



City of Killeen

Agenda City Council

Tuesday, April 12, 2022

5:00 PM

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

Call to Order and Roll Call

___ Debbie Nash-King, Mayor	___ Nina Cobb
___ Riakos Adams	___ Jessica Gonzalez
___ Michael Boyd	___ Ken Wilkerson
___ Mellisa Brown	___ Rick Williams

Invocation

Pledge of Allegiance

Approval of Agenda

Citizens Petitions

Comments should be limited to three minutes.

1. [CP-22-005](#) Jewelliann Jones - Pot Belly Pig Support Animal

Citizen Comments

This section allows members of the public to address the Council regarding any item(s), other than a public hearing item, on the agenda for Council's consideration. Each person shall sign up in advance, may speak only one time, and such address shall be limited to four (4) minutes. The Presiding Officer may allow a one (1) minute extension, if requested at the end of the original three (3) minute period. A majority vote of the City Council is required for any other time extensions.

Consent Agenda

2. [MN-22-008](#) Consider Minutes of Regular City Council Meeting of March 8, 2022.
Attachments: [Minutes](#)
3. [MN-22-009](#) Consider Minutes of Regular City Council Meeting of March 22, 2022.
Attachments: [Minutes](#)
4. [RS-22-042](#) Consider a memorandum/resolution authorizing the City Manager to execute an Interlocal Agreement with various entities to develop a Regional Habitat Conservation Plan.

Attachments: [Staff Report](#)
[Interlocal Agreement](#)

5. [RS-22-047](#) Consider a memorandum/resolution awarding Bid No. 22-15, Slurry Seal Services, to Viking Construction in an amount not to exceed \$1,000,000 Citywide for FY22.

Attachments: [Staff Report](#)
[Bid Tab](#)
[Contract](#)
[Certificate of Interested Parties](#)
[Presentation](#)

6. [RS-22-048](#) Consider a memorandum/resolution authorizing a contract for HA5 high density mineral bond road surface treatments to Andale Construction in an amount not to exceed \$1,000,000 citywide in FY22.

Attachments: [Staff Report](#)
[Proposal](#)
[Contract](#)
[Certificate of Interested Parties](#)
[Presentation](#)

7. [RS-22-050](#) Consider a memorandum/resolution declaring vacancies on various citizen boards and commissions and appointing members to fill the unexpired terms.

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

Resolutions

8. [RS-22-046](#) Consider a memorandum/resolution appointing a new Mayor Protem.

Attachments: [Staff Report](#)

9. [RS-22-034](#) Consider a memorandum/resolution authorizing an Interlocal Agreement with Bell County for the relocation of the Bell County Killeen Annex.

Attachments: [Staff Report](#)
[Interlocal Agreement](#)
[FNBT Background](#)
[Bank Site Demolished](#)
[Bank Site Preserved](#)
[PD Site with Annex](#)
[Presentation](#)

10. [RS-22-049](#) Consider a memorandum/resolution to approve a nonprofit application

process for American Rescue Plan Act (ARPA) and Public Facility Corporation funding (PFC).

Attachments: [Staff Report](#)

[ARPA Nonprofit FAQs](#)

[ARPA Nonprofit Application](#)

[PFC Nonprofit Youth Organizations FAQs](#)

[PFC Nonprofit Youth Organization Application](#)

Ordinances

11. [OR-22-004](#) Consider an ordinance amending the Code of Ordinances Chapter 26, Subdivisions and Other Property Developments, to establish the requirements for a Traffic Impact Analysis.

Attachments: [Staff Report](#)

[Ordinance January 22](#)

[Ordinance April 5, 2022](#)

[Ordinance April 12, 2022](#)

[Presentation](#)

Public Hearings

12. [PH-22-021](#) HOLD a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Texas Land and Living, LLC (Case #FLUM22-10) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'Rural' (R) designation to a 'General Residential' (GR) designation for approximately 9.147 acres out of the James Cook Survey, Abstract No. 161. The property is generally located east of the intersection of Pinar Trail & Grand Terrace Drive, Killeen, Texas.

Attachments: [Staff Report](#)

[Maps](#)

[Minutes](#)

[Ordinance](#)

[Response](#)

[FLUM Exhibit](#)

[Presentation](#)

13. [PH-22-022](#) HOLD a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Texas Land and Living, LLC (Case #Z22-11) to rezone approximately 9.147 acres out of the James Cook Survey, Abstract No. 161 from "A" (Agricultural District) to "R-1" (Single-Family Residential District). The property is generally located east of the intersection of Pinar Trail and Grand Terrace Drive, Killeen, Texas. (Requires a $\frac{3}{4}$ Majority Vote)

Attachments: [Staff Report](#)
[Maps](#)
[Site Photos](#)
[Minutes](#)
[Ordinance](#)
[Considerations](#)
[Responses](#)
[Letter to Residents](#)
[Presentation](#)

14. [PH-22-023](#) HOLD a public hearing and consider an ordinance requested by Franklin Land Associates, LLC. on behalf of D&SC Enterprises, Inc. (Case #Z22-13) to rezone approximately 1.516 acres out of the W. H. Cole, Abstract No. 200, from "R-1" (Single-Family Residential District) to "B-3" (Local Business District). The property is generally located west of Featherline Road and north of Chaparral Road, Killeen, Texas.

Attachments: [Staff Report](#)
[Maps](#)
[Site Photos](#)
[Minutes](#)
[Ordinance](#)
[Considerations](#)
[Response](#)
[Site Plan](#)
[Presentation](#)

15. [PH-22-024](#) HOLD a public hearing and consider an ordinance requested by Edward McIntyre on behalf of Gurunath Vadamudala (Case #Z22-14) to rezone Holder Addition, Block 1, Lot 1, from "B-5" (Business District) to "R-1" (Single-Family Residential District). The property is locally addressed as 1118 18th Street, Killeen, Texas.

Attachments: [Staff Report](#)
[Maps](#)
[Site Photos](#)
[Minutes](#)
[Ordinance](#)
[Considerations](#)
[Presentation](#)

16. [PH-22-025](#) HOLD a public hearing and consider an ordinance requested by Michael Linnemann (Case #Z22-15) to rezone approximately 0.3375 acres out of the Simmons 2nd Subdivision, Block 1, Lot 38, from "R-1" (Single-Family

Residential District) to “R-2” (Two-Family Residential District). The property is addressed as 3909 Turner Avenue, Killeen, Texas.

Attachments: [Staff Report](#)

[Maps](#)

[Site Photos](#)

[Minutes](#)

[Ordinance](#)

[Considerations](#)

[Responses](#)

[Presentation](#)

17. [PH-22-026](#) HOLD a public hearing and consider an ordinance requested by Joe Patterson on behalf of Michael Patterson (Case #Z22-16) to rezone approximately 3.2562 acres out of the Lakeview Park Phase One, Block 9, Lots 1A, 2A, 3 & 4 and Lakeview Park Subdivision Third Replat, Block 1, Lot 31B, from “B-3” (Local Business District) to “SF-2” (Single-Family Residential District). The properties are locally addressed as 5398, 5400, 5450, 5500, & 5550 Rancier Avenue, Killeen, Texas.

Attachments: [Staff Report](#)

[Maps](#)

[Site Photos](#)

[Minutes](#)

[Ordinance](#)

[Considerations](#)

[Presentation](#)

18. [PH-22-027](#) HOLD a public hearing and consider an ordinance requested by Andrea Metz on behalf of Six Westheimer Retail, LTD (Case #FLUM22-11) to amend the Comprehensive Plan’s Future Land Use Map (FLUM) from a ‘General Commercial’ (GC) designation to a ‘Multi-Family Residential’ (MFR) designation for a total of approximately 9.62 acres out of the A. Dickson Survey Abstract No. 262, the Killeen Industrial Foundation, Block 1, Lot 18, the Northside Theater Subdivision, Block 1, Lot 10, and the KIXS Addition, Block 1, Lot 1. The property is locally addressed as 3001 Atkinson Avenue, Killeen, Texas.

Attachments: [Staff Report](#)

[Maps](#)

[Minutes](#)

[Ordinance](#)

[Presentation](#)

Councilmember Requests for Future Agenda Items

19. [RQ-22-013](#) Briefing from TEX-21 (Transportation Excellence for the 21th Century)

Attachments: [Request](#)

20. [RQ-22-014](#) Discharging Firearms in City Limits

Attachments: [Request](#)

21. [RQ-22-015](#) KEDC Structure Review

Attachments: [Request](#)

22. [RQ-22-016](#) Request Quarterly Update from KEDC

Attachments: [Request](#)

Discussion Items

23. [DS-22-040](#) Discuss Downtown Property Improvements

24. [DS-22-041](#) Discuss Potential Sale of Cemetery Property for Economic Development Purposes

25. [DS-22-045](#) Discuss Employment of the Chief of Police

Adjournment

I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on April 8, 2022.

Lucy C. Aldrich, City Secretary

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

This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.

Notice of Meetings

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

- *Bell County Coalition of Black Democrats Event, April 16, 2022, 1:30 p.m., VFW Post 9191*
- *Bob Gray Day Ceremony, April 18, 2022, 1:00 p.m., Killeen Fort Hood Regional Airport*
- *NAACP Freedom Fund Banquet, April 22, 2022, 6:00 p.m., Killeen Civic and Conference Center*
- *National Day of Prayer, May 5, 2022, 12:00 p.m., Killeen City Hall*
- *Bell County Police Memorial Ceremony, May 10, 2022, 10:00 a.m., Killeen Police Headquarters*

Dedicated Service -- Every Day, for Everyone!



City of Killeen

Legislation Details

File #: CP-22-005 **Version:** 1 **Name:** Citizens Petition
Type: Citizens Petition **Status:** Citizens Petitions
File created: 4/4/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Jewelliann Jones - Pot Belly Pig Support Animal
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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City of Killeen

Legislation Details

File #:	MN-22-008	Version:	1	Name:	Minutes of Regular City Council Meeting of March 8, 2022
Type:	Minutes	Status:		Status:	Minutes
File created:	3/10/2022	In control:		In control:	City Council
On agenda:	4/12/2022	Final action:		Final action:	
Title:	Consider Minutes of Regular City Council Meeting of March 8, 2022.				
Sponsors:	City Secretary				
Indexes:					
Code sections:					
Attachments:	Minutes				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		

City of Killeen
City Council Meeting
Killeen City Hall
March 8, 2022 at 5:00 p.m.

Presiding: Mayor Jose Segarra

Attending: Mayor Pro Tem Debbie Nash-King, Councilmembers Jessica Gonzalez, Nina Cobb, Michael Boyd, Ken Wilkerson, Rick Williams, and Mellisa Brown.

Also attending were City Manager Kent Cagle, City Attorney Traci Briggs, City Secretary Lucy Aldrich, and Sergeant-at-Arms Burleson.

Mr. Bear Jones gave the invocation. Mayor Pro Tem Nash-King led everyone in the Pledge of Allegiance.

Approval of Agenda

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

Citizen Petitions

CP-22-003 Raoul Daniels - Killeen Parks and Open Space Master Plan

Mr. Daniels requested for City Council to consider a future agenda item request to allow Mr. Daniels to present his full report as it pertains to the local soccer community.

CP-22-004 Charles Jackson - City Ordinance Chapter 28-132, Truck Parking

Mr. Jackson requested for City Council to consider making changes to the truck parking ordinance allowing more flexibility for truck owners.

Citizen Comments

Mr. Robert Lopez spoke on agenda item CP-22-003.
Mr. Bill Paquette spoke on agenda item RS-22-032.
Ms. Anca Neagu spoke on agenda item RS-22-032.

Consent Agenda

MN-22-006 Consider Minutes of Regular City Council Meeting of February 8, 2022.

RS-22-030 Consider a memorandum/resolution approving the purchase of LED solar lights for Conder Park Sport Field from Musco Sport Lighting in the amount of \$184,750.

- RS-22-031** Consider a memorandum/resolution authorizing an Enterprise Licensing Agreement (ELA) with Azteca Systems, LLC in an amount not to exceed \$205,250 over a three-year period.
- RS-22-032** Consider a memorandum/resolution authorizing the City Manager to enter into an Advance Funding Agreement with the Texas Department of Transportation for the WS Young and Little Nolan Road Traffic Signal HSIP Grant Project
- RS-22-033** Consider a memorandum/resolution authorizing the execution of Amendment No. 1 to the Professional Services Agreement with Kimley-Horn and Associates, Inc., in the amount of \$12,000 for the Little Nolan Rd-WS Young Traffic Signal Project.
- RS-22-035** Consider a memorandum/resolution to appoint a Presiding Municipal Court Judge.

Motion was made by Mayor Pro Tem Nash-King to approve the consent agenda as written. Motion was seconded by Councilmember Brown. The motion carried unanimously.

Public Hearings

- PH-22-017** HOLD a public hearing and consider an ordinance requested by Russell and Oteeka Davis (Case #FLUM 22 08) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'Residential Mix' (R MIX) to 'General Commercial' (GC), being approximately 0.22 acres out of the Spofford Addition, Block D, part of Lot 8. The property is addressed as 409 761st Tank Battalion Avenue, Killeen, Texas.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP TO CHANGE APPROXIMATELY 0.22 ACRES OUT OF THE SPOFFORD ADDITION, BLOCK D, PART OF LOT 8, FROM A 'RESIDENTIAL MIX' (R-MIX) TO 'GENERAL COMMERCIAL' (GC) DESIGNATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Staff Comments: Edwin Revell, Executive Director of Development Services
The property is designated as residential mix on the Future Land use Map (FLUM) of the Comprehensive Plan. The applicant has submitted a concurrent request to rezone the property from R-3 (multi-family residential) to B-5 (business district). If approved, the applicant intends to use the property for additional parking and vehicle storage for an existing towing and automotive business. Staff mailed courtesy notices to thirty-six (36) surrounding property owners regarding the request. City staff recommends disapproval of the request finding that the character of the area is primarily residential in nature, and the current residential mix Future Land Use Map designation is appropriate in this location. The Planning and Zoning Commission recommended approval of the request by a vote of 6 to 0.

