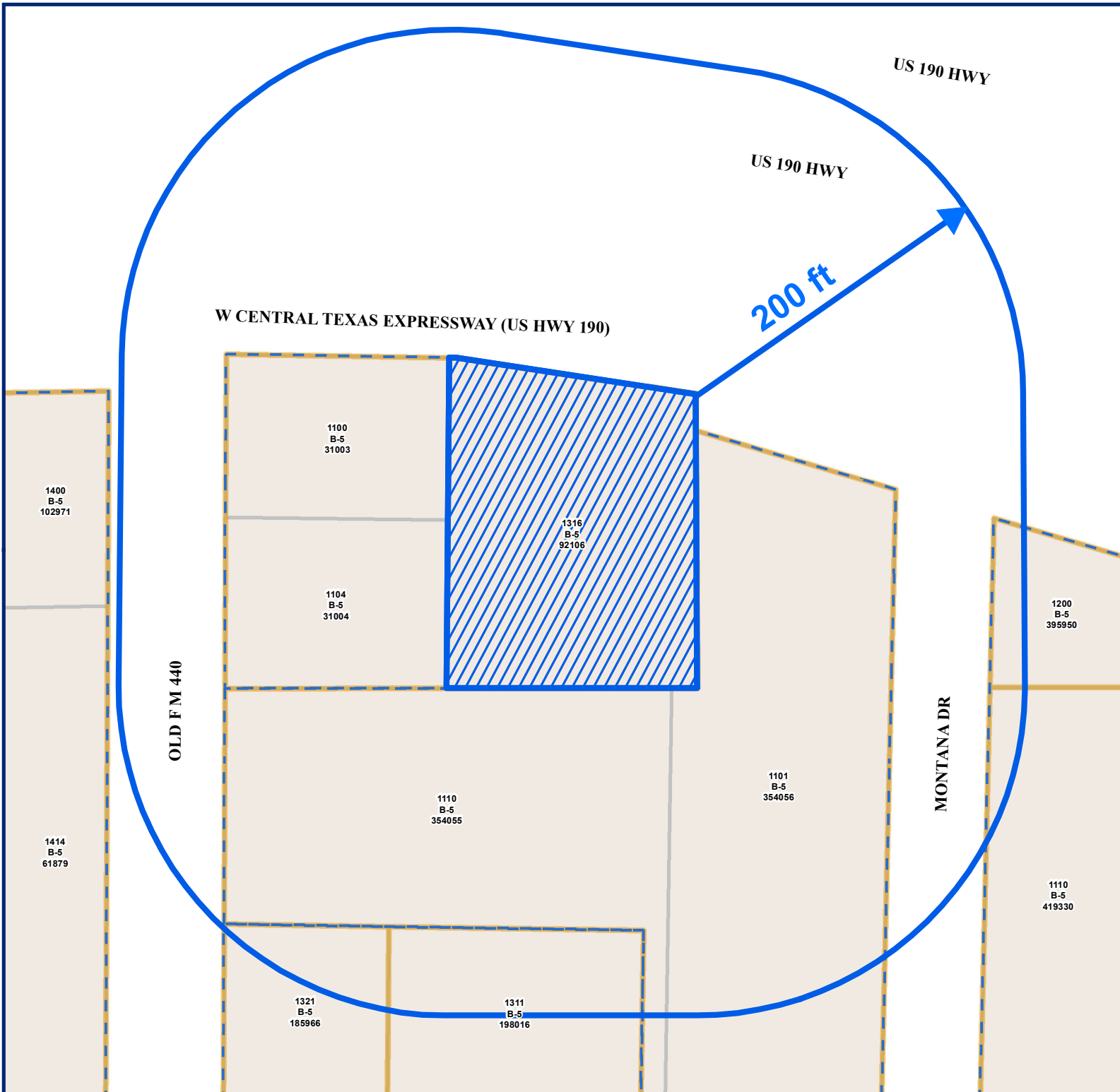
PROPERTY OWNER:
BILLY W REVIS

LEGEND

-  200 Ft. Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 2/13/2014



CONSIDERATIONS

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

A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

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

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

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

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

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

Whether there have been substantially changed conditions in the neighborhood.

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

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

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

B. Conditional Use Permit (if applicable)

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

C. Conditions to Consider

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



City of Killeen

Legislation Details

File #: PH-14-025 **Version:** 1 **Name:** Zoning 14-06
Type: Ordinance/Public Hearing **Status:** Public Hearing/Ordinances
File created: 3/3/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: HOLD a public hearing and consider an ordinance requested by the Killeen Independent School District (KISD) (Case #Z14-06) to rezone 70 acres, being part of the W. H. Cole Survey, Abstract No. 200, from A (Agricultural District) to SR-1 (Suburban Residential Single-Family District). The property is located along the east right-of-way of Trimmier Road, approximately .85 miles south of Stagecoach Road, Killeen, Texas. The property is locally known as 9132 Trimmier Road, Killeen, Texas.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

ZONING CASE #Z14-06 'A' (AGRICULTURAL DISTRICT) TO SR-1(SUBURBAN RESIDENTIAL SINGLE-FAMILY DISTRICT)

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

The Killeen Independent School District (KISD) has submitted this request to rezone approximately 70 acres, being part of the W. H. Cole Survey, Abstract No. 200, from A (Agricultural District) to SR-1 (Suburban Residential Single-Family District). The applicant is rezoning the property for school transportation facilities. The property is locally known as 9132 Trimmier Road, Killeen, Texas.

SR-1 Use regulations:

A building or premises in a SR-1 (Suburban Residential Single-Family) District shall be used only for the following purpose:

- (1) Single-Family detached dwellings.
- (2) Home occupations, accessory uses and buildings as permitted in Section 31-186(13).

Property Specifics

Applicant/Property Owner: KISD

Property Location: The property is located along the east right-of-way of Trimmier Road, approximately .85 mile south of Stagecoach Road, Killeen, Texas. The property is locally known as 9132 Trimmier Road, Killeen, Texas.

Legal Description: 70 acres, being part of the W. H. Cole Survey, Abstract No. 200, Killeen, Texas.

Zoning/Plat Case History:

- The property has retained its initial Agricultural zoning designation since being annexed on March 16, 2004.
- This property will be platted as the Killeen Satellite Transportation Facility during the development process.

Character of the Area

Existing Land Uses(s) on the Property: The subject property is undeveloped and vacant.

Figure 1. Zoning Map

See Attachment

Historic Properties: None

Infrastructure and Community Facilities

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

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

service area. Adequate potable water and sanitary sewer capacity is available to the tract. However, a potable water main and gravity sanitary sewer main will be required (to be extended across the tract) at the time of platting.

Transportation:

Existing Conditions: Access to the property is from Trimmier Road, which is classified as a 90' minor arterial on the City's Thoroughfare Plan.

Proposed Improvements: There are required improvements as part of this request.

Projected Traffic Generation: There will be a moderate increase in traffic as a result of this zoning action.

Environmental Assessment

Topography: The property ranges in elevation from 886' to 940'.

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

Land Use Analysis

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

Plan Recommendation: The 'Suburban Residential' character encourages detached residential dwellings, planned developments to provide for other housing types (e.g., townhouse, patio) in a suburban character setting, public/institutional, parks and public spaces. The characteristics of this designation include:

- Larger baseline minimum lot sizes to allow for larger front yards, building setbacks, and side yard separation
- Less noticeable accommodation of vehicles
- Encourages smaller lot sizes in exchange for greater open space set asides
- Encourages conservation design or cluster development

Consistency: The zoning request is consistent with the Adopted Future Land Use Map (FLUM) a component of the Comprehensive Plan.

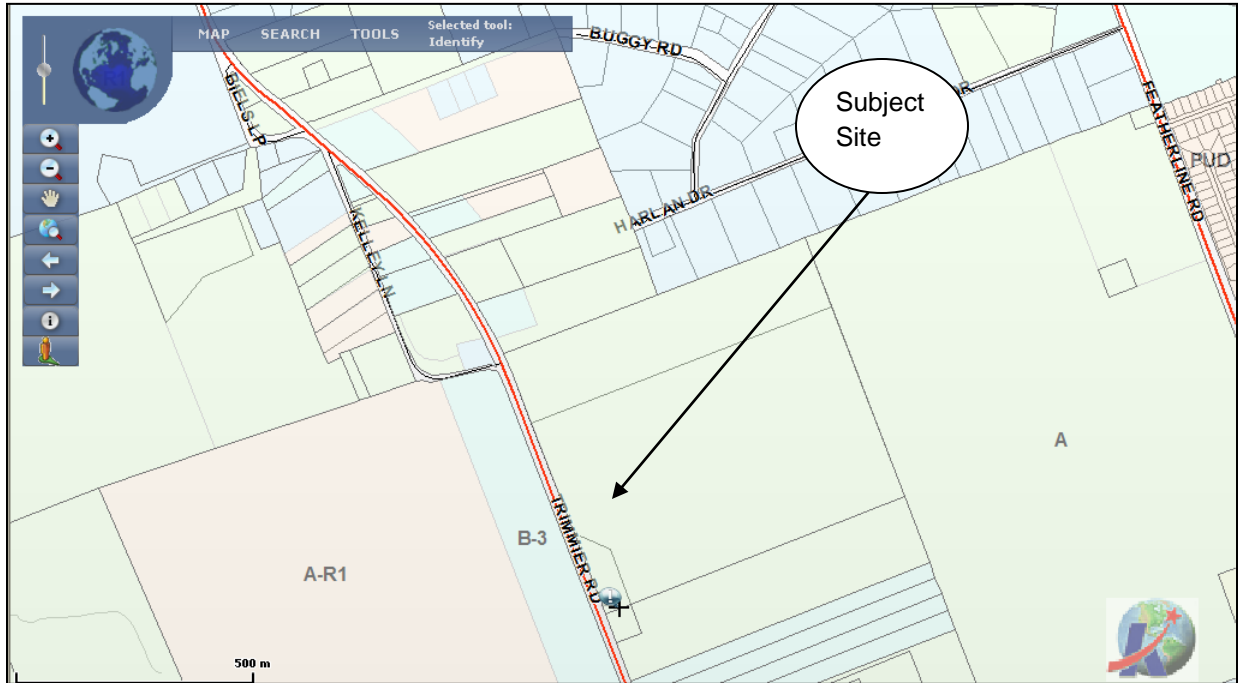
Public Notification

The staff notified four surrounding property owners regarding this request. Staff has received no responses.

Recommendation

The Planning and Zoning Commission recommended approval of the applicant's zoning request by a vote of 7 to 0 since the request is consistent with the FLUM.

Figure 1. Zoning Map



ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY WITHIN THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM A (AGRICULTURAL DISTRICT) TO SR-1 (SUBURBAN RESIDENTIAL SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Killeen Independent School District (KISD) 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 70 acres, being part of the W. H. Cole Survey, Abstract No. 200, from A (Agricultural District) to SR-1 (Suburban Residential Single-Family District), said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 3rd day of March 2014, 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 25th day of March 2014, 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 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 (Agricultural District) to SR-1 (Suburban Residential Single-Family

Residential District), for 70 acres, being part of the W. H. Cole Survey, Abstract No. 200, and being locally known as 9132 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 25th day of March 2014, 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:

Daniel A. Corbin, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney

Case #14-06
Ord #14-___

**PLANNING AND ZONING COMMISSION MEETING
MARCH 3, 2014**

**CASE # Z14-06
A TO SR-1**

HOLD a public hearing and consider a request submitted by Killeen Independent School District to rezone approximately 70 acres, part of the W. H. Cole Survey, Abstract No. 200 from A (Agricultural District) to SR-1 (Suburban Residential Single-family District) for school transportation facilities. The property is located on east right-of-way of West Trimmier Road approximately 0.85 mile south of Stagecoach Road, Killeen, Texas.

Vice Chair Dorroh requested staff comments.

Senior Planner, Shelly Shelton, stated that this request submitted by KISD to rezone approximately 70 acres from 'A' (Agricultural District) to SR-1 (Suburban Residential Single-Family District). The property is locally known as 9132 Trimmier Road, Killeen, Texas. The applicant is rezoning the property for school transportation facilities and the property will be platted as part of this development process. Access to the property will be off of Trimmier Road, which is classified as a 90' minor arterial on the City's Thoroughfare Plan. This area is designated as 'Suburban Residential' on the Future Land Use Map (FLUM).

The staff notified four (4) surrounding property owners within a 200' notification boundary regarding this request. No responses were received.

Staff recommended approval of the applicant's zoning request.

Ms. Michelle Lee, Killeen Engineering & Surveying, 2901 E. Stan Schlueter Loop, Killeen, Texas, was in attendance to represent this request. Ms. Lee stated that a plat was submitted for this property and will be submitting corrections. KISD will dedicate an additional 15 feet of right-of-way on Trimmier Road.

Vice Chair Dorroh opened the public hearing. With no one else requesting to speak, the public hearing was closed.

Commissioner Dillard motioned to recommend approval of this zoning request. Commissioner Cooper seconded the motion. The motion passed 7 to 0.

Vice Chair Dorroh stated that this will be forwarded to City Council on March 25, 2014, with a recommendation to approve.



CASE #:

21406

City of Killeen Zoning Change Application

Name(s) of Property Owner (s): KILLEEN INDEPENDENT SCHOOL DISTRICT

Address: 200 NORTH W.S. YOUNG DRIVE

City: KILLEEN State: TX Zip: 76542

Home Phone: () _____ Business Phone: () _____ Cell Phone: 254-368-3085

Name of Applicant: SAME
(if different than Property Owner)

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: () _____ Business Phone: () _____ Cell Phone: _____

Address/ Location of Property to be Rezoned: W TRIMMIER RD (4500 SOUTH OF STAGECOACH RD)

Has the Property been Platted? Y / (N)
Lot(s) Block(s) Subdivision

Legal Description: 70 ACRES OF THE W.H. COLE SURVEY, ABSTRACT NO. 200
Metes and Bounds Description

Is there a simultaneous plat of this property? KISD SATELLITE TRANSPORTATION FACILITY
(Plat Name)

Type of Ownership: _____ Sole Ownership _____ Partnership _____ Corporation Other

Recorded Copy of Warranty Deed: Is copy of the deed attached? (YES) NO

Present Zoning(s): A Present Use: VACANT

Proposed Zoning(s): R1 Proposed Use: SCHOOL/TRANSPORATION SITE

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: TX Zip: 76542 -

Home Phone: () _____ Business Phone: (254) 526-3981 Cell Phone: _____

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; consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me.

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 *Michelle E. Lee* Title OFFICE MANAGER - KES

Printed/Typed Name of Agent MICHELLE E. LEE Date 1-31-14

Signature of Property Owner *Shelley Wells* Title PRESIDENT, KISD BOARD OF TRUSTEES

Printed/Typed Name of Property Owner SHELLEY WELLS Date 2-5-14

Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner _____ Date _____

Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner _____ Date _____

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



**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

#Z14-06




ZONING FROM:

A TO R-1

PROPERTY OWNER:

KISD

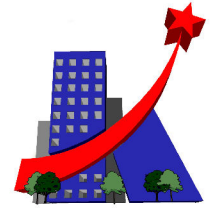
LEGEND

-  Zoning Cases
-  Parcel
-  City Limits



Date: 2/14/2014











**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:
#Z14-06

ZONING FROM:
A TO R-1

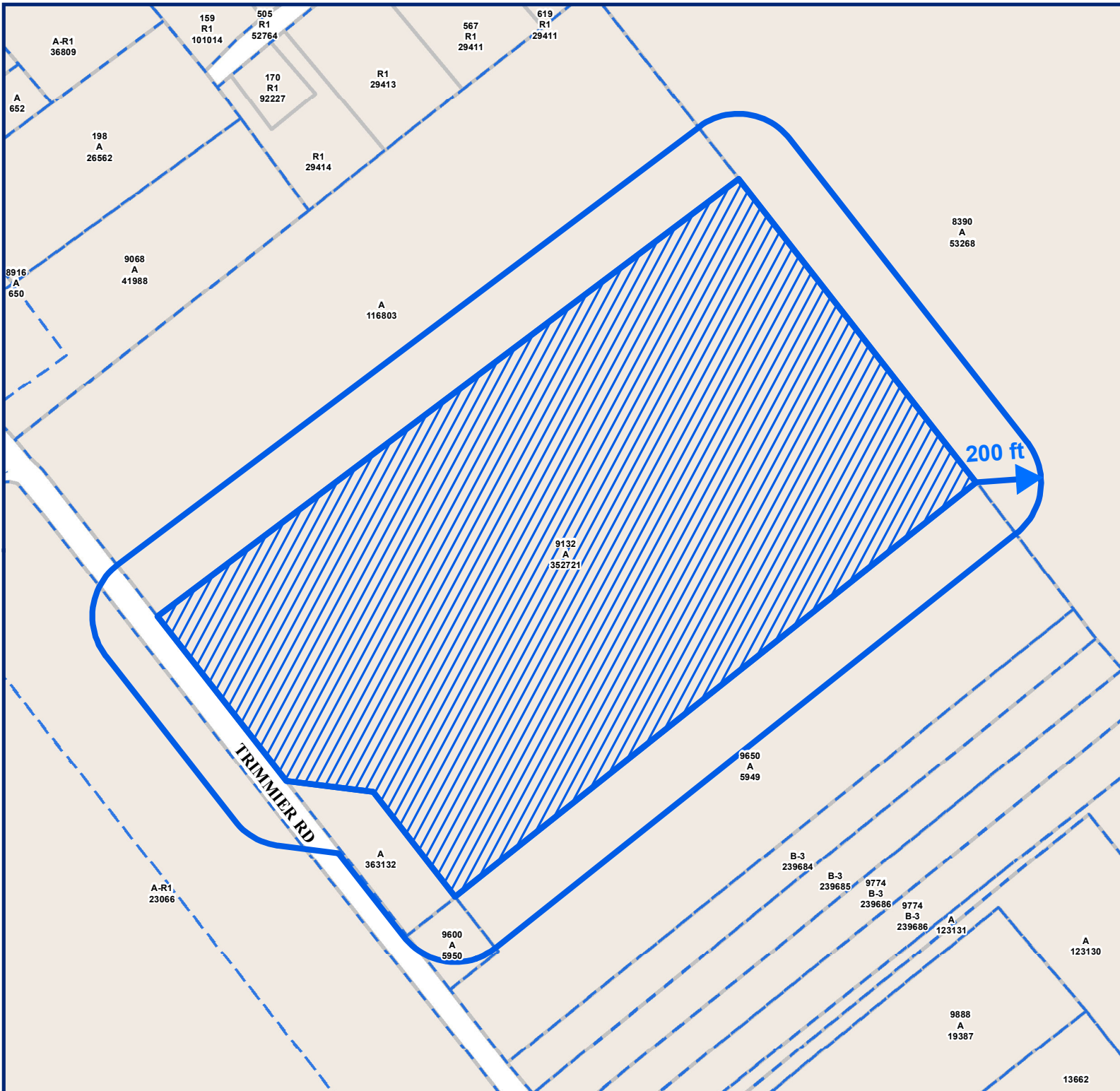
PROPERTY OWNER:
KISD

LEGEND

-  200 Ft. Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 2/14/2014



CONSIDERATIONS

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

A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

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

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

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

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

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

Whether there have been substantially changed conditions in the neighborhood.

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

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

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

B. Conditional Use Permit (if applicable)

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

C. Conditions to Consider

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



City of Killeen

Legislation Details

File #: PH-14-026 **Version:** 1 **Name:** Zoning 14-07
Type: Ordinance/Public Hearing **Status:** Public Hearing/Ordinances
File created: 3/3/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: HOLD a public hearing and consider an ordinance requested by Killeen Sunflower, Inc (Case #Z14-07) to rezone approximately 0.92 acres, being part of the Thomas Robinett Survey, Abstract No. 686 from B-5 (Business District) to R-2 (Two-family Residential District) for a duplex development. The property is located on the west right-of-way of Bachelor Button Blvd at the south west intersection of Bachelor Button Blvd and Watercrest Road, Killeen, Texas.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

**ZONING CASE #Z14-07 FROM B-5
(BUSINESS DISTRICT) TO R-2 (TWO-FAMILY
RESIDENTIAL DISTRICT)**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

This request is to rezone approximately 0.92 acres, being part of the Thomas Robinett Survey, Abstract No. 686, from B-5 (Business District) to R-2 (Two-Family Residential District). The applicant is rezoning the property for duplex use. The property is located along the south right-of-way of Watercrest Road, at the south west intersection of Bachelor Button Blvd and Watercrest Road, Killeen, Texas.

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

- Any use permitted in district R-1 Single-Family Residential District.
- Two-Family dwellings.

Property Specifics

Applicant/Property Owner: Killeen Sunflower, Inc.

Property Location: The property is located on the west right-of-way of Bachelor Button Blvd at the south west intersection of Bachelor Button Blvd and Watercrest Road, Killeen, Texas.

Legal Description: 0.92 acres out of the Thomas Robinett Survey, Abstract No. 686.

Zoning/Plat Case History:

- This property was rezoned from R-1 (Single-Family Residential District) to B-5 (Business District) on September 27, 2005, per Ordinance No. 05-85.
- The property is not platted. A plat application has been submitted to City staff illustrating a four lot residential development.

Character of the Area

Existing Land Uses(s) on the Property: The subject property is undeveloped and vacant.

Figure 1. Zoning Map

See Attachment

Historic Properties: None

Infrastructure and Community Facilities

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer, and drainage utility services are available to the subject property located within the City of Killeen municipal utility service area. Adequate potable water and sanitary sewer capacity is available to the tract. However, installation of a potable water main and gravity sanitary sewer main will be required (to be extended across the tract from the existing mains abutting the property) at the time of platting.

Public storm drainage infrastructure lies within abutting rights-of-way and an improved drainage course bisecting the tract. Detention of post development storm water run-off may be required if inadequate capacity remains within such drainage infrastructure.

Transportation:

Existing Conditions: Watercrest Road is classified as a 90' minor arterial on the City's Thoroughfare Plan. Bachelor Button Boulevard is classified as a 60' local residential street on the City's Thoroughfare Plan.