Mayor Segarra invited the applicant to speak.

The applicant, Ms. Oteeka Davis, was available to provide additional information and answer questions.

Mayor Segarra opened the public hearing.

With no one appearing, the public hearing was closed.

Motion was made by Councilmember Gonzalez to approve PH-22-017. Motion was seconded by Councilmember Williams. Motion carried 5 to 2 with Mayor Pro Tem Nash-King and Councilmember Brown in opposition.

PH-22-018 HOLD a public hearing and consider an ordinance requested by Russell and Oteeka Davis, (Case #Z22 07), to rezone approximately 0.22 acres out of the Spofford Addition, Block D, part of Lot 8, from "R 3" (Multifamily Residential District) to "B 5" (Business District). The property is addressed as 409 761st Tank Battalion Avenue, Killeen, Texas.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 0.22 ACRES OUT OF THE SPOFFORD ADDITION, BLOCK D, PART OF LOT 8, FROM "R-3" (MULTIFAMILY RESIDENTIAL DISTRICT) TO "B-5" (BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Edwin Revell, Executive Director of Development Services
The property is designated residential mix on the Future Land Use Map (FLUM) and is not consistent with the FLUM. However, a concurrent request to amend the FLUM from residential mix to general commercial has been submitted. Staff notified thirty-six (36) surrounding property owners regarding the request. To date, staff has not received any responses. City staff finds that the request is incompatible with the adjacent residential property to the north and east and recommends disapproval. The Planning and Zoning Commission recommended approval by a vote of 6 to 0.

Mayor Segarra invited the applicant to speak.

The applicant, Ms. Oteeka Davis, was available to provide additional information and answer questions.

Mayor Segarra opened the public hearing.

Mr. Franklin Gray spoke in support of the request.

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

Motion was made by Councilmember Brown to approve PH-22-018 with B-4 zoning. Motion was seconded by Councilmember Cobb. Motion failed 3 to 4 with Councilmember Gonzalez, Councilmember Boyd, Councilmember Wilkerson and Councilmember Williams in opposition. Motion was made by Councilmember Wilkerson to approve PH-22-018. Motion was seconded by Councilmember Gonzalez. Motion carried 5 to 2 with Mayor Pro Tem Nash-King and Councilmember Brown in opposition.

PH-22-019 HOLD a public hearing and consider an ordinance requested by Magdy Abadir, on behalf of Carmen Figueroa (Case #Z22 08), to rezone approximately 0.776 acres out of the Kinderland Addition Phase Two, Block 01, Lot 01, from "B DC" (Business Day Care District) to "R 1" (Single Family Residential District). The property is located at 1303 Trimmier 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 APPROXIMATELY 0.776 ACRES OUT OF THE KINDERLAND ADDITION PHASE TWO, BLOCK 1, LOT 1, FROM "B-DC" (BUSINESS DAY CARE DISTRICT) TO "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Edwin Revell, Executive Director of Development Services
The subject property is designated general residential on the Future Land Use Map (FLUM). Staff notified fifty-four (54) surrounding property owners regarding the request. To date, staff has received one (1) response in support. City staff finds that the request is consistent with the FLUM designation, is compatible with the surrounding land uses and recommends approval. The Planning and Zoning Commission recommended approval by a vote of 6 to 0.

Mayor Segarra invited the applicant to speak.

The applicant did not attend the meeting.

Mayor Segarra opened the public hearing.

With no one appearing, the public hearing was closed.

Motion was made by Councilmember Wilkerson to approve PH-22-019. Motion was seconded by Councilmember Williams. Motion carried unanimously.

PH-22-020 HOLD a public hearing and consider an ordinance requested by Jim Wright, on behalf of Kerry Property, LLC (Case #Z22 09), to rezone a part of approximately 3.04 acres out of the Neimac Addition Phase Two Amending, Block 1, Lot 3A, from "B 3" (Local Business District) to "B 4" (Business District). The property is located at 3000 W. Stan Schlueter Loop, Suites 108 109, 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 A PART OF APPROXIMATELY 3.04 ACRES OUT OF THE NEIMAC ADDITION PHASE TWO AMENDING, BLOCK 1, LOT 3A, FROM "B-3" (LOCAL BUSINESS DISTRICT) TO "B-4" (BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Edwin Revell, Executive Director of Development Services
The subject property is designated general commercial on the Future Land Use Map (FLUM). Staff notified thirty (30) surrounding property owners regarding the request. To date, staff has not received any responses. If approved, the applicant intends to lease the space for use as a liquor store. City staff finds that the request is inconsistent with the surrounding B-3 (local business district) zoning and that granting the request would constitute special dispensation for the applicant. Therefore, city staff recommends disapproval of the request. The Planning and Zoning Commission recommended approval by a vote of 4 to 2.

Mayor Segarra invited the applicant to speak.

The applicant, Mr. Jim Wright, was available to provide additional information and answer questions.

Mayor Segarra opened the public hearing.

Mr. Bear Jones spoke in opposition of the request.

Ms. Anca Neagu spoke in support of the request.

Owner of Kerry Property, LLC, Mr. Lee, spoke in support of the request.

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

Motion was made by Councilmember Williams to disapprove PH-22-020. Motion was seconded by Councilmember Boyd. Motion carried 5 to 2 with Councilmember Cobb and Councilmember Wilkerson in opposition.

Adjournment

With no further business, upon motion being made by Mayor Pro Tem Nash-King, seconded by Councilmember Boyd, and unanimously approved, the meeting was adjourned at 6:04 p.m.



City of Killeen

Legislation Details

File #: MN-22-009 **Version:** 1 **Name:** Minutes of Regular City Council Meeting of March 22, 2022

Type: Minutes **Status:** Minutes

File created: 3/23/2022 **In control:** City Council

On agenda: 4/12/2022 **Final action:**

Title: Consider Minutes of Regular City Council Meeting of March 22, 2022.

Sponsors: City Secretary

Indexes:

Code sections:

Attachments: [Minutes](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		

City of Killeen
City Council Meeting
Killeen City Hall
March 22, 2022 at 5:00 p.m.

Presiding: Mayor Pro Tem Debbie Nash-King

Attending: Councilmembers Jessica Gonzalez, Nina Cobb (arrived at 5:14 p.m.), Michael Boyd, Ken Wilkerson, Rick Williams, and Mellisa Brown

Vacant seat: Mayor, following March 17, 2022 resignation

Also attending were City Manager Kent Cagle, City Attorney Traci Briggs, City Secretary Lucy Aldrich, and Sergeant-at-Arms Trussell

Father Steve Karcher gave the invocation. Councilmember Wilkerson led everyone in the Pledge of Allegiance.

Approval of Agenda

Motion was made by Councilmember Brown to approve the agenda removing agenda item RS-22-041 from consideration. Motion was seconded by Councilmember Boyd. The motion carried unanimously.

Presentations

PR-22-004 Killeen Star Award Presentation
Mayor Pro Tem Nash-King and Councilmember Wilkerson recognized Killeen citizen Mr. Anthony Kendrick for being an outstanding community member.

Citizen Comments

Ms. Khandiese Cooper - spoke on agenda item DS-22-036.
Mr. Ronnie Russell - spoke on agenda item DS-22-036.
Ms. Anca Neagu - spoke on agenda items RS-22-036, RS-22-037, RS-22-039, RS-22-038, and RS-22-039.
Ms. Myrna Banzon - spoke on agenda item RS-22-044.

Consent Agenda

MN-22-007 Consider Minutes of Regular City Council Meeting of February 22, 2022.

RS-22-036 Consider a memorandum/resolution authorizing an agreement with Sports Fields Solutions to establish multi-sport playing conditions at Conder, Stewart and Phyllis Parks in the amount of \$512,470.

- RS-22-037** Consider a memorandum/resolution awarding Bid No. 22-06 to J.B. & Co. LLC. for the construction of the Wolf Ditch Drainage Improvement Project in the amount of \$205,479.
- RS-22-039** Consider a memorandum/resolution awarding Bid No. 22-13 to American Lube Supply for Petroleum Products and Diesel Exhaust Fluid in the amount of \$90,702.
- RS-22-038** Consider a memorandum/resolution authorizing a Professional Services Agreement with Control Panels USA, Inc. for programming and configuration services, and the purchase of a Wireless Broadband Communications System from Iteris, Inc. for the SCADA Upgrade Project in the combined amount of \$261,206.
- RS-22-040** Consider a memorandum/resolution authorizing the renewal of the City's fuel services contract with FleetCor Technologies Operating Company, LLC., in an amount not to exceed \$2,500,000 per year.

Motion was made by Councilmember Wilkerson to approve the consent agenda. Motion was seconded by Councilmember Brown. The motion carried unanimously.

AGENDA ITEM RS-22-041 WAS PULLED FROM CONSIDERATION

- RS-22-041** Consider a memorandum/resolution removing a board member from the Senior Citizens Advisory Board.

Resolutions

- RS-22-042** Consider a memorandum/resolution authorizing the City Manager to execute an Interlocal Agreement with various entities to develop a Regional Habitat Conservation Plan.

Staff Comments: Kent Cagle, City Manager
Mr. Cagle presented this item on March 15, 2022, during the City Council Workshop meeting. City Council made a motion of direction to bring the item back for consideration. Mr. Cagle was available to address any questions.

Motion was made by Councilmember Wilkerson to postpone review and action of RS-22-042 to the next workshop/council meeting. Motion was seconded by Councilmember Cobb. Motion carried unanimously.

- RS-22-043** Consider a memorandum/resolution seeking legislation allowing for Killeen municipal elections to be conducted in November.

Staff Comments: Traci Briggs, City Attorney
Councilmember Wilkerson presented this item on March 15, 2022, during the City Council Workshop meeting. City Council made a motion of direction to bring the item back for consideration. Ms. Briggs was available to address any questions.

Mr. Calgle advised that Mr. Stan Schlueter of The Schlueter Group would be attending the April 19, 2022 City Council Workshop meeting to discuss legislation priorities/goals.

Motion was made by Councilmember Wilkerson to approve RS-22-043. Motion was seconded by Councilmember Boyd. Motion carried unanimously.

Motion of direction was made by Councilmember Brown directing the City Manager to invite Representative Brad Buckley to also attend the April 19, 2022 City Council Workshop meeting. Motion of direction was seconded by Councilmember Gonzalez. Motion of direction carried unanimously.

RS-22-044 Consider a memorandum/resolution naming the municipal annex building after Raul Villaronga.

Staff Comments: Traci Briggs, City Attorney
Mayor Pro Tem Nash-King presented this item on March 15, 2022, during the City Council Workshop meeting. City Council made a motion of direction to bring the item back for consideration. Ms. Briggs was available to address any questions.

Motion was made by Councilmember Boyd to approve RS-22-044. Motion was seconded by Councilmember Gonzalez. Motion carried unanimously.

Discussion Items

DS-22-036 Discuss Nonprofit Application Process for ARPA and PFC Funding

Staff Comments: Danielle Singh, Assistant City Manager provided options for an application process for nonprofit associations as it pertains to the use of ARPA funding and PFC funding.

Motion of direction was made by Councilmember Brown to postpone this discussion to the next meeting and consider establishing an application review committee. With no second, the motion of direction died.

Motion of direction was made by Councilmember Wilkerson to have nonprofit youth association applicants identify in the application process how much funding they would need and use that information from each applicant to determine the amount of funding to give to each of the applicants. In addition, ensure that the application review and consideration process stay in-house with city staff and City Council. Motion of direction was seconded by Councilmember Gonzalez. As discussions continued, Councilmember Gonzalez withdrew her second and Councilmember Wilkerson withdrew his motion.

Motion of direction was made by Councilmember Brown to postpone this discussion to the next workshop meeting and possibly consider action at the next regular meeting. Motion of direction was seconded by Councilmember Wilkerson.

During discussion, a call for the vote was made by Councilmember Gonzalez. The call for the vote was seconded by Councilmember Brown and approved unanimously.

The motion of direction to postpone further discussions on this item to the next workshop meeting and the possible consideration of action at the next regular meeting carried unanimously.

Adjournment

With no further business, upon motion being made by Councilmember Brown, seconded by Councilmember Gonzalez, and unanimously approved, the meeting was adjourned at 6:36 p.m.



City of Killeen

Legislation Details

File #: RS-22-042 **Version:** 1 **Name:** Regional Habitat Conservation Plan
Type: Resolution **Status:** Resolutions
File created: 3/2/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Consider a memorandum/resolution authorizing the City Manager to execute an Interlocal Agreement with various entities to develop a Regional Habitat Conservation Plan.
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Interlocal Agreement](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		
3/22/2022	1	City Council		



STAFF REPORT

DATE: March 22, 2022

TO: Mayor and City Council

FROM: Kent Cagle, City Manager

SUBJECT: Interlocal Agreement to Develop Regional Habitat Conservation Plan

BACKGROUND AND FINDINGS:

The purpose of the Interlocal Agreement is to facilitate a regional joint effort in support of creating a Regional Habitat Conservation Plan (HCP) and associated National Environmental Policy Act (NEPA) documentation for the conservation of federally listed species in the region of Bell and Coryell Counties, Texas.

Thirteen (13) entities are currently involved - Bell County, Coryell County, Clearwater Underground Water Conservation District, Middle Trinity Groundwater Conservation District, Brazos River Authority, Killeen-Temple Metropolitan Planning Organization, and the following cities: Belton, Copperas Cove, Gatesville, Harker Heights, Killeen, Salado, and Temple.

The parties intend to apply for a grant from the U.S. Fish and Wildlife Service in order to fund the regional habitat conservation planning efforts. There will be a regional grant match of no less than 25%. Below is the proposed match allocation.