Proposed Improvements: None as part of this rezone action.

Projected Traffic Generation: There will be a minimal increase in traffic as a result of this zoning action.

Environmental Assessment

Topography: The property ranges in elevation from 932' to 942'.

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

Land Use Analysis

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

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

Consistency: The City Council considered an amendment to the FLUM from 'General Residential' to 'General Commercial' at the meeting of March 11, 2014.

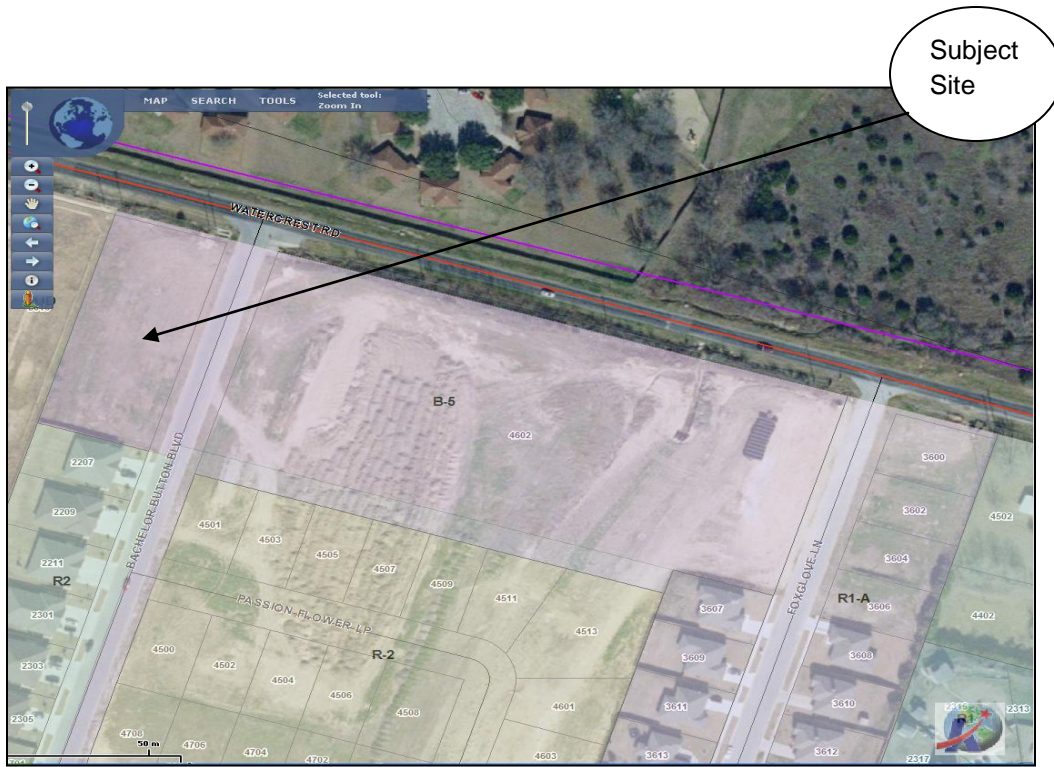
Public Notification

The staff notified 18 surrounding property owners regarding this request. Staff has received no responses.

Recommendation

The Planning and Zoning Commission recommended approval of the applicant's change of zoning request by a vote of 7 to 0. It is consistent with the zoning of adjacent properties.

Figure 1. Zoning Map



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-2 (TWO-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Killeen Sunflower, Inc. 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 0.92 acre, being part of the Thomas Robinett Survey, Abstract No. 686, from B-5 (Business District) to R-2 (Two-Family Residential District), said request having been duly presented and recommended for approval of R-2 zoning by the Planning and Zoning Commission of the City of Killeen, on the 3rd day of March 2014, 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 25th day of March 2014, 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 0.92 acre, being part of the Thomas Robinett Survey, Abstract No. 686, be changed from B-5 (Business District) to R-2 (Two-Family Residential District). The property is located south of Watercrest Road and west of Bachelor Button Boulevard, 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 25th day of March 2014, 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:

Daniel A. Corbin, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney

Case #14-07

Ord. # 14

**PLANNING AND ZONING COMMISSION MEETING
MARCH 3, 2014**

**CASE # Z14-07
B-5 TO R-2**

HOLD a public hearing and consider a request submitted by Killeen Sunflower, Inc to rezone approximately 0.92 acre, part of the Thomas Robinett Survey, Abstract No. 686 from B-5 (Business District) to R-2 (Two-family Residential District) for a duplex development. The property is located on the west right-of-way of Bachelor Button Road at the south west intersection of Bachelor Button Blvd and Watercrest Road, Killeen, Texas.

Vice Chair Dorroh requested staff comments.

City Planner, Tony McIlwain, stated that this request follows a previous zoning request to change property from B-5 to R-2. Killeen Sunflower, Inc. is petitioning to rezone the remaining 0.92 acres from B-5 to R-2. If approved, this item will have to be forwarded to City Council for their consideration as it will require a Future Land Use Map amendment.

The staff notified 4 surrounding property owners regarding this request. No responses were received.

Staff recommends approval of the request to change the zoning designation of the subject property to "R-2" Two-Family Residential District which is compatible with the adjacent properties

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

Vice Chair Dorroh opened the public hearing. The public hearing was closed.

Commissioner Butler motioned to recommend approval of the zoning request. Commissioner Dehart seconded the motion. The motion passed 7-0.

Vice Chair Dorroh stated that this will be forwarded to City Council on March 25, 2014 with a recommendation to approve.



CASE #:

14-07

City of Killeen Zoning Change Application

Name(s) of Property Owner (s): Killeen Sunflower, Inc.

Address: 2901 E. Stan Schlueter Loop

City: Killeen State: TX Zip: 76542

Home Phone: () _____ Business Phone: (254) 634-5567 Cell Phone: _____

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

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: () _____ Business Phone: () _____ Cell Phone: _____

Address/ Location of Property to be Rezoned: 4602 Watercrest Road

Has the Property been Platted? Y / X
Lot(s) Block(s) Subdivision

Legal Description: 0.92 acre tract of the Thomas Robinett Survey, Abstract No. 686
Metes and Bounds Description

Is there a simultaneous plat of this property? Sunflower Estates Phase Eight
(Plat Name)

Type of Ownership: _____ Sole Ownership _____ Partnership Corporation _____ Other

Recorded Copy of Warranty Deed: Is copy of the deed attached? YES NO

Present Zoning(s): B-5 Present Use: Vacant

Proposed Zoning(s): R-2 Proposed Use: Multifamily Residential

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: TX Zip: 76542 -

Home Phone: () Business Phone: (254) 526-3981 Cell Phone:

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; consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me.

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 OFFICE MANAGER-KES

Printed/Typed Name of Agent MICHELLE E. LEE Date 1-31-14

Signature of Property Owner  Title VICE PRESIDENT-KSI

Printed/Typed Name of Property Owner GARY W. PURSER, JR. Date 2-3-14

Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner _____ Date _____

Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner _____ Date _____

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



PLANNING AND
DEVELOPMENT SERVICES

ZONING CASE:

#Z14-07




ZONING FROM:

B-5 TO R-2

PROPERTY OWNER:

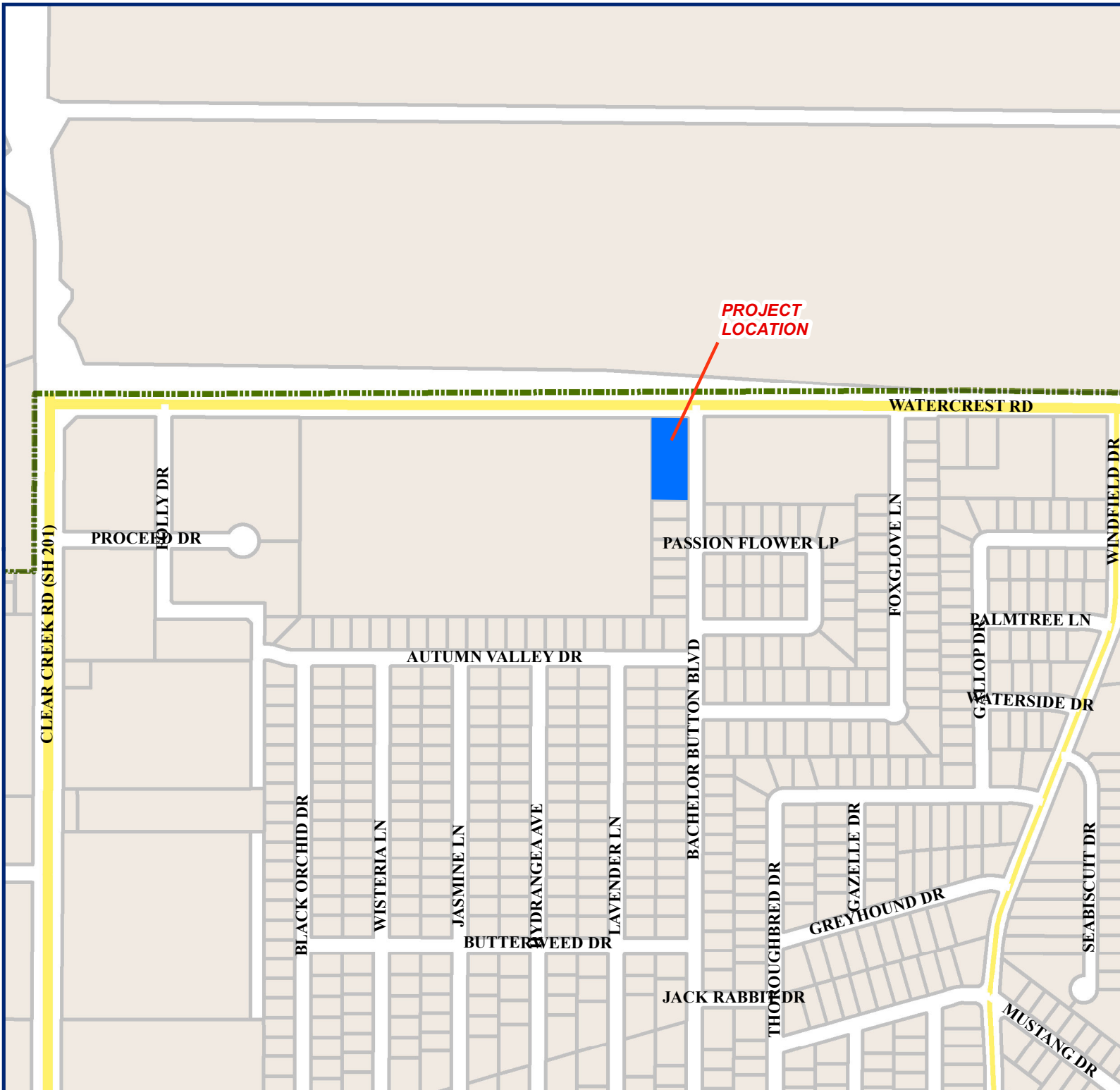
KILLEEN
SUNFLOWER INC

LEGEND

-  Zoning Case
-  Parcel
-  City Limits



Date: 3/4/2014





**PLANNING AND
DEVELOPMENT SERVICES**







ZONING CASE:
#Z14-07

ZONING FROM:
B-5 TO R-2

PROPERTY OWNER:

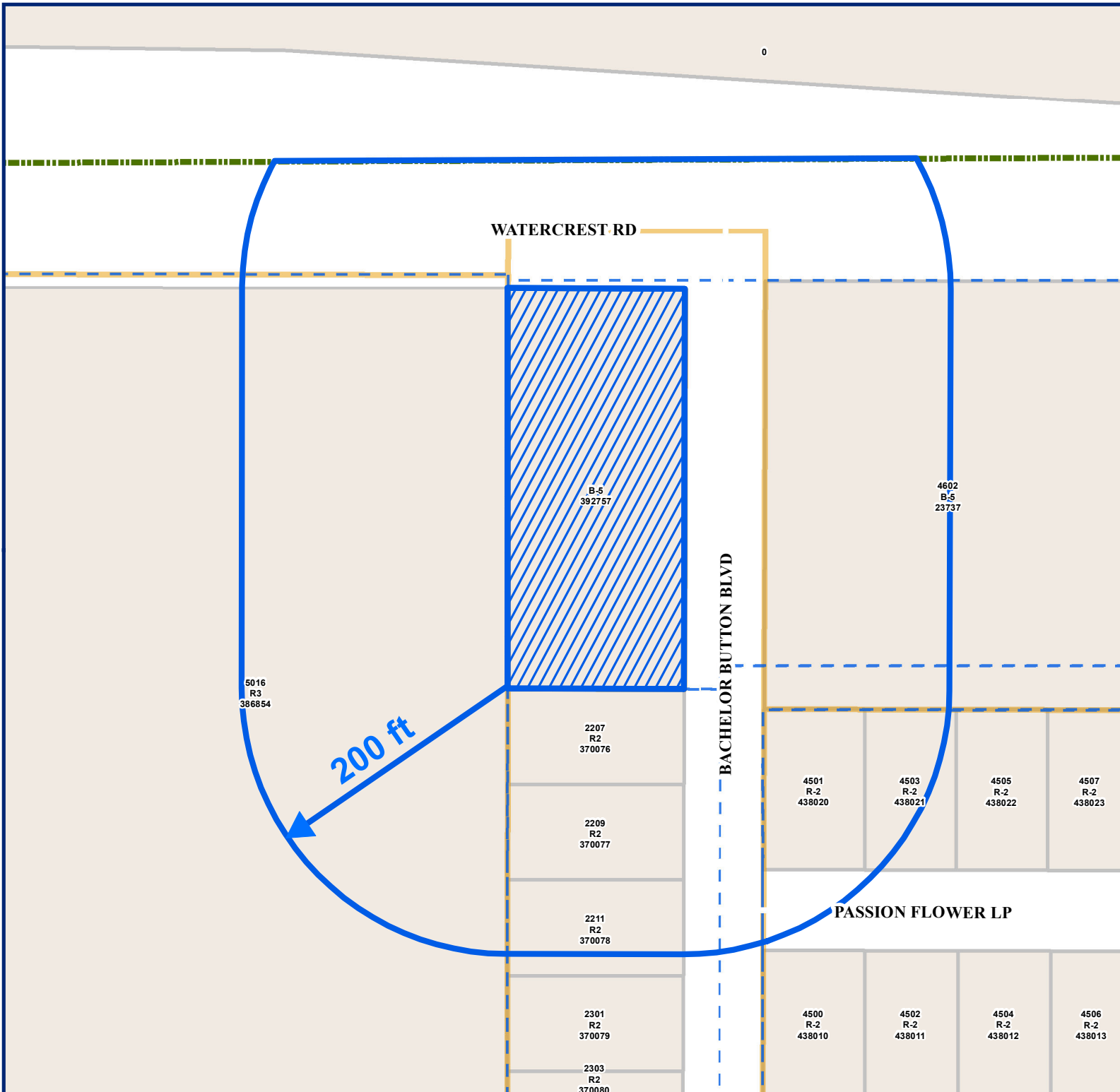
KILLEEN
SUNFLOWER INC

LEGEND

-  Zoning Case
-  Buffer_of_#Z14-07
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 2/18/2014



CONSIDERATIONS

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

A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

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

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

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

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

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

Whether there have been substantially changed conditions in the neighborhood.

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

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

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

B. Conditional Use Permit (if applicable)

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

C. Conditions to Consider

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



City of Killeen

Legislation Details

File #: PH-14-027A **Version:** 1 **Name:** FLUM 14-08
Type: Ordinance/Public Hearing **Status:** Public Hearing/Ordinances
File created: 3/3/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: HOLD a public hearing and consider an ordinance to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Residential' to 'General Commercial' for approximately 5.364 acres, located approximately 1,100 feet south of the E. Elms Road, along the west right-of-way of Old Florence Road, Killeen, Texas.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

**COMPREHENSIVE PLAN FUTURE LAND USE
MAP (FLUM) AMENDMENT: 'GENERAL
RESIDENTIAL' TO 'GENERAL COMMERCIAL'**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

This is a request to revise the Comprehensive Plan's Future Land Use Map (FLUM) to change approximately 5.364 acres of land currently designated as 'General Residential' to 'General Commercial'. The property is located approximately 1,100 feet south of the E. Elms Road, along the west right-of-way of Old Florence Road.

The applicant has submitted a concurrent request to rezone the subject property from R-1 (Single-Family Residential District) to B-5 (Business District).

Land Use Analysis

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

Plan Recommendation: The Comprehensive Plan calls for detached residential dwellings; attached housing types subject to compatibility and open space standards (e.g., duplexes, townhomes, patio homes) Planned developments, potentially with a mix of housing types and varying densities, subject to compatibility and open space standards; Public/institutional; Parks and public spaces.

The proposed revision to the property would result in a 'General Commercial' designation on the Future Land Use Map (FLUM) of the Comprehensive Plan. This designation calls for a wide range of commercial, retail and service uses, at varying scales and intensities depending on the site.

Figure 1. Future Land Use Map (FLUM)

See Attachment

Factors to Consider

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 limited to approximately 5.364 acres.*

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 not aware of any circumstances that would render the current map inappropriate or out-of-date. However, Chapter 2, page 2.15 of the Comprehensive Plan speaks to neighborhood-scale commercial uses being encouraged on sites and in locations within or near 'General Residential' areas.*

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? *This proposed amendment does not impact any public works planning efforts or other city plans.*

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, resident/stakeholder concerns and input)? *Staff has sufficient information regarding utility capacity. Staff does not have any information from the applicant regarding traffic impacts as the request is speculative in nature; however the area has direct access to Old Florence Road, which is a 70' collector on the City's Thoroughfare Plan.*

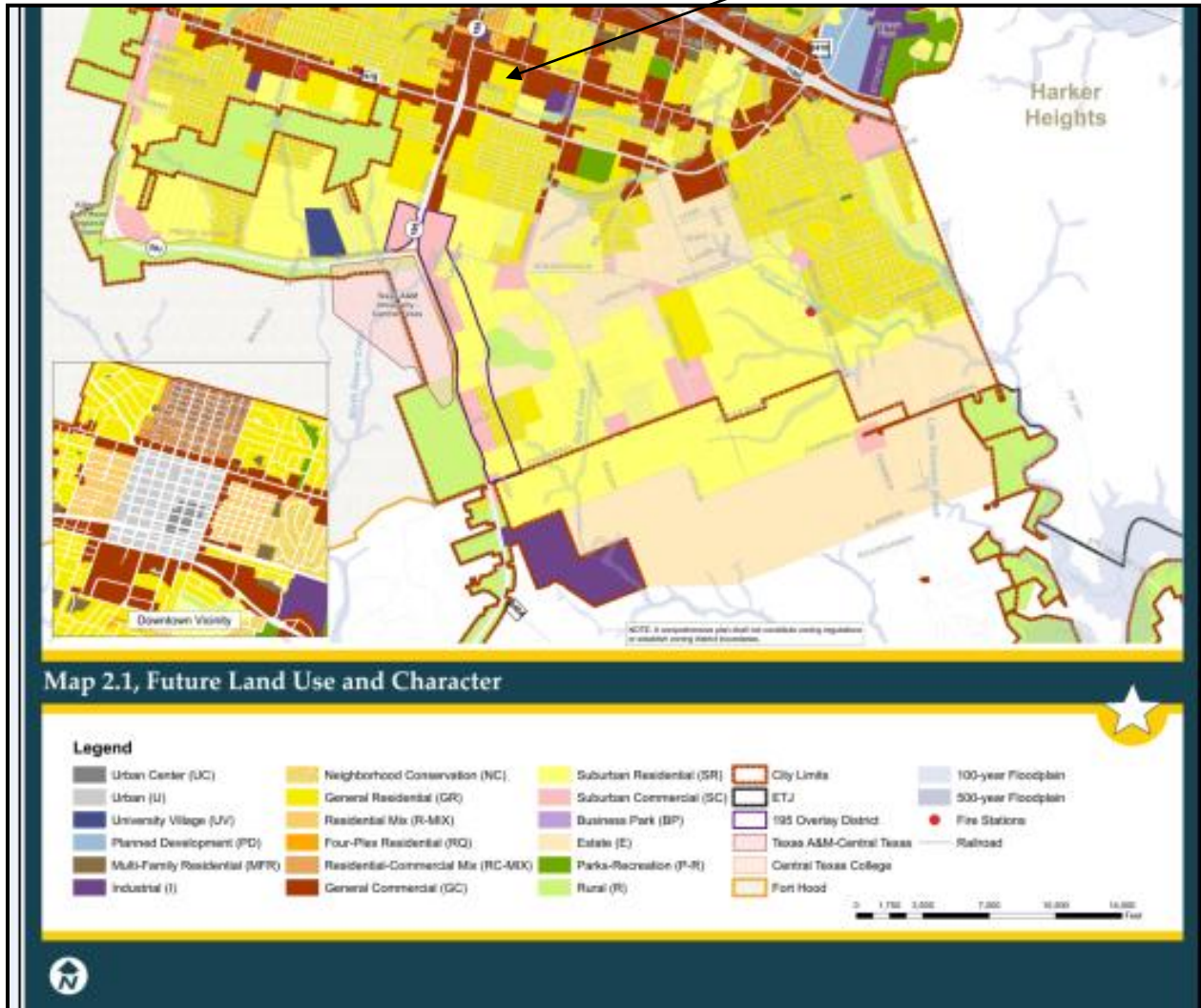
Stakeholder Input: What points, concerns, and insights have been raised by area residents, property owners, business owners, or others? *With the exception of listing this action as a public hearing item on the Planning and Zoning Commission's agenda, there is no public notice requirement for this amendment request; however, staff did not receive any stakeholder input during the Planning and Zoning Commission's public hearing on this item.*

Recommendation

The Planning and Zoning Commission recommended disapproval of an amendment to the Future Land Use Map from 'General Residential' to 'General Commercial' by a vote of 7 to 0. This designation is not consistent with the prevailing residential designation along the western right-of-way of Old Florence Road. The site is not a high profile vehicular corridor. The Commission noted that a range of neighborhood-scale commercial uses are allowed and encouraged within 'General Residential' designated areas and a more restrictive commercial zoning district should be sufficient for the property.