- Four entities commit to fund 50% of the \$250,000 grant match requirement: \$31,250 from Bell County, Coryell County, Clearwater Underground Water Conservation District, and Brazos River Authority
- Four entities with populations over 25,000 equally share in 66% of the remaining \$125,000 grant match requirement ($\$83,334 \div 4 = \$20,833.50$ each): Copperas Cove, Harker Heights, Killeen, and Temple
- Remaining entities with populations under 25,000 (or 'other' type entities) equally share 33% of the remaining \$125,000 grant match requirement ($\$41,666 \div 5 = \$8,333.20$ each): Belton, Gatesville, Salado, Middle Trinity Groundwater Conservation District, and Killeen-Temple Metropolitan Planning Organization

Bell County has agreed to take the lead by preparing the RFP to apply for the grant and develop the HCP, if successfully awarded. Each party will have a designated representative having an equal vote to review RFP submission and the development of the HCP.

THE ALTERNATIVES CONSIDERED:

1. Enter into an Interlocal Agreement with various entities to develop a Regional Habitat Conservation Plan to share costs of a grant.
2. Apply for a grant to create a Habitat Conservation Plan for Killeen only.

Which alternative is recommended? Why?

Staff recommends entering into an Interlocal Agreement to create a regional plan. Cost-sharing will save the City money and will provide a unified conservation plan.

CONFORMITY TO CITY POLICY:

Conforms with City policy.

FINANCIAL IMPACT:

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

The City's local grant match would be \$20,833.50. Additionally, in-kind services are eligible to fulfill the City's commitment for the local grant match.

Is this a one-time or recurring expenditure?

One-time

Is this expenditure budgeted?

Yes, funds are available in the General Fund Non-Departmental account 010-9501-491.47-99.

If not, where will the money come from?

N/A

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

Yes

RECOMMENDATION:

Staff recommends City Council authorize the City Manager to enter into an Interlocal Agreement to create a Regional Habitat Conservation Plan.

DEPARTMENTAL CLEARANCES:

Finance
Legal

ATTACHED SUPPORTING DOCUMENTS:

Interlocal Agreement

INTERLOCAL AGREEMENT TO DEVELOP A REGIONAL HABITAT CONSERVATION PLAN IN BELL AND CORYELL COUNTIES

This Interlocal Agreement (“Agreement”) is made and agreed to by and among Bell County, Coryell County, Clearwater Underground Water Conservation District (“Clearwater UWCD”), Killeen-Temple Metropolitan Planning Organization (“KTMPO”), Middle Trinity Groundwater Conservation District (“Middle Trinity GCD”), City of Gatesville, City of Copperas Cove, City of Killeen, City of Harker Heights, City of Belton, City of Temple, the Village of Salado, and the Brazos River Authority (collectively, the “Parties” and, individually, a “Party”), for the purpose of creating the Karst Coalition to develop a regional habitat conservation plan (“RHCP”) in Bell and Coryell Counties (the “Planning Area”).

RECITALS

WHEREAS, Bell County is a corporate and political body created and operating pursuant to Article IX, Section 1, and Article XI, Section 1 of the Constitution of Texas; Title 3 of the Texas Local Government Code; and the applicable general laws of the State of Texas;

WHEREAS, Coryell County is a corporate and political body created and operating pursuant to Article IX, Section 1, and Article XI, Section 1 of the Constitution of Texas; Title 3 of the Texas Local Government Code; and the applicable general laws of the State of Texas;

WHEREAS, Clearwater UWCD is a groundwater conservation district and a body politic and corporate, created pursuant to Article XVI, Section 59 of the Constitution of Texas; operating pursuant to Chapter 8877 of the Texas Special District Local Laws Code, Chapter 36 of the Texas Water Code, and the applicable general laws of the State of Texas; and confirmed by the voters of Bell County in August 1999;

WHEREAS, Middle Trinity GCD is a groundwater conservation district and a body politic and corporate, created pursuant to Article XVI, Section 59 of the Constitution of Texas; operating pursuant to Chapter 8862 of the Texas Special District Local Laws Code, Chapter 36 of the Texas Water Code, and the applicable general laws of the State of Texas; and confirmed by the voters of Comanche and Erath Counties in May 2002, and later by the voters of Bosque County in May 2009, and the voters of Coryell County in November 2009;

WHEREAS, the City of Gatesville is a home-rule city created and operating pursuant to Article XI, Section 5 of the Constitution of Texas; Title 3 of the Texas Local Government Code; and the applicable general laws of the State of Texas;

WHEREAS, the City of Copperas Cove is a home-rule city created and operating pursuant to Article XI, Section 5 of the Constitution of Texas; Title 3 of the Texas Local Government Code; and the applicable general laws of the State of Texas;

WHEREAS, the City of Killeen, is a home-rule city created and operating pursuant to Article XI, Section 5 of the Constitution of Texas; Title 3 of the Texas Local Government Code; and the applicable general laws of the State of Texas;

WHEREAS, the City of Harker Heights, is a home-rule city created and operating pursuant to Article XI, Section 5 of the Constitution of Texas; Title 3 of the Texas Local Government Code; and the applicable general laws of the State of Texas;

WHEREAS, the City of Belton is a home-rule city created and operating pursuant to Article XI, Section 5 of the Constitution of Texas; Title 3 of the Texas Local Government Code; and the applicable general laws of the State of Texas;

WHEREAS, the City of Temple is a home-rule city created and operating pursuant to Article XI, Section 5 of the Constitution of Texas; Title 3 of the Texas Local Government Code; and the applicable general laws of the State of Texas;

WHEREAS, the Village of Salado is a Type A general-law municipality created and operating pursuant to Article XI, Section 4 of the Constitution of Texas; Title 3 of the Texas Local Government Code; and the applicable general laws of the State of Texas;

WHEREAS, the Brazos River Authority is a conservation and reclamation district, a river authority, and a body politic and corporate created and operating pursuant to Article XVI, Section 59 of the Constitution of Texas; and the applicable general laws of the State of Texas;

WHEREAS, the Parties, each being a political subdivision, and either a county, special district, or municipality of the State of Texas, desire to enter this Agreement in accordance with the provisions of the Interlocal Cooperation Act, being Chapter 791 of the Texas Government Code, and form the Karst Coalition;

WHEREAS, the purpose of this Agreement is to facilitate regional joint management, cooperation, and funding among and between the Parties and other stakeholders in and around the Planning Area in the development of an RHCP;

WHEREAS, the collective funding of an RHCP is intended to stimulate, encourage, and support development and conservation in and around the Planning Area, while supporting the Parties' potential future application for an incidental take permit under Section 10(a) of the Endangered Species Act ("ESA") in the event such a permit is required and desired;

WHEREAS, the Parties intend to request and receive a grant from the United States Fish and Wildlife Service ("FWS") in order to fund certain regional habitat conservation planning efforts, while providing a local match of no less than 25 percent of the funds awarded by FWS;

WHEREAS, the Parties will coordinate and manage the execution of the consultant services contract for the development of the RHCP, with Bell County, by agreement, taking the public lead, and each Party's designated representative having an equal vote on substantive decisions as described below; and

WHEREAS, the governing bodies of the Parties have each respectively determined for themselves that they have the authority to carry out the purposes and perform the tasks required of developing

an RHCP, and accordingly have each approved and authorized the execution and performance of this Agreement;

NOW THEREFORE, in consideration of the promises and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I. AUTHORIZATION AND PURPOSE

1.1 Authority and Purpose.

- (a) This Agreement is entered into pursuant to the Interlocal Cooperation Act, Texas Government Code Chapter 791, and other applicable law, including Texas Parks and Wildlife Code Chapter 83.
- (b) The purpose of this Agreement is to set out the terms governing and the rights and duties respecting the Parties' coordination, development, administration, implementation, and funding of an RHCP.

ARTICLE II. CREATION OF COORDINATING COMMITTEE

2.1 Creation and Purpose.

- (a) The Coordinating Committee is hereby created as of the Effective Date pursuant to Section 791.013 of the Texas Government Code, as an instrumentality of the Parties.
- (b) The Parties are authorized by state law to develop and implement an RHCP, and the Coordinating Committee is created to carry out those essential governmental purposes on behalf of the Parties.

2.2 Coordinating Committee Membership and Voting:

- (a) The Coordinating Committee shall consist of one (1) representative appointed by the governing bodies of each of the signatories to this Agreement.
- (b) The appointed members of the Coordinating Committee shall appoint a Chair.
- (c) Members of the Coordinating Committee by virtue of their membership on the Coordinating Committee, do not hold a civil office, an office of profit, trust, or emolument, within the meaning of Article XVI, Section 12, 30, or 40 of the Texas Constitution.
- (d) Members of the Coordinating Committee shall serve until the governing body of a Party appoints a new member. No Party shall be represented by more than one appointed representative at a time. If a member of the Coordinating Committee is unable to attend a meeting, that member may, in writing, appoint a voting proxy in their stead and be counted for quorum and voting purposes. Voting shall be 'one member, one vote' unless a member requests weighted voting based upon cost sharing allocations. Tier One Parties shall have

three (3) votes, Tier Two Parties shall have two (2) votes, and Tier Three Parties shall have one (1) vote.

2.3 Coordinating Committee Meetings.

- (a) The Coordinating Committee shall meet periodically as necessary to fulfill the purpose of this Agreement.
- (b) Coordinating Committee meetings shall be scheduled to occur at a place and time determined in advance by the Coordinating Committee members.
- (c) The Coordinating Committee shall adopt bylaws governing the Coordinating Committee's meetings as prescribed by this Agreement.

2.5 Notice.

- (a) Written notice of each meeting of the Coordinating Committee must be delivered to each Coordinating Committee member. The notice must be delivered at least three (3) calendar days before a meeting by electronic mail, facsimile, courier, or hand delivery.
- (b) Coordinating Committee meetings and notice are subject to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

ARTICLE III. DUTIES OF THE COORDINATING COMMITTEE

3.1 General Powers. The Coordinating Committee has all of the powers of the Parties that are necessary and consistent with its duties set forth in this Agreement.

3.2 Principal Duties.

- (a) The Coordinating Committee is created and shall operate to carry out the purposes and goals of this Agreement, and particularly the planning, coordinating, development, and implementation of an RHCP in the Planning Area.
- (b) In furtherance of this Agreement and the purposes set forth herein, the Coordinating Committee shall perform the following tasks:
 - (i) Perform the duties of the Evaluation Committee as set forth in the Request for Proposals issued on October 1, 2021, as RFP 18-22, attached as **Exhibit A**, and incorporated for all purposes by reference, which includes selecting a contractor to develop an RHCP (the "Selected Contractor");
 - (ii) Make recommendations to the Parties regarding annual budgets, alternative funding sources, and other actions necessary to develop and implement an RHCP in the Planning Area;
 - (iii) Provide policy oversight regarding the development and implementation of an RHCP in the Planning Area, including coordinating with FWS; and

- (iv) Coordinate among and between Parties and other stakeholders to identify future actions, duties, and roles of the Coordinating Committee, the Parties, and other stakeholders.
- (v) Review this Agreement annually and recommend amendments to the Parties as necessary.

3.3 Administration.

- (a) Administration services for the Coordinating Committee shall be performed by the Administrator, who shall be designated by Bell County.
- (b) The Administrator serves as the Chief Administrative Officer to the Coordinating Committee. The Administrator's duties include, but are not limited to, the following:
 - (i) Coordinating activities and meetings of the Coordinating Committee;
 - (ii) Preparing and posting public notices in compliance with this Agreement and Texas Open Meetings Act, Chapter 551 of the Texas Government Code;
 - (iii) Keeping records, and preparing materials as may be needed for purposes of carrying out the scope of this Agreement;
 - (iv) Coordinating with the Selected Contractor as may be necessary throughout the development of an RHCP;
 - (v) Managing, tracking, and reporting on all budgets as described herein at Coordinating Committee meetings;
 - (vi) any and all other duties as may be assigned by the Coordinating Committee.

ARTICLE IV. INITIAL BUDGET AND COST-SHARING SCHEDULE

4.1 Initial Budget.

- (a) This, Section 4.1 of the Agreement shall remain in effect from the Effective Date until the expiration of one (1) calendar year, or until superseded by the adoption of a new or amended budget, whichever occurs first.
- (b) Parties intend to request a grant from FWS in an amount not to exceed one million dollars and no/100 (\$1,000,000.00), and duly recognize that FWS requires a local match of twenty-five percent under FWS grant guidelines, which local match may be cash and/or in-kind services.
- (c) Parties agree to fund the total Initial Budget, which shall not exceed \$250,000, and each Party agrees to commit to cost participation under the cost sharing formula as set forth in Exhibit B. Cost sharing commitments may include eligible in-kind services under FWS

grant guidelines. The parties may withdraw from this agreement by Voluntary Removal as described under Section 5.9 of this Agreement by providing written notice to the Administrator, provided however that such notice is delivered not less than either 30 days prior to the filing of the grant application, or 30 days prior to the grant application deadline, whichever is earlier.

- (d) The Administrator shall maintain copies of this Agreement, and retain copies of all invoices which shall be issued to the Parties each month (“Monthly Invoice”) according to this Agreement.
- (e) Parties shall pay Bell County the amount of each Monthly Invoice within 30 (thirty) days of receipt , and shall make such payments from current revenues available to the paying party.
- (f) Bell County shall account for its labor and direct expenses associated with administering the development of an RHCP in Bell and Coryell Counties. Bell County will provide for this accounting for purposes of the grant application only as it relates to the allowance of in-kind services as part of the local match requirement.