Figure 1. Future Land Use map (FLUM)

Subject Site



ORDINANCE _____

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'GENERAL RESIDENTIAL' TO 'GENERAL COMMERCIAL' FOR 5.364 ACRES OF LAND LOCATED APPROXIMATELY 1,100 FEET SOUTH OF E. ELMS ROAD, ALONG THE WEST RIGHT-OF-WAY OF OLD FLORENCE ROAD, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to achieve orderly growth and fiscally prudent land development; and,

WHEREAS, the City Council finds that zoning regulations must be adopted in accordance with a comprehensive plan; and,

WHEREAS, the City Council has received a zoning petition from Carol Daude, Trustee of the Margaret Dorothy Stefek Marital Trust, which would require a revision to the Future Land Use Map (FLUM) of the Comprehensive Plan to change 5.364 acres from 'General Residential' to 'General Commercial', for property located approximately 1,100 feet south of E. Elms Road, along the west right-of-way of Old Florence Road, Killeen, Texas; and,

WHEREAS, the City Council 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.

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

SECTION I: That the land use designation of the following described tract be amended from 'General Residential' to 'General Commercial' for approximately 5.364 acres, located approximately 1,100 feet south of E. Elms Road, along the west right-of-way of Old Florence Road, Killeen, Texas; and

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 March 2014, 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:

Daniel A. Corbin, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, CITY ATTORNEY

Case #FLUM_Z-14-08

Ord #14-

**PLANNING AND ZONING COMMISSION MEETING
MARCH 3, 2014**

**CASE # FLUM 14-08
GENERAL RESIDENTIAL TO GENERAL COMMERCIAL**

A. HOLD a public hearing and consider a request by Carol Daude, Trustee of the Margaret Dorothy Stefek Marital Trust to revise the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Residential to 'General Commercial for approximately 5.364 acres, part of the A. Webb Survey, Abstract No. 857. The property is located on the west right-of-way of Old Florence Road approximately 1500 feet south of E. Elms Road, Killeen, Texas.

Vice Chair Dorroh requested staff comments.

City Planner, Tony McIlwain, stated that this is a request to amend the Future Land Use Map (FLUM) of the Comprehensive Plan. The applicant has submitted a concurrent request to rezone the subject property from R-1 (Single-Family Residential District) to B-5 (Business District). The site consists of approximately 5.364 acres. The Future Land Use Map has this area designated for 'General Residential' use. The area needs to be changed to 'General Commercial' in order to allow B-5 zoning. The Comprehensive Plan calls for detached residential dwellings; Attached housing types subject to compatibility and open space standards (e.g., duplexes, townhomes, patio homes) Planned developments, potentially with a mix of housing types and varying densities, subject to compatibility and open space standards; Public/institutional; Parks and public spaces.

Staff recommends disapproval of an amendment to the Future Land Use Map from 'General Residential' to 'General Commercial'. This designation is not consistent with the prevailing residential designation along the western right-of-way of Old Florence Road. The site is a not a high profile vehicular corridor. Staff's determination is that a range of neighborhood-scale commercial uses are allowed and encouraged within 'General Residential' designated areas; this should be sufficient for this area.

Mr. Butler stated that the Future Land Use Map should stay the way it is.

Mr. David Olson, Mitchell & Associates, Inc. 102 N. College, Killeen, Texas, was in attendance to represent this request.

Mr. Butler asked Mr. McIlwain if Florence Road was designated a collector. Mr. McIlwain stated that it is designated as a collector.

Vice Chair Dorroh opened the public hearing.

Mr. Michael Holt, 4805 Addie Drive, Killeen, Texas. Mr. Holt was concerned about the 30 foot right-of-way and utility easement that serves his property.

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

Commissioner Dehart motioned to recommend disapproval of this request. Commissioner Steine seconded the motion. The motion passed 7-0.

Vice Chair Dorroh stated that this will be forwarded to City Council on March 25, 2014, with a recommendation to disapprove.



City of Killeen

Legislation Details

File #: PH-14-027B **Version:** 1 **Name:** Zoning 14-08
Type: Ordinance/Public Hearing **Status:** Public Hearing/Ordinances
File created: 3/3/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: HOLD a public hearing and consider an ordinance requested by Carol Daude, Trustee of the Margaret Dorothy Stefek Marital Trust, (Case #Z14-08) to rezone 4.261 acres, out of the A. Webb Survey, Abstract No. 857, from R-1 (Single-Family Residential District) to R-2 (Two-Family Residential District) and approximately 5.634 acres from R-1 to B-5 (Business District). The property is located approximately 1,100 feet south of E. Elms Road on the west right-of-way of Old Florence Road, Killeen, Texas.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Opposition](#)
[Considerations](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

ZONING CASE #Z14-08 FROM R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO R-2 (TWO-FAMILY RESIDENTIAL DISTRICT) AND B-5 (BUSINESS DISTRICT)

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

Carol Daude, Trustee of the Margaret Dorothy Stefek Marital Trust, submits this request to rezone approximately 4.261 acres out of A. Webb Survey, Abstract Number 857, from R-1 (Single-Family Residential District) to R-2 (Two-Family Residential District) and approximately 5.364 acres from R-1 (Single-Family Residential District) to B-5 (Business District).

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.

A building or premises in the district 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).

Property Specifics

Applicant/Property Owner: Carol Daude, Trustee of the Margaret Dorothy Stefek Marital Trust.

Property Location: The property is located approximately 1,100 feet south of the E. Elms Road on the west right-of-way Old Florence Road.

Legal Description: Approximately 9.62 acres out of A. Webb Survey, Abstract Number 857.

Zoning/Plat Case History:

- There has been no previous rezoning activity for this property recently.
- This property is not platted.

Character of the Area

Existing Land Uses(s) on the Property: The subject property is undeveloped and vacant. There are existing commercial uses and residential uses in the vicinity which have created a mixture of various land uses.

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: The installation of a potable water main and gravity sanitary sewer main will be required (to be extended across the tract from the existing mains abutting the property) at the time of platting.

Transportation:

Existing Conditions: Old Florence Road is classified as a 70' collector on the City's adopted Thoroughfare Plan.

Proposed Improvements: Undetermined.

Projected Traffic Generation: There will be a moderate increase in traffic as a result of this zoning action.

Environmental Assessment

Topography: The property ranges in elevation from 950' to 960'.

Regulated Floodplain/Floodway/Creek: This lot is not within any FEMA regulatory Special Flood Hazard Area.

Land Use Analysis

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 request to change the zoning of 4.261 acres from R-1 (Single-Family Residential District) to R-2 (Two-Family Residential District) is consistent with the Future Land Use Map. However, the request to change the zoning of 5.364 acres from R-1 (Single-Family Residential District) to B-5 (Business District) is not consistent with the Future Land Use Map.

Public Notification

The staff notified 47 surrounding property owners regarding this request. Staff received three protests. These have been included for consideration.

Recommendation

The Planning and Zoning Commission recommends approval of the request to change the zoning of the 4.261 acres from R-1 (Single-Family Residential District) to R-2 (Two-Family Residential District) since the request is consistent with the adopted Future Land Use Map, a component of the Comprehensive Plan.

The Planning and Zoning Commission recommends approval of a zoning change to B-3 (Local Business District) for the subject property consisting of 5.364 acres, instead of the requested B-5 Business District designation. As referenced earlier, Chapter 2, page 2.15 of the Comprehensive Plan speaks to neighborhood-scale commercial uses being encouraged on sites and in locations within or near 'General Residential' areas. The applicant's agent stated that his client was agreeable to the B-3 recommendation from the Planning and Zoning Commission.

Figure 1. Zoning Map



ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY WITHIN THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO B-3 (LOCAL BUSINESS DISTRICT) AND R-2 (TWO-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Carol Daude, Trustee of the Margaret Dorothy Stefek Marital Trust, 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 4.261 acres, being part of the Azra Webb Survey, Abstract No. 857, from R-1 (Single-Family Residential District) and approximately 5.364 acres, being part of the Azra Webb Survey, Abstract No. 857, from R-1 (Single-Family Residential District) to B-5 (Business District), said request having been duly presented and recommended for approval of R-2 and B-3 (Local Business District) zoning by the Planning and Zoning Commission of the City of Killeen, on the 3rd day of March 2014, 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 25th day of March 2014, 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 approximately 4.261 acres, being part of the Azra Webb Survey, Abstract No. 857, from R-1 (Single-Family Residential District) and approximately 5.364 acres, being part of the Azra Webb Survey, Abstract No. 857, from R-1 (Single-Family Residential District) to B-3 (Local Business District). The property is located approximately 1,100 feet south of the E. Elms Road on Old Florence 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 25th day of March 2014, 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:

Daniel A. Corbin, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney

Case #14-08

Ord. # 14

**PLANNING AND ZONING COMMISSION MEETING
MARCH 3, 2014**

**CASE # Z14-08
R-1 TO B-5 AND R-2**

B. HOLD a public hearing and consider a request submitted by Carol Daude, Trustee of the Margaret Dorothy Stefek Marital Trust to rezone approximately 9.985 acres, part of the A. Webb Survey, Abstract No. 857 from R-1 (Single-family Residential District) to B-5 (Business District) and R-2 (Two-family Residential District). The property is located on the west right-of-way of Old Florence Road approximately 1500 feet south of E. Elms Road, Killeen, Texas.

Vice Chair Dorroh requested staff comments.

City Planner, Tony McIlwain, stated that this is the second component of the request. The request is to rezone approximately 4.261 acres from "R-1" (Single-Family Residential District) to "R-2" (Two-Family Residential District) and 5.364 to "B-5" (Business District)". Considering the previous motion recommend disapproval of the Future Land Use Map, the Planning and Zoning Commission can consider a zoning district less than B-5 if the applicant is willing to accept or the B-5 can be recommended for disapproval.

The staff notified 47 surrounding property owners regarding this request. Staff has received two protests. Mr. Holt, whose property is surrounded by the area of the request, is concerned about the zoning change impacting his utility and access easements. Ms. Ross is protesting because she does not have enough information about the request. Ms. Octavia Meadows would like to keep this area as a Single-Family Residential District.

Mr. David Olson, Mitchell & Associates, Inc. 102 N. College, Killeen, Texas, was in attendance to represent this request. Mr. Olson stated that the applicant is willing to accept B-3 zoning designation for the property adjacent to Old Florence Road.

Vice Chair Dorroh opened the public hearing.

Frances Guerrero, 301 Deloris Drive, Killeen, Texas, had questions regarding the development. Staff answered her questions.

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

Commissioner Dillard motioned to recommend approval for R-1 to B-3 and R-2. Commissioner Butler seconded the motion. The motion passed 6-1, with Commissioner Hoover in opposition.

Vice Chair stated that this will be forwarded to City Council on March 25, 2014, with a recommendation to approve.