ARTICLE V. GENERAL PROVISIONS

- 5.1 Recitals.** The recitals herein stated are correct, agreed upon, and hereby incorporated by reference and made a part of this Agreement.
- 5.2 Obligations of the Parties.** Parties agree to be bound by this Agreement, and to work in good faith toward achieving its purpose and the functions described herein.
- 5.3 Dissolution of the Coordinating Committee.** Any dissolution of the Coordinating Committee shall be effective only upon the expiration of the term of this Agreement or by amendment of this Agreement.
- 5.4 Termination.** Notwithstanding anything to the contrary within this Agreement, if at any time during the term of this Agreement, any Party defaults in the performance of any of the terms or conditions of this Agreement, the Administrator shall inform the Coordinating Committee of such Default by issuing a written notice to the Coordinating Committee members. The Coordinating Committee, upon receipt of such notice, shall (1) meet and may elect to provide a written notice after which the defaulting Party shall have 30 (thirty) days to cure or (2) remove the breaching Party from the Agreement by amendment.
- 5.5 Amendment.** The Parties, and their respective designees, may propose an amendment to this Agreement. An amendment to this Agreement is adopted if the governing bodies of each of the Parties adopt the amendment and furnish the Administrator with certified copies of the adopting resolutions.
- 5.6 Notices.** To be effective, any notice provided under this Agreement must be in writing, and shall be deemed to have been received for all purposes upon the earlier to occur of

hand delivery or three (3) days after the same is mailed by U.S. Postal Service certified or registered mail, return receipt requested, and addressed as follows:

If to Bell County:
Bell County Judge
The Honorable David Blackburn
P.O. Box 768
Belton, TX 76513

If to Brazos River Authority
General Manager
David Collinsworth
P.O. Box 7555
Waco, TX 76714

If to Coryell County:
Coryell County Judge
The Honorable Roger Miller
800 E. Main St. Ste. A
Gatesville, TX 76528

If to City of Gatesville:
City Manager
William Parry, III
110 N 8th St.
Gatesville, TX 76528

If to Clearwater UWCD:
General Manager,
Mr. Dirk Aaron
P.O. Box 1989
Belton, TX 76513

If to City of Copperas Cove:
City Manager
Ryan D. Haverlah
P.O. Box 1449
Copperas Cove, TX 76522

If to Middle Trinity GCD:
General Manager
930 North Wolfe Nursery Road,
Stephenville, TX 76401

If to City of Killeen:
City Manager
Kent Cagle
P.O. Box 1329 Killeen, TX 76540

If to City of Belton:
City Manager
Sam A. Listi
P.O. Box 120
Belton, TX 76513

If to City of Harker Heights:
City Manager
David Mitchell
P.O. Box 2518
Harker Heights, TX 76548

If to Killeen-Temple Metropolitan
Planning Organization:
Planning & Regional Services
Division Director
Uryan Nelson
P.O. Box 729
Belton, Texas 76513

If to City of Temple:
City Manager
Brynn Meyers
P.O. Box 207
Temple, TX 76503

If to the Village of Salado:
Village Administrator
Donald P. Ferguson
P.O. Box 219
Salado, TX 76571

5.7 Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of Texas, and shall be fully enforceable in Bell County or Coryell County.


- 5.8 Formal Matters.** The relationship between the Parties under this Agreement shall be that of independent contractors, and not that of partners, joint ventures, or any other relationship. This Agreement sets out the entire agreement of the Parties in connection with the subject matter addressed herein, and may be modified or amended only in accordance with Section 5.4 of this Agreement.
- 5.9 Voluntary Removal.** At any time, a Party at its own discretion may deem it is in its own best interest to voluntarily terminate its participation in this Agreement, provided however that such notice is delivered not less than either 30 days prior to the filing of the grant application, or 30 days prior to the grant application deadline, whichever is earlier. Such termination shall be effective 30 (thirty) days after the terminating Party delivers written notice of termination to the other Parties. The Parties shall have no additional liability to one another for termination under this section.
- 5.10 Prior Agreements Superseded.** This Agreement, including the exhibits, constitute the entire Agreement of the Parties regarding the subject matter of this Agreement and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter.
- 5.11 Assignment.** No Party may assign its rights, privileges and obligations under this Agreement in whole, or in part, without the prior written consent of the other Parties. Any attempt to assign without such approval shall be void.
- 5.12 Construction.** In case any one or more of the provisions contained herein shall be held to be for any reason invalid, illegal, or unenforceable in any respect, the remaining provisions of the Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein. This Agreement shall not be construed for or against any Party by reason of the authorship or alleged authorship of any provision, or by reason of the status of the respective Parties.
- 5.13 Legal Compliance.** Parties, their officials, employees, designees, and agents shall comply with all applicable federal, state, and local laws and ordinances related to the work and services performed under this Agreement.
- 5.14 Force Majeure.** No Party shall be responsible for delays or lack of performance by such entity or its officials, employees, designees, or agents that result from acts beyond that Party's reasonable control, including acts of God, strikes or other labor disturbances, pandemics or epidemics, or delays by federal or state officials in issuing necessary regulatory approvals and/or licenses. In the event of any delay or failure excused by this Section, the time of delivery or of performance shall be extended for a reasonable time period to accommodate the delay.
- 5.15 Multiple Counterparts.** This Agreement may be executed in separate identical counterparts by the Parties and each counterpart, when so executed and delivered,

will constitute an original instrument, and all such separate identical counterparts will constitute but one and the same instrument.

- 5.16 Not Third Party Beneficiary.** The terms and provision of this Agreement are intended solely for the benefit of each Party hereto, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person or entity.

EXECUTED to be effective on the date signed by every Party, the latest of which shall be the Effective Date.

COUNTY OF BELL

By: 
David Blackburn
County Judge

Date: March 2, 2022

COUNTY OF CORYELL

By: Roger Miller
Roger Miller
County Judge

Date: 24 FEB 2022

**CLEARWATER UNDERGROUND
WATER CONSERVATION DISTRICT**

By: Dirk Aaron
Dirk Aaron
General Manager

Date: February 18, 2022

BRAZOS RIVER AUTHORITY

By: 
David Collinsworth
General Manager

Date: 2/23/22

**MIDDLE TRINITY GROUNDWATER
CONSERVATION DISTRICT**

By: Patrick F. Wagner
Patrick F. Wagner
General Manager

Date: 3/9/2022

CITY OF BELTON

By: Gene Ellis, ACM
Sam A. Listi
City Manager

Date: 02/18/2022

CITY OF COPPERAS COVE

By: 
Ryan D. Haverlah
City Manager

Date: 03/02/2022

CITY OF HARKER HEIGHTS

By: David Mitchell
David Mitchell
City Manager

Date: 2/22/2022

CITY OF TEMPLE

By: 
Brynn Meyers
City Manager

Date: 2/23/2022 | 2:04 PM CST

Approved as to Form 
Kathryn H. Davis, City Attorney

KILLEEN-TEMPLE MPO

By: Uryan Nelson
Uryan Nelson
Planning & Regional Services Director

Date: 2/18/2022

CITY OF GATESVILLE

By: William H. Parry, III
William Parry, III
City Manager


Date: February 18, 2022

CITY OF KILLEEN

By: _____
Kent Cagle
City Manager

Date: _____

VILLAGE OF SALADO

By: 
Donald P. Ferguson
City Manager

Date: 2/18/2022

EXHIBIT A

Request for Proposals 18-2

EXHIBIT B
Cost Allocations

Each party to this agreement agrees to the following cost allocation for their respective entity:

Tier I entities:

Bell County	\$31,250
Coryell County	\$31,250
Clearwater UWCD	\$31,250
Brazos River Authority	\$31,250

Tier II entities:

City of Killeen	\$20,833.25
City of Temple	\$20,833.25
City of Copperas Cove	\$20,833.25
City of Harker Heights	\$20,833.25

Tier III entities:

City of Belton	\$8,333.20
City of Gatesville	\$8,333.20
Village of Salado	\$8,333.20
Middle Trinity UWCD	\$8,333.20
Killeen-Temple MPO	\$8,333.20

The cost allocation formula is based upon:

- 4 entities (Bell County, Coryell County, Clearwater UWCD, and Brazos River Authority) paying 50% of the grant match requirement (\$125,000). These entities are designated as ‘Tier I’ entities.
- 4 entities (cities of Killeen, Temple, Copperas Cove, and Harker Heights) paying two-thirds of one-half of the grant match requirement (\$83,334) remaining after the Tier I entities cost share is deducted.
- 5 entities (cities of Belton, Gatesville, Village of Salado, Middle Trinity UWCD, and Killeen-Temple MPO) paying one-third of one-half of the grant match requirement (\$41,666) remaining after the Tier I entities cost share is deducted.



City of Killeen

Legislation Details

File #: RS-22-047 **Version:** 1 **Name:** Bid 22-15 Slurry Seal Services
Type: Resolution **Status:** Resolutions
File created: 1/28/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Consider a memorandum/resolution awarding Bid No. 22-15, Slurry Seal Services, to Viking Construction in an amount not to exceed \$1,000,000 Citywide for FY22.
Sponsors: Public Works Department, Transportation
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Bid Tab](#)
[Contract](#)
[Certificate of Interested Parties](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 05, 2022

TO: Kent Cagle, City Manager

FROM: Jeffery Reynolds, Executive Director of Public Works

SUBJECT: Authorize the award of Bid No. 22-15, Slurry Seal Services to Viking Construction

BACKGROUND AND FINDINGS:

Slurry seal is a thin asphalt overlay/seal coat made up of aggregate, asphalt emulsion, and fillers that is used to extend the service life of roadways by protecting the undersurface from the effects of aging and the environment. Applying slurry seal fills in small cracks and surface imperfections to give the roadway a uniform color and texture.

The City solicits Slurry Seal Service bids every two (2) years in order to procure needed services for the application of slurry seal. The City's current slurry seal services contract is set to expire April 28, 2022.

An Invitation to Bid (ITB) was issued for Slurry Seal Services for the large infrastructure on City roadways, parking lots, bike lanes, and other paved areas throughout the city. The total purchase of services will not exceed \$1,000,000 citywide in FY22 and future year expenditures will be based on the approved budget and subject to City Council approval.

On February 10, 2022, two (2) vendors submitted bids: Viking Construction and Intermountain Slurry Seal. Bids were opened and read aloud for the City's procurement of the annual requirements of Slurry Seal Services. Bidders were instructed to bid items based upon estimated annual need per item and per item amounts.

Bid 22-15 Slurry Seal Services		
	Viking Construction	Intermountain Slurry Seal
25 LBS./SY	\$3.19/SY	\$3.20/SY
18 LBS./SY	\$2.61/SY	\$2.50/SY
Escalation Clause		
After 12 months	1%	4%
1 st Extension	1%	4%
2 nd Extension	1%	4%

Transportation, along with Purchasing, evaluated each bid's conformance with the bid information and instructions. Each bidder is ranked in accordance with the best value procedures. The determination of the best value to the City takes into consideration the qualifications, references, and cost of the Bidder in accordance with the Bid General Terms and Conditions, Section 10 - Award of the Contract:

1. Unit Price
2. Total Bid Price
3. Total long term cost to the municipality

Due to fluctuating market conditions of the materials, the bid solicitation required that bid prices remain firm during the first twelve months of the contract. The contract term is two years upon execution with the option to extend up to two additional years in one-year intervals. This allows for escalation after the first twelve months. Viking Construction has proposed a 1% increase for subsequent years.

THE ALTERNATIVES CONSIDERED:

1. Reject all bids, continue making purchases on a "per order / project" basis.
2. Authorize award of Bid 22-15, Slurry Seal Services to Viking Construction

Which alternative is recommended? Why?

Alternative two (2) is recommended; authorize award of Bid No. 22-15, Slurry Seal Services to Viking Construction in an amount not to exceed \$1,000,000 citywide in FY22 and not to exceed amounts approved in the budget for future years.

CONFORMITY TO CITY POLICY:

Per the Financial Management Policy, purchases of \$50,000 or more by State law trigger the competitive procurement process. The ITB uses the competitive sealed bid method. Requirements are clearly defined, negotiations are not necessary, and best value methods are the major determining factors for selection.

FINANCIAL IMPACT:

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

Estimated expenditures in an amount not to exceed \$1,000,000 citywide for FY22. Future expenditures will be based on the approved budget.

Is this a one-time or recurring expenditure?

Recurring

Is this expenditure budgeted?

Yes, funds are available in various street maintenance accounts throughout multiple funds and operating budgets with the primary funding source being in the Street Maintenance Fund account 234-3445-434.42-65.

If not, where will the money come from?

N/A

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

Yes

RECOMMENDATION:

City Council authorize the award of Bid 22-15 Slurry Seal Services to Viking Construction and to execute a contract in an amount not to exceed \$1,000,000 citywide in FY22, and furthermore, authorize the City Manager, or designee, to execute any and all change orders within the amounts set by State and Local law.

DEPARTMENTAL CLEARANCES:

Legal
Finance
Purchasing
Public Works

ATTACHED SUPPORTING DOCUMENTS:

Bid Tab
Contract
Certificate of Interested Parties

Bid 22-15 Slurry Seal Services		Viking Construction	Intermountain Slurry Seal	
SLURRY SEAL SERVICES 25 LBS./SY 18 LBS./SY	450,000S.Y.	\$3.19 / SY \$2.61 / SY	\$3.20 / SY \$2.50 / SY	
NOTES / COMMENTS		Escalation Clause After 12 mth 1% 1st addl. 1% 2nd addl. 1% Co-op Yes Location Killeen	Escalation Clause After 12 mth 4% 1st addl. 4% 2nd addl. 4% Co-op Yes Location Temple / Marble Falls	

STATE OF TEXAS
BELL COUNTY

THIS AGREEMENT is made and entered into this _____ day of _____, 20 **22**, by and between the City of Killeen, a municipal corporation, organized and existing under laws of the State of Texas, acting through its City Manager or other duly authorized designee, hereinafter referred to as the "Owner" and **Viking Construction**, of the City of **Georgetown**, County of **Williamson**, and the State of **Texas** hereinafter referred to as the "CONTRACTOR."

WITNESSETH: That for and in consideration of the promises, performances, payments, and agreements hereinafter mentioned, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Bid 22-15 Slurry Seal Services and all Work in accordance with the, Invitation to Bid and Addenda (if applicable), which are incorporated herein by reference and made a part hereof and which have been prepared by the **City of Killeen** and approved by OWNER, and OWNER agrees to pay the CONTRACTOR for the following:

Line items per outlined bid tabulation based upon estimated quantities

Per referenced Bid # 22-15, Slurry Seal Services – Specifications and requirements

Pay Item Emulsified Asphalt Slurry Seal , Type II Mod., at a rate of 25 lbs/SY - **\$3.19**

Pay Item Emulsified Asphalt Slurry Seal , Type II Mod., at a rate of 18 lbs/SY - **\$2.61**

Payment:

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Emulsified Asphalt Slurry Seal" of the type specified. This price shall be full compensation for furnishing all labor, equipment, time, materials, and incidentals necessary to complete the work.

Surface preparation and cleaning will not be measured or paid directly but shall be considered subsidiary to Item No. SS314 "Emulsified Asphalt Slurry Seal".

Term of Contract and Option to Extend

Any contract resulting from this ITB shall be effective for a two year (2) period upon execution by the City of Killeen. . The City anticipates that contract shall be renewed pursuant to the availability of funds and at the discretion of the City. The following clauses shall be included in the contract:

- A. **Option Clause:** It is agreed that the City will have the option to extend the contract for up to two (2) additional years, in one (1) year intervals. This option will occur automatically at the end of the previous term unless the City / Contractor serve notice 60 days prior to contract termination or the end of any extension period. The option to extend will not be considered if funding is unavailable or if the contractor's past performance is not within the industry standard.
- B. **Escalation Clause.** Should market conditions prevail which dictate an increase, the CONTRACTOR may submit documentation requesting permission to increase pricing no later than 90 days prior to the end of the initial twelve (12) months of contract. If the CONTRACTOR fails to give timely notice, price may not be increased. Escalation may only occur after the initial twelve (12) months of the contract and only upon securing the approval of the City of Killeen in writing. Requests for price adjustments must be solely for the purpose of accommodating an increase in the contractor's cost, not profits.

After the exhaustion of the entire contract term, the City may request up to an additional sixty (60) days past any contract term to advertise and award a new bid for such items without price adjustments.

Pricing & Term Renewals

Pricing shall remain firm during the initial term of the contract. If approved by the City, the Contractor shall modify the rates charged by the Contractor to reflect any changes shown in the comparative statement delivered to the City. The maximum increase allowed under this provision shall be four percent (4%) per year. The City shall have authority, in its reasonable discretion, to determine the validity of any change in Contractor's rates. City cannot exercise the Option to

Extend with any price increases unless the Vendor completes the section of the Quote requesting anticipated percentage of annual escalation.

- A. Pricing shall reflect the full scope define herein, inclusive of all associated cost for delivery, labor, insurance, taxes, overhead, and profit.
- B. Bidder shall quote unit pricing in accordance with he itemized listing of products or contracts segments using the following format.

AFTER INITIAL 12 MONTHS OF CONTRACT ESCALATION **1%**

FIRST ADDITIONAL YEAR ESCALATION **1%**

SECOND ADDITIONAL YEAR ESCALATION **1%**

Any request in price change with supporting documentation shall be sent to only:

**City of Killeen
Attn: Purchasing Division
802 N. 2nd Street
Building E, 2nd Floor, Rm #215
Killeen TX 76541**

On the envelope place “Price Change Notification Bid No. 22-15

If during any term of this contract, the bidder should enter into any contract with another municipality within Texas for commodities or services with similar scope of work with rates more favorable than those granted to the City of Killeen, the bidder agrees to modify this contract to include such more favorable rates. It is recommended that the bidder provide any rate reduction or discount voluntarily.

Payment for work meeting specifications will be made under:

Equipment

- 1. All equipment, tools, and machines used in the performance of the work shall be maintained in satisfactory working condition at all times to ensure a high quality product.

Construction Methods

- 1. **General.** The CONTRACTOR shall be responsible for the production, transportation, placement, and finishing of the specified surface treatment to the requirements of the specification.
- 2. **General.** Leakage of fuels, oils, grease, hydraulic or brake fluids or other contaminants onto the prepared surface or newly-laid mat will not be allowed.
- 3. **Lines.** Care shall be taken to insure straight lines along the curbs and shoulders. No runoff on these areas will be permitted. Lines at intersections shall be kept straight to provide good appearance.
- 4. **Clean-up.** All areas, such as valley gutters, curb & gutters, and intersections shall have the surface treatment removed as specified by the Director of Transportation or designee. The CONTRACTOR shall remove any debris associated with the performance of the work on a daily basis.

Notification and Traffic Control

- 1. **Notification.** All entities affected by the surface treatment shall be notified two days in advance of the surfacing. Should work not occur on the specified day, a notification will be distributed. Deferred work shall be rescheduled as soon as possible after all other pending work that notifications have gone out for is completed. All practical efforts must be made to minimize the amount of work that must be deferred and rescheduled to control citizen inconvenience.

The notification shall be in a form of written posting, stating the time and date that the surface treatment will take place and a general description of the process. Notices shall be placed in secure, prominent locations and information shall be written legibly in ink that will not run if the notices get wet.

2. **Traffic Control.** Suitable methods shall be used by the CONTRACTOR to protect the surface treatment from all types of vehicular traffic without damage. Opening traffic does not constitute acceptance of the work. The Director of Transportation or designee shall be notified of the methods to be used.

In areas which are subject to an increased rate of sharp turning vehicles, additional time may be required for a more complete cure of the surface treatment to prevent damage. Slight tire marks may be evident in these areas after opening but will diminish over time with rolling traffic. If these areas are not severely rutted they should be considered as normal characteristics of surface treatment and should be accepted.

Acceptance Plan

1. All areas meeting the requirements of the specifications will be accepted for payment.
2. Substandard portions of the work, as determined by the Director of Transportation or designee, shall be remedied or removed and replaced to the satisfaction of the Director of Transportation or designee at the expense of the CONTRACTOR. Remedied areas satisfactory to the Director of Transportation or designee will be included in the area accepted for payment.

Independent Contractor

Contractor shall act as an Independent Contractor. Under no circumstances shall Contractor be deemed an employee or partner of Owner.

Insurance

Contractor shall procure and maintain insurance in the following amounts:

Worker's Compensation	Statutory
Automobile Liability	\$500,000 Combined single Limit for each accident (Bodily injury and property damage).
General Liability	\$1,000,000 each occurrence (Bodily injury and property damage).

On all policies, except Worker's Compensation, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

Prevailing Wage Rates

The Contractor shall pay each employee prevailing wages as set forth in the Davis Bacon Wage Determination attached hereto.

Subcontracts and Assignments

Contractor's rights and obligations hereunder are deemed to be personal and may not be transferred or assigned. Any assignments shall be void and of no effect.

Indemnification

To the fullest extent permitted by law, Contractor, shall indemnify and hold harmless the Owner, and the Owner's officers, directors, partners and employees from and against any and all costs, losses and damages (including, without limitation, all fees and charges of attorneys and other professionals, and all court or dispute resolutions costs) caused by the negligent acts or omissions of the Contractor or its officers, directors, partners, employees and consultants with respect to the performance under this Agreement or the Project.

Termination

This Agreement may be terminated by either party for cause upon thirty (30) calendar days' written notice, provided such cause cannot be reasonably cured within such thirty (30) day period. Owner may terminate this Agreement for convenience effective upon receipt of written notice declaring the same and Contractor shall be compensated for all work completed at that time in accordance with this Agreement.

Texas Law

This Agreement shall be subject to and governed by the laws of the State of Texas. The Parties agree that for venue purposes, any and all lawsuits, disputes, or causes of action shall be in Bell County, Texas.

Severability

If any provision of this Agreement shall, for any reason, be held to violate any applicable law, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate the remaining provisions of this Agreement.

Survival

Any provision of this Agreement providing for indemnity, insurance or a duty that necessarily will not be completed until after the expiration or termination of this Agreement shall continue in full force and effect until such a time as all duties have been fully performed.

Non-waiver

Failure to enforce any provision of this Agreement by either party shall not constitute a waiver of that provision for purposes of the subsequent enforcement of that provision or the remainder of this Agreement.

The City's execution of and performance under this Agreement will not act as a waiver by the City of any immunity from suit or liability to which it is entitled under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.

Community Development Block Grant (CDBG)

Projects may be funded in whole or in part by the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) or Home Investment Partnerships Act (HOME Program) and may be subject to submittal of certified payroll documentation as required by HUD funded construction projects to the extent required by Davis-Bacon and Related Acts (DBRA); confirmation of eligibility for participation through the Excluded Parties Listing System (EPLS) - System for Award Management (SAM.gov) or the Texas Debarred Vendor List.

Acknowledgement – “Boycott Israel”

By signing and submitting this bid the vendor hereby verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. Boycotting Israel is defined in Texas Government Code section 808.001 to mean refusing to deal with, terminating business activities with, or taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Acknowledgement – “Boycott Energy Companies”

By signing and submitting this bid the vendor hereby verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract. “Boycott energy company” is defined in Texas Government Code section 809.001 to mean, without an ordinary business purpose, refusing to deal with terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by Paragraph (A).

Acknowledgement – “Prohibition on contracts with companies that discriminate against firearm and ammunition industries”

By signing and submitting this bid the vendor hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. Discriminate against a firearm entity or a firearm trade association are defined in Texas Government Code section 2274.001 as (A) with respect to the entity or association, to (i) refuse to engage in the trade of any goods or services; (ii) refrain from continuing an existing business relationship; (iii) terminate an existing business relationship; or (iv) otherwise express a prejudice against the entity or association; and (B) does not include the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories.

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

The City reserves the right to purchase all material / services from the next most responsible bidder for failure to provide specified material / services in the contract at time of order or if materials are not available at time requested.

Contractor hereby agrees to abide by all requirements signed in Bid # 22-15
Waiver of any breach of the Contract shall not constitute waiver of any subsequent breach.

OWNER agrees to pay CONTRACTOR from available funds for performance of the Contract in accordance with the Bid and the provisions of the Contract Documents, subject to additions and deductions, as provided therein.

The OWNER's payment obligations are payable only and solely from funds available for the purposes of this Agreement.

Although drafted by the OWNER, this Agreement, in event of any disputes over its meaning or application, shall be interpreted fairly and reasonably, and neither more strongly for nor against either party.

OWNER

CONTRACTOR

By: _____
City of Killeen

By: _____
Contractor / Vendor

Date

Date

CITY MANAGER
Title of Signatory

Printed Name of Signatory

By: _____
City Attorney

Title of Signatory, Authorized Representative

Date

ATTEST (as applicable)

SLURRY SEAL SERVICES REQUIREMENTS AND SPECIFICATIONS

Description:

This item shall govern for a slurry seal course composed of a mixture of an approved polymer modified asphalt emulsion, mineral aggregate, water, and specified additives, proportioned, mixed, and uniformly spread over a properly prepared surface in accordance with the details shown on the plans and contract documents, the requirements of this item, or as established by the Director of Transportation or designee. The completed slurry seal shall leave a visibly homogeneous mat, adhere firmly to the prepared surface, and have a friction resistant surface texture throughout its service life.

Materials:

The Bidder shall furnish material to meet the requirements specified herein and shall be solely responsible for the quality and consistency of the product delivered to and placed on each project.

- 1.) **Emulsified Asphalt.** The emulsified asphalt shall conform to TxDOT 2004 Item No. 301 "Asphalts, Oils, and Emulsions", Grade CSS-1P or approved Polymer Modified CQ-S to achieve a quick-set mix. Each load of emulsified asphalt shall be accompanied with a certificate of analysis/compliance to assure that it is the same as that used in the mix design.
- 2.) **Aggregate.**
 - a) **General.** The mineral aggregate used shall be the type and grade specified for the particular use of the slurry seal. The aggregate shall be manufactured crushed stone such as granite, slag, chat, or other high quality aggregate, or combination thereof. However, limestone will not be considered as an appropriate surface course aggregate and shall not be used. To assure the material is totally crushed, 100% of the parent aggregate shall be larger than the largest stone in the gradation to be used. Aggregate shall conform to Item No. 302 "Aggregates for Surface Treatments" with the exception of using the ISSA gradations shown below in the **Quality Tests** and **Gradation** sections.
 - b) **Quality Tests.** When tested according to the following tests, the aggregate shall meet these requirements.

Table 1
Aggregate Quality

TEST METHOD	REQUIREMENT	SPECIFIED VALUE
TxDOT Tex-203-F	Sand Equivalent	70 min.
TxDOT Tex-411-A	Soundness	30% max. using MgSO ₄
TxDOT Tex-410-A	Abrasion Resistance*	30 max.
TxDOT Tex-438-A, Part 1	Polish Value	RSPV = 30 min.

*The abrasion test shall be run on the aggregate before it is crushed.

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- c) **Gradation.** The target (mix design) aggregate gradation (including the mineral filler) shall be within the appropriate design band specified in the table below. The gradation shall be tested in conformance with test method TxDOT TEX-200-F, Part II, Washed Sieve analysis gradation requirements.