City of Killeen
Zoning Change Application

Name(s) of Property Owner (s): Carol Daude, Trustee of the Margaret Dorothy Stefek Marital

Address: 131 Blue Cedar Trail

City: Killeen State: Texas Zip: 76542

Home Phone: N/A Business Phone: N/A Cell Phone: 254-290-1364

Name of Applicant: Same as Above
(if different than Property Owner)

Address: Same as Above

City: Same as Above State: Same as Above Zip: Same as Above

Home Phone: () N/A Business Phone: () Same as Above Cell Phone:

Address/ Location of Property to be Rezoned: Old Florence Road

Has the Property been Platted? N
Lot(s) Block(s) Subdivision

+ 9.62 AS.
9.57 AS.

Legal Description: a ~~1.503~~ acre tract of land in Bell County, Texas, being part of the A. Webb Survey, Abstract No. 857, and the land herein described being part of a called 57.433 acre tract conveyed to Carol Daude, trustee of the Margaret Dorothy Stefek Marital Trust, of record in Document #2013-30024, Official Public Records of Real Property, Bell County, Texas

Metes and Bounds Description

Is there a simultaneous plat of this property? Yes

Stefek Trust Addition, Phase II

Type of Ownership: ___ Sole Ownership ___ Partnership ___ Corporation X Other (Municipality)

Recorded Copy of Warranty Deed: 2013-30024 Is copy of the deed attached? YES

Present Zoning(s): R-1 Present Use: Undeveloped

Proposed Zoning(s): B-5, R-2 Proposed Use: Duplex and Business District

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: Mitchell & Associates, Inc.

Mailing Address: P.O. Box 1088 / 102 N College

City: Killeen State: Texas Zip: 76540

Home Phone: () N/A Business Phone: (254) 634-5541

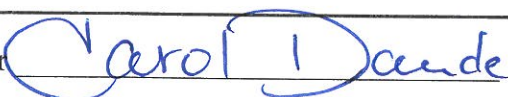
I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

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; consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me.

I understand that the City will deal only with a fully authorized agent. If 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 Agent

Printed/Typed Name of Agent David A. Olson Date 2/7/14

Signature of Property Owner  Title Trustee

Printed/Typed Name of Property Owner Carol Daude Date 6 Feb 2014

Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner _____ Date _____

Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner _____ Date _____

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



**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

#Z14-08


ZONING FROM:

R-1 TO B-5
AND R-2

PROPERTY OWNER:

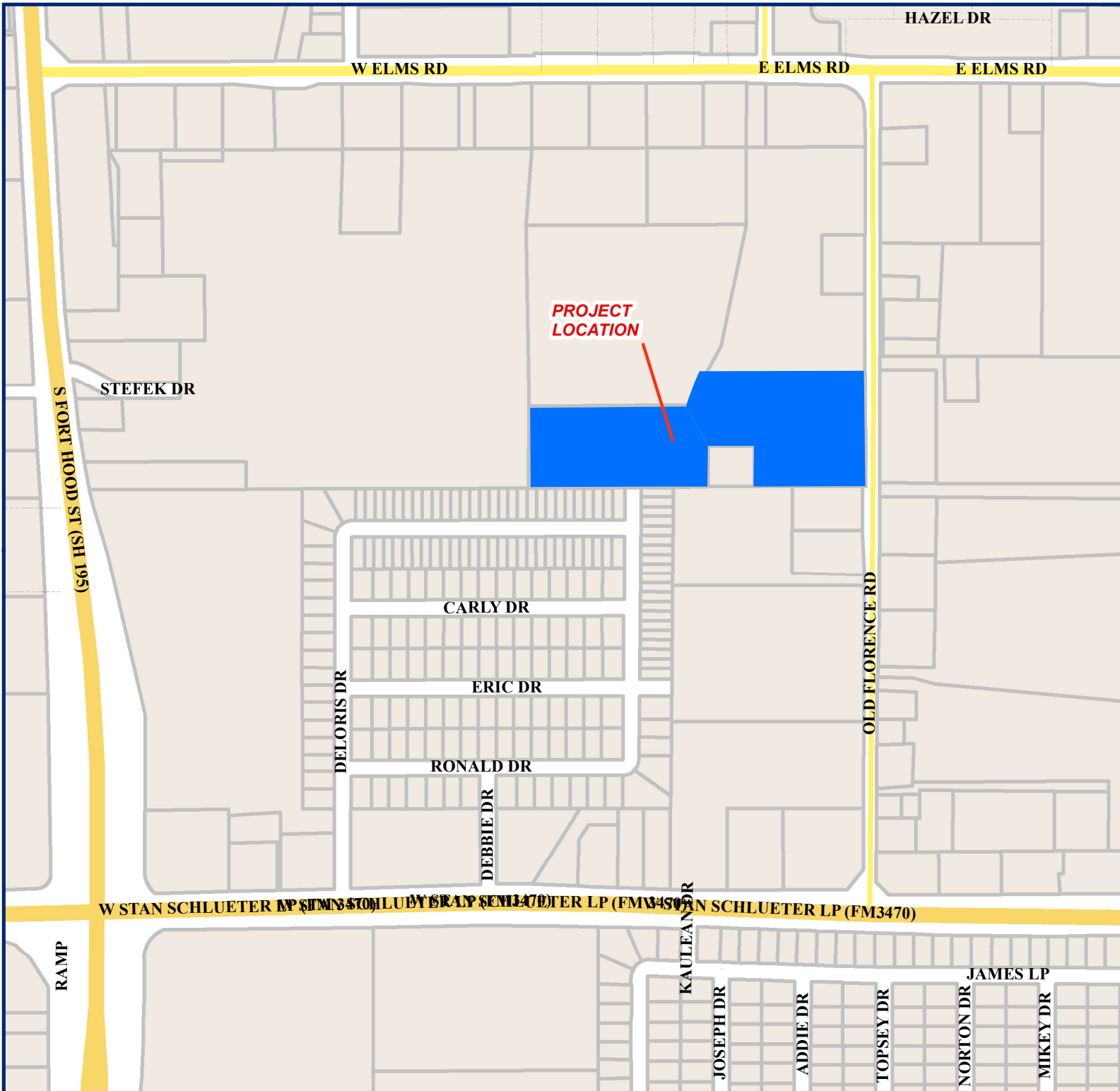
CAROL DAUDE, TRUSTEE
OF THE MARGARET
DOROTHY STEFEK
MARITAL TRUST

LEGEND

-  Zoning Cases
-  Parcel
-  City Limits



Date: 2/19/2014











**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:
#Z14-08

ZONING FROM:
**R-1 TO B-5
AND R-2**

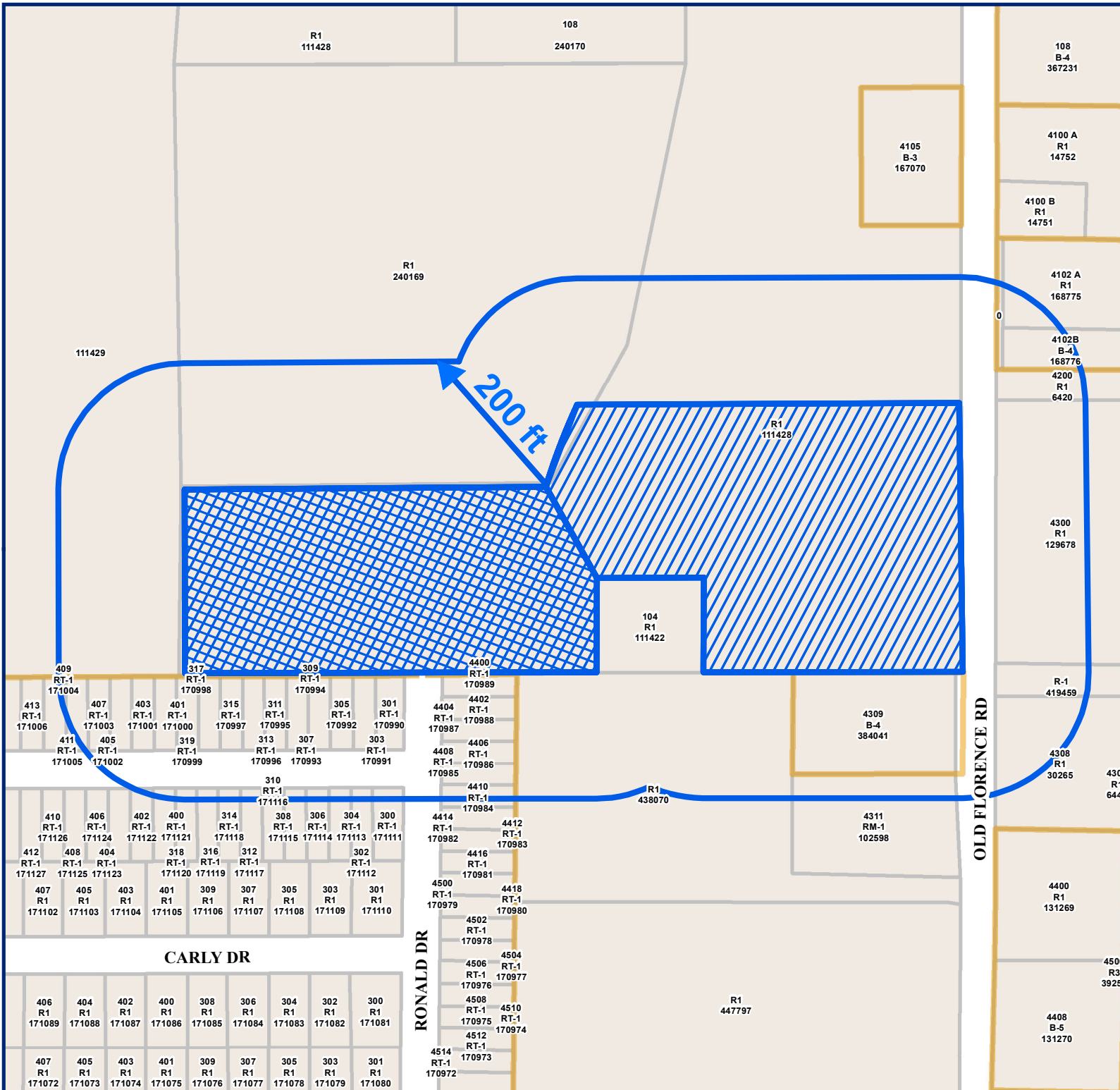
PROPERTY OWNER:
CAROL DAUDE, TRUSTEE
OF THE MARGARET
DOROTHY STEFEK
MARITAL TRUST

LEGEND

-  R-1 TO B-5
-  R-1 TO R-2
-  200 Ft. Buffer
-  Subdivision
-  Parcel
-  City Limits



Date: 2/19/2014



CUT HERE

YOUR NAME: MICHAEL HOLT PHONE NUMBER: (254) 519-4234

CURRENT ADDRESS: 4805 ADDIE DRIVE KILLEEN, TX 76542

ADDRESS OF PROPERTY OWNED: 104 E. ELMS ROAD

COMMENTS: R-1 to B-5 and R-2

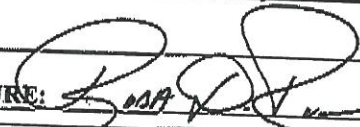
I am opposed to this request. My property at 104 E. Elms Rd is currently accessed ^{MSA} by a 30" easement that runs through these properties. The development proposed in the area may destroy or block that easement making my property inaccessible. Additionally the water line for the residence also runs along the easement. 2 attachments