Table 2
Aggregate Gradation
Percent Passing by Weight or Volume

Sieve Size	ISSA Gradation				Stockpile Tolerance
	Type I	Type II	Type III	Type II Mod.	
3/8 (9.5 mm)	100	100	100	100	
#4 (4.75 mm)	100	90-100	70-90	90-100	±5%
#8 (2.36 mm)	90-100	65-90	45-70	65-90	±5%
#16 (1.18 mm)	65-90	45-70	28-50	25-46	±5%
#30 (600 um)	40-65	30-50	19-34	15-35	±5%
#50 (300 um)	25-40	18-30	12-25	10-25	±4%
#100 (150 um)	15-25	10-21	7-18	5-15	±3%
#200 (75 um)	10-15	5-15	5-15	5-15	±2%

- 3.) **Mineral Filler.** Mineral filler shall consist of thoroughly dried stone dust, Portland cement, fly ash, hydrated lime, or other mineral dust approved by the Director of Transportation or designee. Mineral filler shall be used if required by the mix design and shall be considered as part of the dry aggregate.
- 4.) **Water.** The water shall be free from harmful salts and contaminants.
- 5.) **Polymer Modifier.** Polymer modifier shall consist of a compatible cationic asphaltic modifier meeting the requirements set forth in Special Specification Item No SS301S "Asphalts, Oils, and Emulsions."
- 6.) **Additives.** Additives may be used to accelerate or retard the break-set of the slurry seal, or improve the resulting finished surface: The use of additives in the slurry mix (or individual materials) shall be made initially in quantities predetermined by the mix design with field adjustments if required, after approval by the Director of Transportation or designee.

Paving Mixtures

Before work begins, the Bidder shall submit a signed mix design covering the specific materials to be used on the Project. This design shall be performed by a laboratory that has sufficient experience in designing Emulsified Asphalt Slurry Seal Surfacing. After the mix design has been approved, no substitution will be permitted, unless approved by the Director of Transportation or designee.

- 1.) **Mix Design.** The Bidder shall submit to the Director of Transportation or designee for approval a complete mix design prepared and certified by the laboratory. Compatibility of the aggregate, emulsion, mineral filler, and other additives shall be verified by the mix design. The mix design shall be made with the same aggregate gradation that the Bidder will provide on the Project. A quick-set mix design is required to minimize street closures. Slurry placed on high traffic volume collector and arterial streets must cure sufficiently that uniformly moving traffic can be allowed in one hour with no damage to the surface or the traffic using the street. However, locations subject to sharp turning or stopping and starting traffic may require additional curing. Tests and the required values are as follows :

**Table 3
Mix Design**

Requirement	Test Method	Specified Value
Modified Cup Flow Test	TxDOT Tex-240-F, Part II	-----
West Cohesion 30 minutes min. (set) 60 minutes min.	TxDOT Tex-240-F, Part III (for quick-traffic systems)	12 kg-cm min. 20 kg-cm min.
Excess Asphalt by LWT Sand Adhesion	ISSA TB-109 (for heavy traffic areas only)	50g/ft ² max (538 g/m ² max.)
Wet Stripping	ISSA TB-114	Pass (90% min.)
*Wet Track Abrasion Test	TxDOT Tex-240-F, Part IV	75 g/ft ² max. (807 g/m ² max.)
**Mixing Time Test	TxDOT Tex-240-F, Part I	Controllable to 180 seconds min.

*the wet track abrasion test is used to determine the minimum asphalt content.

**the mixing time test should be done at the highest temperature expected during construction.

The mixing test is used to predict how long the material can be mixed in the machine before it begins to break. It is more for information to be used by the Bidder than for the quality of the end product. It is however, a good field test to check for consistent sources of material, both emulsified asphalt and aggregate.

The laboratory shall also report the quantitative effects of moisture content on the unit weight of the aggregate (bulking effect). The report must clearly show the proportions of aggregate, mineral filler (min. and max.), water (min. and max.), additive(s) (usage), and asphalt emulsion based on the dry weight of the aggregate.

All the component material used in the mix design shall be representative of the materials proposed by the Bidder to be used on the Project.

The percentages of each individual material required shall be shown in the laboratory report. Adjustments may be required during the construction, based on the field conditions. The Director of Transportation or designee will give final approval for all such adjustments.

The Director of Transportation or designee shall approve the mix design and all slurry seal material and methods prior to use. The component materials shall be within the following limits listed in Table 4 below:

Table 4
Mix Design Components

Component	Specified Value	Comments
Residual Asphalt	Type I: 10% - 16% Type II: 7.5% - 13.5% Type III: 6.5% - 12%	based on dry weight of aggregate
Polymer Modifier	2.0% min.	Weight % (solids basis)
Mineral Filler	0.05% - 2.0%	Based on dry weight of aggregate
Additives	As needed	Follow manufacturer's recommendations
Water	As needed to achieve proper mix consistency	Total mix liquids should not exceed the loose aggregate voids – ISSA T – 106 should be used to check optimum liquids

Rate of Applications. The slurry seal shall be of proper consistency at all times so as to provide the application rate required by the surface condition. The average application rate, as measured by the Director of Transportation or designee, shall be as specified in the unit bid form of the Contract Documents. Application rates affected by the unit weight of the aggregate, the gradation of the aggregate, and the demand of the surface to which the slurry seal is being applied. ISSA technical bulletin 112 gives a method to determine expected application rates.

Pay Item Emulsified Asphalt Slurry Seal Type II Mod., at a rate of 25 lbs/SY

Pay Item Emulsified Asphalt Slurry Seal Type II Mod., at a rate of 18 lbs/SY

2.) Tolerances. Tolerances for individual materials as well as the slurry seal mixture are as follows:

- a) After the design residual asphalt content is determined, a plus or minus one percentage point variation will be permitted.
- b) Polymer modifier shall not be more than 0.5% less than the minimum rate specified in the job mix formula (JMF).
- c) The percentage of aggregate passing each sieve shall be within stockpile tolerance range as stated.
- d) The percentage of aggregate passing shall not go from the high end to the low end of the specified range of any two successive sieves.
- e) The slurry consistency shall not vary more than ± 0.5 cm from the job mix formula (JMF) after field adjustments.
- f) The rate of application once determined by the Director of Transportation or designee shall not vary more than ± 2 lbs. /SY, while remaining within the design application rate.

Equipment

All equipment, tools, and machines used in the performance of the work shall be maintained in satisfactory working condition at all times to ensure a high quality product.

- 1) Mixing Equipment.** The machine shall be specifically designed and manufactured to lay slurry seal. The material shall be mixed by a self-propelled slurry seal mixing machine of continuous run design. Continuous run machines are those that are equipped to self-load materials while continuing to lay slurry seal. The machine shall be able to accurately deliver and proportion the aggregate, emulsified asphalt, mineral filler, control setting additive, and water to a revolving mixer and discharge the mixed product on a continuous flow basis. The machine shall have sufficient storage capacity for aggregate, emulsified asphalt, mineral filler, control additive, and water to maintain an adequate supply to the proportioning controls.

Continuous run equipment capable of 13 feet wide pass shall be used for continuity of mix and the reduction of start up joints and longitudinal joints. Continuous run equipment shall be equipped to allow the operator to have

full control of the forward and reverse speed during application of the slurry seal. It shall be equipped with a self-loading device, opposite side driver stations, and forward and reverse speed controls.

Limited use of truck mounted machines may be employed on Cul-de-sacs, small narrow roadways, parking lots, and other special areas with the Director of Transportation or designee approval. An approved truck mounted machine shall be able to accurately deliver and proportion the aggregate, emulsified asphalt, mineral filler, control setting additive, and water to a revolving mixer and discharge the mixed product on a continuous flow basis. The machine shall have sufficient storage capacity for aggregate, emulsified asphalt, mineral filler, control additive, and water to maintain an adequate supply to the proportioning controls.

- 2) **Proportioning Devices.** Individual volume or weight controls for proportioning each material to be added to the mix (i.e. aggregate, mineral filler, emulsified asphalt, and additive) shall be provided and properly marked.

The proportioning devices are usually revolution counters or similar devices and are used in material calibration and determining the material output at any time.

- 3) **Spreading Equipment.** The mixture shall be spread uniformly by means of a conventional surfacing spreader box attached to the mixer and equipped to agitate and spread the material evenly throughout the box. A front seal shall be provided to insure no loss of the mixture at the road contact point. The rear seal shall act as a strike-off and shall be adjustable. A secondary strike-off shall be provided to improve surface texture. The secondary strike-off shall have the same adjustments as the rear seal. The mixture shall be spread to fill cracks and leave a uniform, skid resistant application of aggregate and asphalt on the surface. The spreader box and rear strike-off shall be so designed and operated that a uniform consistency is achieved to produce a free flow of material to the rear strike-off. The spreader box shall have suitable means provided to side shift the box to compensate for variations in the pavement geometry.
- 4) **Auxiliary Equipment.** Suitable surface preparation equipment, traffic control equipment, hand tools, and any other support equipment shall be provided as necessary to perform the work.
- 5) **Calibration.** Each mixing unit to be used in performance of the work shall be calibrated in the presence of the Director of Transportation or designee prior to construction. Previous calibration documentation covering the exact materials to be used may be acceptable, provided they were made during the calendar year. The documentation shall include an individual calibration of each material at various settings, which can be related to the machine's metering devices. No machine will be allowed to work on the project until the calibration has been completed and/or accepted.
- 6) **Verification.** Test strips will be made by each machine after calibration and prior to construction. Test strips shall be a portion of the project. Samples of the slurry seal will be taken and verification made as to mix consistency and proportioning. Verification of rate of application will also be made. Upon failure of any of these tests, additional test strips, at no cost to Owner, will be required until each unit is authorized to work. Any unit failing to pass the tests after the third trial will not be permitted to work on the project. Test strips must be accepted or rejected within 24 hours after application.

7)

Construction Methods

- 1) **General.** The bidder shall be responsible for the production, transportation, placement, and surface finishing of the specified slurry mixture to the requirements of the specification.

Leakage of fuels, oils, grease, hydraulic or brake fluids or other contaminants onto the prepared surface or newly-laid mat will not be allowed.

The slurry seal shall not be applied if the pavement or air temperature is below 65 degrees F (18 degrees C) and falling, but may be applied when both pavement and air temperature are above 60 degrees F (15 degrees C) and rising. No slurry seal shall be applied when there is danger that the finished product will freeze before curing for 24 hours. The mixture shall not be applied when weather conditions prolong opening to traffic beyond a reasonable time. Bidder will be responsible for checking the local and national weather service for advance forecasts to determine scheduling.

The slurry seal shall be of the desired consistency upon leaving the mixer. A sufficient amount of material shall be carried in all parts of the spreader at all times so that a complete coverage is obtained. Overloading of the spreader shall be avoided.

No lumping, balling, or unmixed aggregate shall be permitted.

- 2) **Finished Surface.** The finished slurry seal shall have a uniform texture free from excessive scratch marks, tears or other surface irregularities. Level up courses or scratch coats that will be covered by a final course are exempted from the requirement.

No streaks or scratch marks such as those caused by oversized aggregate shall be left in the finished surface. If excess oversized develops, the job will be stopped and until the Bidder proves to the Director of Transportation or designee that the situation has been corrected.

Other surface irregularities such as corrugations (ripples in the driving profile) added by the application of the slurry seal will be considered unacceptable and require remediation. Bidder shall remedy or remove and replace any such surface irregularities at the Bidder's expense.

- 3) **Joints.** No excess buildup, uncovered areas, or unsightly appearance shall be permitted on longitudinal or transverse joints. The Bidder shall provide suitable width spreading equipment to produce a minimum number of longitudinal joints throughout the project. When possible, longitudinal joints shall be placed on lane lines. Half passes and odd width passes will be used only in minimum amounts. If half passes are used, they shall not be the last pass of any paved area. A maximum of six inches (6") (152 mm) shall be allowed for overlap of longitudinal lane line joints. The seams where two spreads join shall be neat appearing and uniform. Joints without gaps will be considered acceptable if no more than 1/2 inch vertical space exists between the pavement surface and a four (4) foot straight edge placed perpendicular on the longitudinal joint nor 1/4 inch vertical space for a transverse joint.

No excessive tears such as gaps in the joints shall be left in the finished surface. Excessive are considered excessive if there is more than one mark in any 100 feet of machine pull that is 1/4 inch wide or wider and 10 feet in length, 1/2 inch wide or wider and more than six (6) inches in length, or 1 inch wide or wider and four (4) inches in length.

At the edges of the street, a small overlap onto the concrete gutter area of no more than two (2) inches shall be considered acceptable for sealing over the asphalt to concrete interface provided the slurry edge line is neat and straight. However, if there is an open crack at this interface greater than 3/16 of an inch it must be sealed with rubberized crack sealant prior to the application of slurry.

- 4) **Mix Stability.** The slurry seal shall possess sufficient stability so that premature breaking of the material in the spreader box does not occur. The mixture shall be homogeneous during and following mixing and spreading. It shall be free of excess water and emulsion and free of segregation of the emulsion and aggregate fines from the coarser aggregate. Spraying of additional water into the spreader box will not be permitted.
- 5) **Handwork.** Areas which cannot be reached with slurry seal machines shall be surfaced using hand squeegees to provide complete and uniform coverage. The area to be hand worked shall be lightly dampened prior to mix placement and the slurry worked immediately. Care shall be exercised to leave no ridges in hand worked areas. Handwork shall be completed during machine applying process.
- 6) **Lines.** Care shall be taken to insure straight lines along curbs and shoulders. No runoff on these areas will be permitted. Lines at intersections shall be kept straight to provide good appearance.
- 7) **Vacuum Sweeping.** A minimum of one pass with a vacuum street sweeper is required on all cured slurry seal surfaces to minimize loose rock on the street, in the gutter and in the driveways. Additional sweeping may be required where significant raveling of the slurry aggregate occurs, loose rock accumulates, or where there are citizen complaints about excess aggregate.
- 8) **Clean-up.** All areas, such as valley gutters curb & gutters and intersections shall have the slurry seal removed as specified by the Director of Transportation or designee. The Bidder shall remove any debris associated with the performance of the work on daily basis.