SIGNATURE: M. S. Holt SPO #Z14-08/12

P.O. BOX 1329 KILLEEN, TEXAS 76540-1329 · 254.501.7630 · 254.501.7628 FAX
WWW.CI.KILLEEN.TX.US

RECEIVED
FEB 25 2014
PLANNING

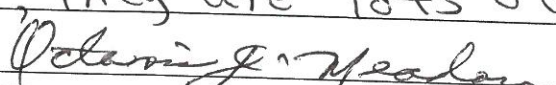
-----CUT HERE-----

YOUR NAME:	Rosa Darlene Ross	PHONE NUMBER:	254-681-1046
CURRENT ADDRESS:	614 Prairie Lark Dr Temple Tx 76501		
ADDRESS OF PROPERTY OWNED:	4406 Ronald Drive Killeen Tx 76543		
COMMENTS:	I oppose this request. Owner has not indicated what type of business that she intends to put within 200 feet of my rental property, I would need a better understanding of her intentions		
SIGNATURE:		2-25-14	SPO #Z14-08/17

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PLANNING

-----CUT HERE-----

YOUR NAME:	OCTAVIA MEADOWS	PHONE NUMBER:	(254)-213-2946
CURRENT ADDRESS:	4102 Old Florence Road Killeen, TX 76542		
ADDRESS OF PROPERTY OWNED:	4102 Old Florence Road Killeen, TX 76542		
COMMENTS:	Please do not rezone, please keep the area as a single family Residential District, if they want to build a duplex development they can build it in duplex development areas, they are lots of them in Killeen.		
SIGNATURE:		2-25-14	SPO #Z14-08/

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PLANNING

02-25-2014

CONSIDERATIONS

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

A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

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

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

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

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

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

Whether there have been substantially changed conditions in the neighborhood.

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

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

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

B. Conditional Use Permit (if applicable)

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

C. Conditions to Consider

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



City of Killeen

Legislation Details

File #: PH-14-028 **Version:** 1 **Name:** Zoning 14-09
Type: Ordinance/Public Hearing **Status:** Public Hearing/Ordinances
File created: 3/3/2014 **In control:** City Council
On agenda: 3/25/2014 **Final action:**
Title: HOLD a public hearing and consider an ordinance requested by G. Wayne Cospers (Case #Z14-09) to rezone 23.148 acres, being part of the W. H. Cole Survey, Abstract No. 200, from A-R1 (Agricultural Single-Family Residential District), R-1 (Single-Family Residential District) and B-3 (Local Business District) to SR-1 (Suburban Residential Single-Family District). The property is located south of Cospers Ridge Estates, Phase Four and north of Chaparral Road, Killeen, Texas.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Attachment to Council Memorandum](#)
[Ordinance](#)
[Minutes](#)
[Application](#)
[Location Map](#)
[Buffer Map](#)
[Considerations](#)

Date	Ver.	Action By	Action	Result
3/18/2014	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

ZONING CASE #Z14-09 FROM A-R1 (AGRICULTURAL SINGLE-FAMILY RESIDENTIAL DISTRICT), R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) AND B-3 (LOCAL BUSINESS DISTRICT) TO SR-1 (SUBURBAN RESIDENTIAL SINGLE-FAMILY DISTRICT)

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

G. Wayne Cospers has submitted this request to rezone approximately 23.148 acres, out of the W. H. Cole Survey, Abstract No. 200, from A-R1 (Agricultural Single-Family Residential District), R-1 (Single-Family Residential District) and B-3 (Local Business District) to SR-1 (Suburban Residential Single-Family District). The applicant is rezoning the property for residential development.

SR-1 Use regulations:

A building or premises in a SR-1 Suburban Residential Single-Family District shall be used only for the following purpose:

- (1) Single-Family detached dwellings.
- (2) Home occupations, accessory uses and buildings as permitted in Section 31-186(13).

Property Specifics

Applicant/Property Owner: G. Wayne Cospers

Property Location: The property is located south of Cospers Ridge Estates, Phase Four and north of Chaparral Road, Killeen, Texas.

Legal Description: 23.148 acres, out of the W. H. Cole Survey, Abstract No. 200, Killeen, Texas.

Zoning/Plat Case History:

- The property was initially zoned A-R1 (Agricultural Single Family Residential District) per ordinance 05-31 on April 26, 2005.
- This property will be platted as Cospers Ridge Estates, Phase Five.

Character of the Area

Existing Land Uses(s) on the Property: The subject property is undeveloped and vacant. The surrounding land uses are single family residential in nature with large undeveloped tracts to the east.

Figure 1. Zoning Map

See Attachment

Historic Properties: None

Infrastructure and Community Facilities

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer, and drainage utility services are available and will be extended to the tract as part of the Cosper Ridge Phase Five subdivision.

Transportation:

Existing Conditions: Access to the property is through a series of local streets, which extend through the Splawn Ranch Subdivision, previous phases of Cosper Ridge Estates and from Chaparral Road.

Proposed Improvements: The property owner has submitted a subdivision plat for residential development.

Projected Traffic Generation: There will be a moderate increase in traffic as a result of this zoning action.

Environmental Assessment

Topography: The property ranges in elevation from 848' to 890'.

Regulated Floodplain/Floodway/Creek: A portion of Rock Creek Tributary 1 lies within this property. The property is designated as an AE zone regulatory Special Flood Hazard Area (SFHA).

Land Use Analysis

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

Plan Recommendation: The 'Suburban Residential' character encourages detached residential dwellings, planned developments to provide for other housing types (e.g., townhouse, patio) in a suburban character setting, public/institutional, parks and public spaces. The characteristics of this designation include:

- Larger baseline minimum lot sizes to allow for larger front yards, building setbacks, and side yard separation
- Less noticeable accommodation of vehicles
- Encourages smaller lot sizes in exchange for greater open space set asides
- Encourages conservation design or cluster development

Consistency: The change of zoning request is consistent with the Adopted Future Land Use Map (FLUM) a component of the Comprehensive Plan.

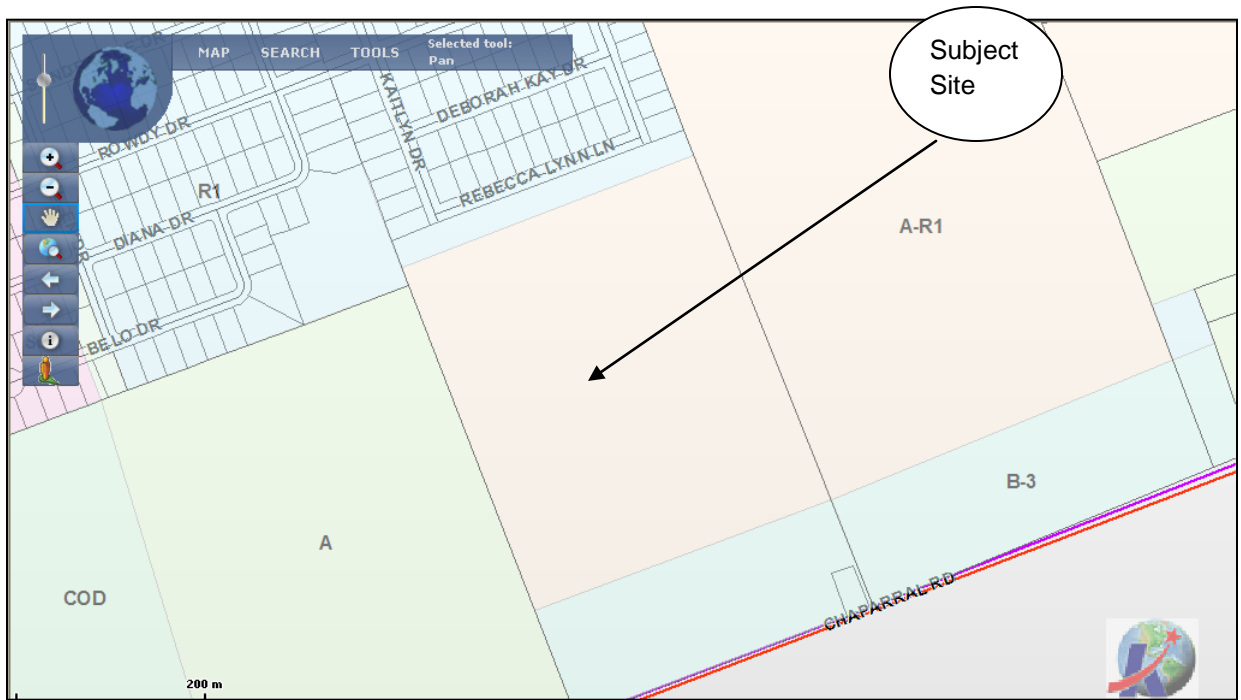
Public Notification

The staff notified four surrounding property owners regarding this request. Staff has received no responses.

Recommendation

The Planning and Zoning Commission recommended approval of the applicant's change of zoning request by a vote of 7 to 0 since it is consistent with the Comprehensive Plan.

Figure 1. Zoning Map



ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY WITHIN THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM AR-1 (AGRICULTURAL SINGLE-FAMILY RESIDENTIAL DISTRICT), R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) AND B-3 (LOCAL BUSINESS DISTRICT) TO SR-1 (SUBURBAN RESIDENTIAL SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, G. Wayne Cospser 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 23.148 acres, being part of the W. H. Cole Survey, Abstract No. 200, from AR-1 (Agricultural Single-Family Residential District), R-1 (Single-Family Residential District) and B-3 (Local Business District) to SR-1 (Suburban Residential Single-Family District), said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 3rd day of March 2014, 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 25th day of March 2014, 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 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 AR-1 (Agricultural Single-Family Residential District), R-1 (Single-Family Residential District) and B-3 (Local Business District) to SR-1 (Suburban Residential Single-Family District), for 23.148 acres, being part of the W. H. Cole Survey, Abstract No. 200, and being located south of Cospers Ridge Estates, Phase Four and north of Chaparral 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 25th day of March 2014, 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:

Daniel A. Corbin, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney

Case #14-09
Ord #14-__

**PLANNING AND ZONING COMMISSION MEETING
MARCH 3, 2014**

**CASE # Z14-09
R-1, AR-1 AND B-3 TO SR-1**

HOLD a public hearing and consider a request submitted by G. Wayne Cospers to rezone approximately 23.148 acres, part of the W. H. Cole Survey, Abstract No. 200 from R-1 (Single-family Residential District), AR-1 (Agricultural Single-family Residential District) and B-3 (Local Business District) to SR-1 (Suburban Residential Single-family District). The property is located south of Cospers Ridge Estates, Phase Four and north of Chaparral Road, Killeen, Texas.

Vice Chair requested staff comments.

City Planner McIlwain, stated as it was discussed during the workshop, Mr. Cospers is interested in rezoning approximately 23.148 acres from A-R1 (Agricultural Single-Family Residential District), R-1 (Single-Family Residential District) and B-3 (Local Business District) to SR-1 (Suburban Residential Single-Family District). This will allow larger lot development. This property is proposed to be platted as Cospers Ridge Estates Phase Five. The applicant is rezoning the property for residential development.