Stockpiling and Storage

- 1) **Aggregate Storage.** If the mineral aggregates are stored or stockpiled, they shall be handled in such a manner as to prevent segregation, mixing of the various materials or sizes, and contamination with foreign materials. The grading of aggregates proposed for use and as supplied to the mixing plant shall be uniform. Suitable equipment of acceptable size shall be furnished by the Bidder to work the stockpiles and prevent segregation of the aggregates. The aggregate shall be passed over a 3/8 inch vibratory scalping screen prior to transfer to the slurry mixing machine to remove oversized material.
- 2) **Storage of Asphaltic Materials.** The asphaltic material storage shall be ample to meet the requirements of the City's needs requirement of the plant. All equipment used in the storage and handling of asphaltic material shall be kept in a clean condition at all times and shall be operated in such a manner that there will be no contamination with foreign matter.

Notification and Traffic Control

- 1) **Notification.** All entities affected by the paving shall be notified two days in advance of the surfacing. Should work not occur on the specified day, a new notification will be distributed. Deferred work shall be rescheduled as soon as possible after all other pending work that notifications have gone out for is completed. All practical efforts must be made to minimize the amount of work that must be deferred and rescheduled to control citizen inconvenience.

The notification shall be in a form of written posting, stating the time and date that the surfacing will take place and a general description of the process. Notices shall be placed in secure, prominent locations and information shall be written legibly in ink that will not run if the notice gets wet.

- 2) **Traffic Control.** The latest version of the Texas Manual on Uniform Traffic Control Devices shall be used by the Bidder to protect the slurry seal from all types of vehicular traffic without damage. Opening to traffic does not constitute acceptance of the work. The Director of Transportation or designee shall be notified of the methods to be used.

In areas which are subject to an increased rate of sharp turning vehicles, additional time may be required for a more complete cure of the slurry seal mat to prevent damage. Slight tire marks may be evident in these areas after opening but will diminish over time with rolling traffic. If these areas are not severely rutted they should be considered as normal characteristics of a slurry seal and shall be accepted.

Surface Preparation

- 1) **General.** Immediately prior to applying the slurry seal the surface shall be cleared of all loose material, oil spots, vegetation, and other objectionable material. Any standard cleaning method will be acceptable if water is used, cracks shall be allowed to dry thoroughly before slurry surfacing. Manholes, valve boxes, drop inlets, and other service entrances shall be protected from the slurry seal by a suitable method. The Director of Transportation or designee shall approve the surface preparation prior to surfacing.
- 2) **Cracks.** The City will seal all cracks in the pavement surface wider than 3/16 inches prior to slurry surfacing. Cracks shall be pre-treated in accordance with Item No. 313. "Rubber Asphalt Joint and Crack Sealer". Grass, dirt, and other deleterious materials shall be removed or routed out before crack sealing.
- 3) **Other.** The City will perform other types of surface preparation that may be necessary to provide a smooth, high quality final slurry seal. These preparations could include level-up, areas of HMA surface replacement, pothole repairs, and full-depth repairs of failure areas. All of these preparations will be complete before the slurry seal is placed by the Bidder.

Sampling and Testing

- 1) **Quality Control and Inspection.** Bidder shall allow the Director of Transportation or designee appropriate, safe access to materials, equipment, and work to take samples and assess conformance to specification requirements. Any material delivered to the Project that by visual inspection can reasonably be expected not to meet specification requirements (i.e. wrong ISSA graduation type, poor graduation, contaminants, emulsion that has prematurely broke), as determined by the Director of Transportation or designee, shall not be used or left in place. Equipment shall be inspected prior to use and, if found to be defective or in an operating condition that could potentially affect the quality of the finished surfacing, as determined by the Director of Transportation or designee, its use will not be allowed.
- 2) **Materials.** The Bidder shall permit the Director of Transportation or designee to take samples of the aggregate and asphalt emulsion used in the Project at the Director of Transportation or designee discretion. Graduation and sand equivalent test may be run on the aggregate and residual asphalt content tests on the emulsion. Test results will be compared to specifications.
- 3) **Testing.** The first set of tests will be run at the City's expense; however, retesting for compliance shall be at the Bidder's expense. If the results of retesting indicate that the original testing was erroneous, the original test results will be discarded. When, in the opinion of the Director of Transportation or designee, test results appear unrepresentative, additional testing may be authorized at the Owner's expense. If the Bidder desires additional testing, it shall be at his entire expense.

Acceptance plan

All areas meeting the requirements of this specification including, but not limited to, sections 314.3 “paving Mixtures” (“Mix Design”, “Rate of Application”, and “Tolerances”) and 314.9 “sampling and Testing” (Quality Control and Inspection”, “Materials”, and “Testing”) will be accepted for payment.

Substandard portions of the Work, as determined by the Director of Transportation or designee, shall be remedied or removed and replaced to the satisfaction of the Director of Transportation or designee at the expense of the Bidder. Remedied areas satisfactory to the Director of Transportation or designee will be included in the area accepted for payment.

Measurement

All accepted “Emulsified Asphalt Slurry Seal” will be measured by the square yard of surface treated.

The City reserves the right to purchase all material from the next most responsible bidder for failure to provide specified material in the contract at time of order or if materials are not available at time requested.

DAVIS BACON WAGE DETERMINATION

3/25/2020

beta.SAM.gov

"General Decision Number: TX20200007 01/03/2020

Superseded General Decision Number: TX20190007

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McLennan and Williamson Counties) and HIGHWAY Construction Projects

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/03/2020

* SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures).....	\$ 12.56	
ELECTRICIAN.....	\$ 26.35	
FORM BUILDER/FORM SETTER		

Paving & Curb.....\$ 12.94
Structures.....\$ 12.87

LABORER

Asphalt Raker.....\$ 12.12
Flagger.....\$ 9.45
Laborer, Common.....\$ 10.50
Laborer, Utility.....\$ 12.27
Pipelayer.....\$ 12.79
Work Zone Barricade
Servicer.....\$ 11.85

PAINTER (Structures).....\$ 18.34

POWER EQUIPMENT OPERATOR:

Agricultural Tractor.....\$ 12.69
Asphalt Distributor.....\$ 15.55
Asphalt Paving Machine.....\$ 14.36
Boom Truck.....\$ 18.36
Broom or Sweeper.....\$ 11.04
Concrete Pavement
Finishing Machine.....\$ 15.48
Crane, Hydraulic 80 tons
or less.....\$ 18.36
Crane, Lattice Boom 80
tons or less.....\$ 15.87
Crane, Lattice Boom over
80 tons.....\$ 19.38
Crawler Tractor.....\$ 15.67
Directional Drilling
Locator.....\$ 11.67
Directional Drilling
Operator.....\$ 17.24
Excavator 50,000 lbs or
Less.....\$ 12.88
Excavator over 50,000 lbs...\$ 17.71
Foundation Drill, Truck
Mounted.....\$ 16.93
Front End Loader, 3 CY or
Less.....\$ 13.04
Front End Loader, Over 3 CY.\$ 13.21
Loader/Backhoe.....\$ 14.12
Mechanic.....\$ 17.10
Milling Machine.....\$ 14.18
Motor Grader, Fine Grade...\$ 18.51
Motor Grader, Rough.....\$ 14.63
Pavement Marking Machine...\$ 19.17
Reclaimer/Pulverizer.....\$ 12.88
Roller, Asphalt.....\$ 12.78
Roller, Other.....\$ 10.50
Scraper.....\$ 12.27
Spreader Box.....\$ 14.04
Trenching Machine, Heavy...\$ 18.48

Servicer.....\$ 14.51

Steel Worker

Reinforcing.....\$ 14.00
Structural.....\$ 19.29

TRAFFIC SIGNAL INSTALLER

Traffic Signal/Light Pole
Worker.....\$ 16.00

TRUCK DRIVER

Lowboy-Float.....\$ 15.66
 Off Road Hauler.....\$ 11.88
 Single Axle.....\$ 11.79
 Single or Tandem Axle Dump
 Truck.....\$ 11.68
 Tandem Axle Tractor w/Semi
 Trailer.....\$ 12.81

WELDER.....\$ 15.97

WELDERS - Receive rate prescribed for craft performing
 operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the

most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.)

and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

"

I. ATTACHMENT

AFTER INITIAL 12 MONTHS OF CONTRACT ESCALATION	<u>1</u> %
FIRST ADDITIONAL YEAR ESCALATION	<u>1</u> %
SECOND ADDITIONAL YEAR ESCALATION	<u>1</u> %

Any request in price change with supporting documentation shall be sent to only:

City of Killeen
Attn: Purchasing Division
802 N. 2nd Street
Building E, 2nd Floor, Rm #215
Killeen TX 76541

On the envelope place "Price Change Notification Bid No. 22-15"

If during any term of this contract, the bidder should enter into any contract with another municipality within Texas for commodities or services with similar scope of work with rates more favorable than those granted to the City of Killeen, the bidder agrees to modify this contract to include such more favorable rates. It is recommended that the bidder provide any rate reduction or discount voluntarily.

Response, Property of the City of Killeen:

All materials submitted in response to this request become the property of the City of Killeen. Selection or rejection of a response does not affect this right.

No Obligation to Buy:

The City of Killeen reserves the right to refrain from contracting with any bidder. The release of this Invitation for Bids does not compel the City of Killeen to purchase.

Cost of Preparing Bids:

The City of Killeen is not liable for any costs incurred by bidders in the preparation and presentation of bids and demonstrations submitted in response to this Invitation to Bid.

Withdrawal of Bid:

A bidder may withdraw a bid that has been submitted at any time up to the bid opening due date and time. To accomplish this, a written request signed by an authorized representative of the bidder shall be submitted to lluciano@killcentexas.gov. Once the bids are opened, all bids shall be valid for a period of ninety (90) days after the bid opening.

The City reserves the right to withdraw this ITB for any reason.

Bidding Error:

The City of Killeen will not be liable for any errors in any bidder's bid. Bidders will not be allowed to alter bids after the deadline for the submission of bids.

When, after the opening and tabulation of bids, a bidder claims error, and requests to be relieved of award, it will be required to promptly present corrected data in writing signed by an authority figure with the company. **This written response shall be received by the Purchasing Division within two (2) business days after the stated bid open time and date.** The Purchasing Division will review the data and if the City is convinced, by clear and convincing evidence, that an honest, mathematically excusable error or critical omission of costs has been made, and said error is legally excusable, the bidder may be relieved of its bid.

For this purpose, a primary and secondary emergency contact name and phone number are required. It is critical the vendor's emergency contact information remains current. City shall be contacted by E-mail with any change to a contact name or phone number of these emergency contacts. Updates may be emailed to luciano@killeentexas.gov

All products or services requested during an emergency event are to be supplied as per the established contract prices, terms and conditions. The vendor shall provide the fee (pricing) for an after-hours emergency opening of the business, if any. In general, orders will be placed using a City of Killeen procurement card (Master Card) or City issued Purchase Order. The billing is to include the emergency opening fee, if applicable.

The contractor shall provide the names, phone numbers and fee (pricing), if any, for an after-hour's emergency opening of the business listed below.

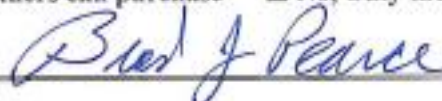
Business Name: Viking Construction Inc.
Contract #: Bid # 22-15
Description: Slurry Seal Services
Primary Contact (Name): Dan Welsh
Primary Contact Phone Numbers: Home: 512-930-5777 Cell: 512-966-9106
Secondary Contact (Name): Brad Pearce
Secondary Contact Phone Numbers: Home: 512-930-5777 Cell: 512-413-0006
After Hours emergency opening fee, if applicable: \$ 0

Cooperative Governmental Purchasing Notice

Other governmental entities maintaining interlocal agreements with the City, may desire, but are not obligated, to purchase goods and services defined in this ITB from the successful Bidder. All purchases by governmental entities, other than the City, will be billed directly to and paid by that governmental entity. The City will not be responsible for another governmental entity's debts. Each governmental entity will place their own orders with the successful Bidder and be responsible for ensuring full compliance with the ITB specifications. Prior to other governmental entities placing orders, the City will notify the successful Bidder of their intent.

Please indicate below if you will permit other governmental entities to purchase from your agreement with the City.

☒ Yes, Others can purchase ☐ No, Only the City of Killeen can purchase.

SIGNATURE:  DATE: 2/10/2022
PRINTED NAME: Brad Pearce

Point of contact to resolve issues (delivery or invoice):

NAME: Dan Welsh
TITLE: Project Manager
ADDRESS: 2592hell Rd. Georgetown, Tx. 78628
EMAIL ADDRESS: dan@vciss.com

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.005(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.005, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.

Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more?

☐ Yes ☐ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4

Brad J. Pearce - Vice President 2/10/2022
Signature of vendor doing business with the governmental entity Date

Adopted: 6/7/2015

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

OFFICE USE ONLY CERTIFICATION OF FILING

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

Viking Construction, Inc
GEORGETOWN, TX United States

Certificate Number:
2022-846705

Date Filed:
02/03/2022

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

City of Killeen

Date Acknowledged:

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

Bid # 22-15
SLURRY SEAL SERVICES

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	REIMSCHILSSEL, ERIC	LAS VEGAS, NV United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is ADELE WRIGHT, and my date of birth is 10-12-1971

My address is 229 KILLIAN LOOP, HUTTO, TX, 78634, USA
(street) (city) (state) (zip code) (country)

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

Executed in WILLIAMSON COUNTY County, State of TEXAS, on the 3 day of FEB, 2022.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

OFFICE USE ONLY CERTIFICATION OF FILING

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GEORGETOWN, TX United States

Certificate Number:
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02/03/2022

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

City of Killeen

Date Acknowledged:

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

Bid # 22-15
SLURRY SEAL SERVICES

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	REIMSCHILSSEL, ERIC	LAS VEGAS, NV United States	X	

5 Check only if there is NO interested Party.

☐

6 UNSWORN DECLARATION

My name is ADELE WRIGHT, and my date of birth is 10-12-1971

My address is 229 KILLIAN LOOP, HUTTO, TX, 78634, USA
(street) (city) (state) (zip code) (country)

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

Executed in WILLIAMSON COUNTY County, State of TEXAS, on the 3 day of FEB, 2022
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)



AWARD BID NO. 22-15, SLURRY SEAL SERVICES

RS-22-047

April 05, 2022

Background

2

- ❑ The Transportation Division maintains 539 centerline miles (2,191 lane miles) of paved roadways within the City
- ❑ Slurry seal is a thin asphalt overlay/seal coat that is used to extend the service life of roadways by protecting the undersurface from the effects of aging and the environment
- ❑ On February 10, 2022, purchasing received two (2) bids in response to Bid No. 22-15, Slurry Seal Services
 - ▣ Viking Construction
 - ▣ Intermountain Slurry Seal

Background Cont.