The staff notified four surrounding property owners regarding this request. Staff has received no responses. This area is designated as 'Suburban Residential' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

Staff recommends approval of the applicant's zoning request.

Mr. David Olson, Mitchell & Associates, Inc. 102 N. College, Killeen, Texas, was in attendance to represent this request.

Vice Chair Dorroh opened the public hearing. With no one requesting to speak the public hearing was closed.

Commissioner Butler motioned to recommend approval of the zoning request. Commissioner Dehart seconded the motion.

Vice Chair Dorroh stated that this will be forwarded to City Council on March 25, 2014, with a recommendation to approve.



CASE #:

Z 14-09

**City of Killeen
Zoning Change Application**

Name(s) of Property Owner (s): G. Wayne Cosper

Address: 1401 W Stan Schlueter Loop

City: Killeen State: Texas Zip: 76549

Home Phone: N/A Business Phone: N/A Cell Phone: 254-702-2829

Name of Applicant: Same as Above
(if different than Property Owner)

Address: Same as Above

City: Same as Above State: Same as Above Zip: Same as Above

Home Phone: () N/A Business Phone: () Same as Above Cell Phone:

Address/ Location of Property to be Rezoned: Chaparral Road

Has the Property been Platted? N
Lot(s) Block(s) Subdivision

Legal Description: 23.148 acre tract of land in Bell County, Texas, being part of the W. H. Cole Survey, Abstract No. 200, and the land herein described being part of a called 101.525 acre tract conveyed to G. Wayne Cosper, of record in Volume 5605, Page 311, Official Public Records of Real Property, Bell County, Texas

Metes and Bounds Description

Is there a simultaneous plat of this property? Yes

Cosper Ridge Estates, Phase 5

Type of Ownership: Sole Ownership Partnership Corporation Other
(Municipality)

Recorded Copy of Warranty Deed: Volume 5605, Page 311 Is copy of the deed attached? YES

Present Zoning(s): ^{SR-1} AR-1, B-3 Present Use: Undeveloped

Proposed Zoning(s): R-1 SR-1 Proposed Use: Residential and School Site

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: Mitchell & Associates, Inc.

Mailing Address: P.O. Box 1088 / 102 N College

City: Killeen State: Texas Zip: 76540 - _____

Home Phone: (____) N/A Business Phone: (254) 634-5541

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; consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me.

I understand that the City will deal only with a fully authorized agent. If 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 Agent

Printed/Typed Name of Agent David A. Olson Date 2/17/2014

Signature of Property Owner  Title Owner

Printed/Typed Name of Property Owner G. Wayne Cosper Date _____

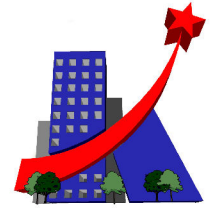
Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner _____ Date _____

Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner _____ Date _____

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



**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

#Z14-09




ZONING FROM:

**AR-1, R-1 AND B-3
TO SR-1**

PROPERTY OWNER:

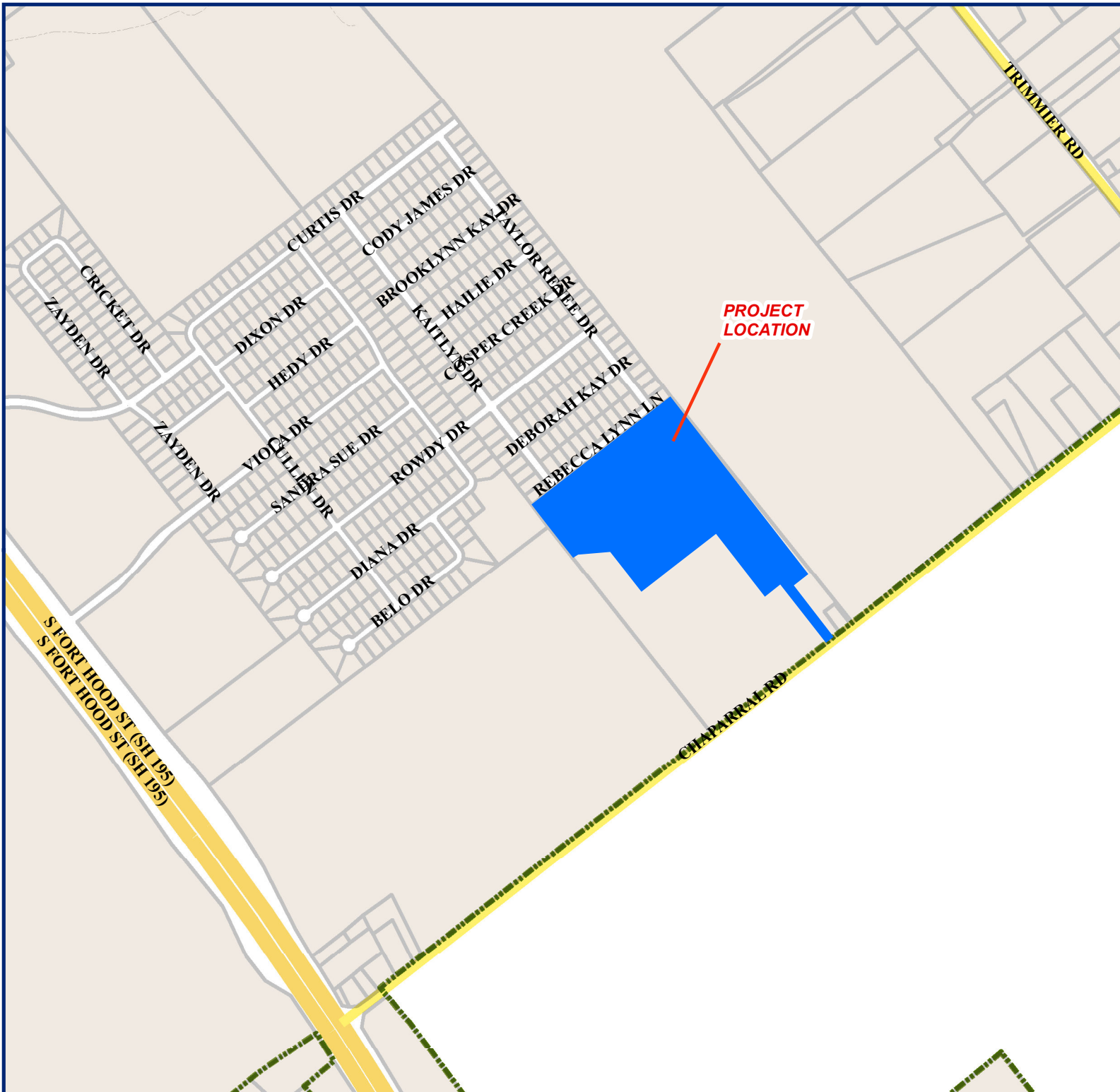
G WAYNE COSPER

LEGEND

-  Zoning Cases
-  Parcel
-  City Limits



Date: 2/19/2014











**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:
#Z14-09

ZONING FROM:
**AR-1, R-1 AND B-3
TO SR-1**

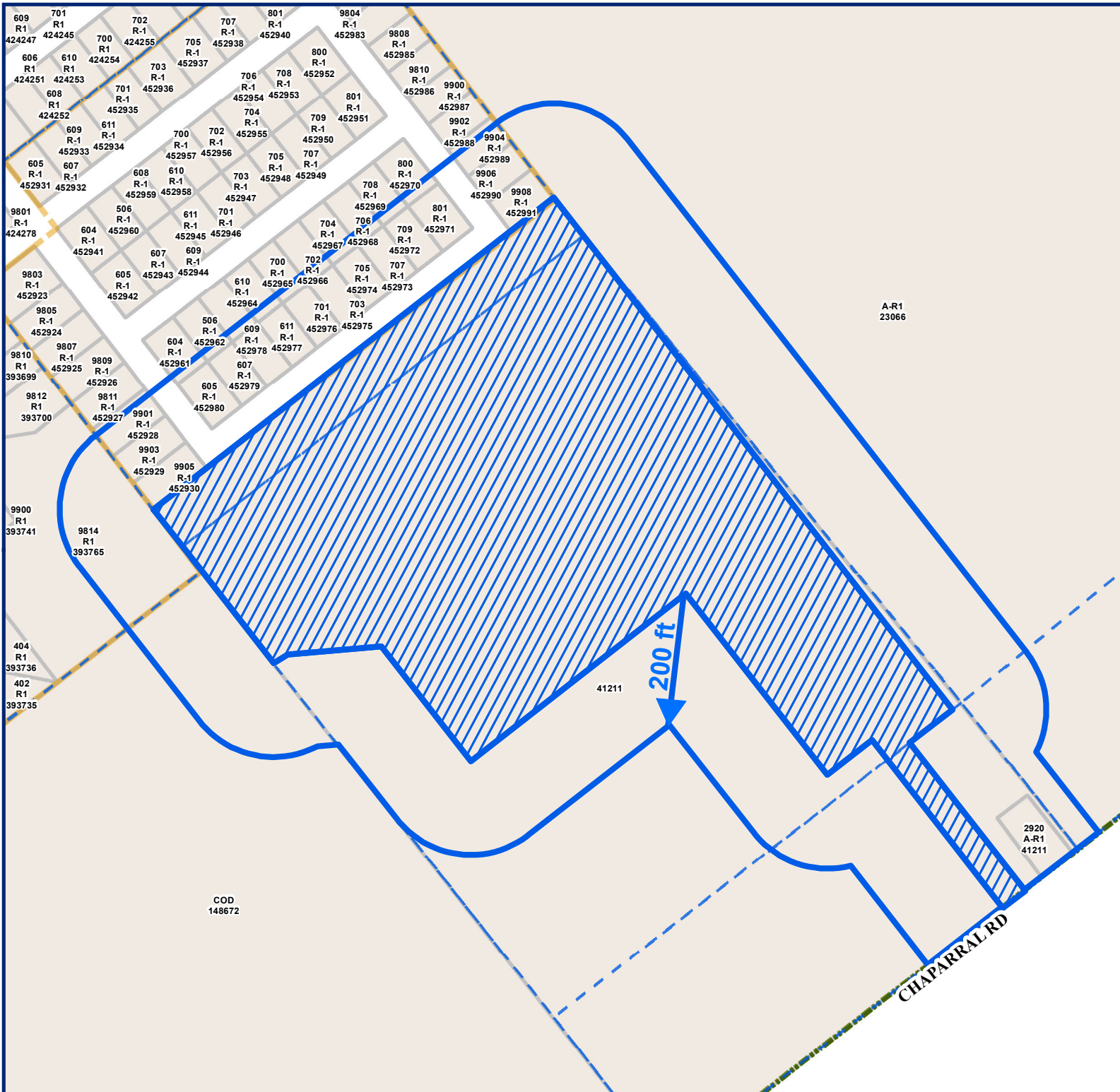
PROPERTY OWNER:
G WAYNE COSPER

LEGEND

-  200 Ft. Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 2/19/2014



CONSIDERATIONS

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