3

- Viking Construction was selected as the vendor that represented the best value to the city based on qualifications, references, and long-term cost.
- Agreement is for two-years, with quantities determined by approved budgets



Before



After

4

Slurry Seal Before and After

Slurry seal treatment is a mixture of well-graded fine aggregate, mineral filler, emulsified asphalt, and water applied to a pavement as a surface treatment.

Alternatives

5

- ❑ Reject all bids, make purchases on a per order/project basis as needed
- ❑ Authorize award of Bid 22-15, Slurry Seal Services to Viking Construction in an amount not to exceed \$1,000,000 citywide for FY22

Recommendation

6

- City staff recommends City Council authorize the award of Bid 22-15, Slurry Seal Services to Viking Construction and authorize the City Manager, or designee, to execute an agreement Viking Construction in an amount not to exceed \$1,000,000 citywide in FY22 and furthermore, authorize the City Manager, or designee, to execute any and all change orders within the amounts set by State and Local law.



City of Killeen

Legislation Details

File #: RS-22-048 **Version:** 1 **Name:** HA5 Surface Treatment
Type: Resolution **Status:** Resolutions
File created: 2/22/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Consider a memorandum/resolution authorizing a contract for HA5 high density mineral bond road surface treatments to Andale Construction in an amount not to exceed \$1,000,000 citywide in FY22.
Sponsors: Public Works Department, Transportation

Indexes:

Code sections:

Attachments: [Staff Report](#)
[Proposal](#)
[Contract](#)
[Certificate of Interested Parties](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 05, 2022

TO: Kent Cagle, City Manager

FROM: Jeffery Reynolds, Executive Director of Public Works

SUBJECT: Authorize a contract with Andale Construction to apply HA5 High Density Mineral Bond road surface treatments in an amount not to exceed \$1,000,000 citywide in FY22.

BACKGROUND AND FINDINGS:

The City reviews high density bond surface treatment methods every two (2) years to procure the needed service for various roadways throughout the city. The service allows a decrease of maintenance costs, extends pavement life, and leaves no loose aggregate, but allows for equal or better-quality surface on roadways. HA5 High Density Mineral Bond surface treatment is a material that is able to hold exceptionally high concentrations of fine aggregates and other components that resist deterioration. This can be used throughout the city to preserve asphalt on residential roadways and other asphalted locations. The city's current contract expires April 14, 2022.

Andale Construction is the sole source for the HA5 High Density Mineral Bond.

The contract for this award is a term of two (2) years with a possible escalation cost due to fluctuation of material in the second year, if agreed by both parties. The expected expenditure for FY22 is \$700,000 but will not exceed \$1,000,000 citywide in FY22. Due to the uncertainty with construction availability and pricing at this time, having flexibility to add additional work under this contract will allow staff to achieve the maximum amount of benefit within the current budget. In no case will the total surface treatment costs exceed the budgeted line-item amount.

THE ALTERNATIVES CONSIDERED:

1. Do not purchase or apply any High-Density Mineral Bond surface treatment
2. Authorize a contract with Andale Construction for the HA5 High-Density Mineral Bond surface treatment not to exceed \$1,000,000 citywide for FY22

Which alternative is recommended? Why?

Alternative two (2) is recommended; authorize a contract with Andale Construction for the HA5 High-Density Mineral Bond surface treatment not to exceed \$1,000,000 citywide in FY22. This will allow the preventative maintenance and pavement restoration for applicable city roadways.

CONFORMITY TO CITY POLICY:

Texas Local Government Code, section 252.022, exempts procurements that are available from only one source from the competitive bidding process. Statements of fact and justification of

the sole source purchase request were reviewed and approved as outlined in the City of Killeen's Financial Management Policy.

FINANCIAL IMPACT:

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

Expenditures will not exceed \$1,000,000 in FY22. Actual costs and square yards per fiscal year will not exceed the approved budgeted line item for that year. Future years will be based on approved budgets.

Is this a one-time or recurring expenditure?

Recurring

Is this expenditure budgeted?

Yes, funds are available in the Street Maintenance Fund account 234-3445-434.42-65 for FY22.

If not, where will the money come from?

N/A

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

Yes

RECOMMENDATION:

City staff recommends that City Council authorize the City Manager, or designee, to enter into contract with Andale Construction in an amount not to exceed \$1,000,000 citywide in FY22 and authorize the City Manager, or designee, to execute any and all change orders within the amounts set by State and Local Law.

DEPARTMENTAL CLEARANCES:

Legal
Finance
Purchasing
Public Works

ATTACHED SUPPORTING DOCUMENTS:

Contract
Proposal
Certificate of Interested Parties



Headquarter Office
7700 N. Hayes Dr.
Valley Center, KS 67147
P: 316-832-0063
F: 316-440-8810

Southern Texas Division Off
1799 fm 766 Suite 100
Cuero, TX
P: 361-243-8535

PROPOSAL

Date	Estimate
3/28/2022	Killeen TX - 2022

www.andaleconstruction.com

Partner in Pavement Preservation		Project Description		Project Location	
City of Killeen 101 N. College St. Killeen, TX 76541		Apply HA5 (High Density Mineral Bond) to roads within City Limits of Killeen		City of Killeen, TX	
P.O. Number	Terms	Advisor	Region	State License #	
	Due upon completion	Caleb Fiske	Texas		

Description	Quantity	U/M	Rate	Total
HA5 HIGH DENSITY MINERAL BOND: -- Install "HA5" High Density Mineral Bond advanced performance pavement preservation treatment. -- No guarantee surface treatments will adhere to areas saturated with motor oil. -- HA5 meets demands of APWA (American Public Works Association) specification (Section 32 01 13.68 High Density Mineral Bond).	190,000	SY	3.35	636,500.00
TRAFFIC CONTROL	1	LS	9,765.00	9,765.00
CITIZEN NOTIFICATION	1	LS	1,851.00	1,851.00
MOBILIZATION	1	LS	19,206.00	19,206.00
Proposal is based off of estimated number of units. Amount invoiced will be based off of actual units installed. * Pricing is based upon one mobilization for the project. Projects that are broken up to be done over different time periods requiring multiple mobilizations would result in the project being priced based upon the tier of the square yardage for each scheduled project. Message boards will be separately priced items. Excessively dirty roadways will require separate cleaning fees. Price quote expires 1-13-2020, unless otherwise agreed upon in writing. Tax will be charged unless Exemption Certificate is provided.				
			Total	\$ 667,322.00

Proposal void 30 days from date listed on proposal. By signing this proposal (contract), I agree that Andale Construction Inc. may not be held liable for delays, conditions, or Acts of God beyond their control, which situations may delay or cause cancelation partially or entirely on any project. Delays include project demand and material supply. Andale Construction Inc. is not liable for any ADA compliance, if needed, Client should consult with an ADA compliance professional prior to specific project approval.

PAYMENT TERMS: Due Upon Completion (Completion by line item 'Progress Billing' and/or completion of project core)

There may be concerns from Client following completion. Upon request, post-project walk-throughs may be scheduled to review concerns. Payment will still remain due upon invoice. Andale Construction Inc. is committed to client satisfaction and resolving concerns, though at times, this may be delayed.

As the Client, I agree to not withhold payment due to walk-through requests, cleaning, touch-up, or warranty concerns. I understand and agree that I will be billed for towing as incurred and will be due on receipt. I agree that if I demand to retain payment until warranty work or touch up is completed, the retainer will be a fixed amount of 5% of invoice, up to \$750.00. I agree that I may be billed as each line item is completed and each item may become their own respective invoice.

I understand that interest accrues on all past-due amounts at 24% per annum from invoice date, until paid in full; and may be billed collection fee's of up to 40%, and Client agrees to pay all fees accrued by collection efforts. These terms apply to all amount(s) incurred by me and for whom I have committed management responsibility, regardless of timing. Total Proposal price includes one mobilization. Additional mobilizations may be billed up to \$3,500 per additional mobilization. This agreement provides Client written Notice of Right to Lien. Pricing does not include Certified Payroll unless stated otherwise.

INSURANCE: These insurance limits are listed by Andale Construction to inform Client of such. Any premiums above the following to be paid by Client. This disclosure overrules any other contract language wherein Andale Construction agrees to differing limits. Certificates available upon request.

GENERAL LIABILITY: \$1m (inc.), \$2m (agg.) **AUTO:** \$1m **UMBRELLA:** \$2m (inc.), \$2m (agg.) **PERSONAL INJ:** \$1m **WORKERS COMP:** \$1m

One year guarantee on workmanship and product liability.

Signature _____ Print Name _____ Date _____ Andale Construction Inc. _____

STATE OF TEXAS
COUNTY OF BELL

THIS AGREEMENT, made and entered into this _____ day of _____, 20 22, by and between the City of Killeen, a municipal corporation, organized and existing under laws of the State of Texas, acting through its City Manager or other duly authorized designee, hereinafter referred to as the "Owner" and Andale Construction, of the City of Jourdanton, Counties of Atascosa, and the State of Texas, hereinafter referred to as the "CONTRACTOR."

WITNESSETH: That for and in consideration of the promises, performances, payments, and agreements hereinafter mentioned, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Sole Source High Density Mineral Bond Surface Treatment (HA5) and all work in accordance with the specifications (if applicable) which are incorporated herein by reference and made part hereof and which have been prepared by the City of Killeen and approved by OWNER, and OWNER agrees to pay the CONTRACTOR for the following:

High Density Mineral Bond estimated quantity of approx. 212,927 square yards at \$3.35 per square yard
Per proposal and specification attached

Description:

HA5 is a High Density Mineral Bond uniquely emulsified with a near neutral charge that is able to hold exceptionally high concentrations of fine aggregates and other components that resist deterioration. This can be used throughout the City of Killeen to preserve asphalt on residential roadways.

Equipment

1. All equipment, tools, and machines used in the performance of the work shall be maintained in satisfactory working condition at all times to ensure a high quality product.

Construction Methods

1. **General.** The CONTRACTOR shall be responsible for the production, transportation, placement, and finishing of the specified surface treatment to the requirements of the specification.
2. **General.** Leakage of fuels, oils, grease, hydraulic or brake fluids or other contaminants onto the prepared surface or newly-laid mat will not be allowed.
3. **Lines.** Care shall be taken to insure straight lines along the curbs and shoulders. No runoff on these areas will be permitted. Lines at intersections shall be kept straight to provide good appearance.
4. **Clean-up.** All areas, such as valley gutters, curb & gutters, and intersections shall have the surface treatment removed as specified by the Director of Transportation or designee. The CONTRACTOR shall remove any debris associated with the performance of the work on a daily basis.

Notification and Traffic Control

1. **Notification.** All entities affected by the surface treatment shall be notified two days in advance of the surfacing. Should work not occur on the specified day, a notification will be distributed. Deferred work shall be rescheduled as soon as possible after all other pending work that notifications have gone out for is completed. All practical efforts must be made to minimize the amount of work that must be deferred and rescheduled to control citizen inconvenience.

The notification shall be in a form of written posting, stating the time and date that the surface treatment will take place and a general description of the process. Notices shall be placed in secure, prominent locations and information shall be written legibly in ink that will not run if the notices get wet.

2. **Traffic Control.** Suitable methods shall be used by the CONTRACTOR to protect the surface treatment from all types of vehicular traffic without damage. Opening traffic does not constitute acceptance of the work. The Director of Transportation or designee shall be notified of the methods to be used.

In areas which are subject to an increased rate of sharp turning vehicles, additional time may be required for a more complete cure of the surface treatment to prevent damage. Slight tire marks may be evident in these areas after opening but will diminish over time with rolling traffic. If these areas are not severely rutted they should be considered as normal characteristics of surface treatment and should be accepted.

Acceptance Plan

1. All areas meeting the requirements of the specifications will be accepted for payment.
2. Substandard portions of the work, as determined by the Director of Transportation or designee, shall be remedied or removed and replaced to the satisfaction of the Director of Transportation or designee at the expense of the CONTRACTOR. Remedied areas satisfactory to the Director of Transportation or designee will be included in the area accepted for payment.

Pricing & Term

1. Contract term shall be for a two-year (2) period upon execution by the City of Killeen.
2. **Escalation Clause.** Should market conditions prevail which dictate an increase, the CONTRACTOR may submit documentation requesting permission to increase pricing no later than 90 days prior to the end of the initial twelve (12) months of contract. If the CONTRACTOR fails to give timely notice, price may not be increased. Escalation may only occur after the initial twelve (12) months of the contract and only upon securing the approval of the City of Killeen in writing. Requests for price adjustments must be solely for the purpose of accommodating an increase in the contractor's cost, not profits.

Any request in price change with supporting documentation shall be sent to only:

**City of Killeen
Attn: Purchasing Division
802 N. 2nd Street
Building E, 2nd Floor, Rm #215
Killeen Texas 76541**

On the envelope place "Price Change Notification HA5 High Density Mineral Bond"

3. **After the exhaustion of the entire contract term, the City may request up to an additional sixty (60) days past any contract term to advertise an ITB and / or award a new Sole Source agreement for such items without price adjustments.**

Independent Contractor

Contractor shall act as an Independent Contractor. Under no circumstances shall Contractor be deemed an employee or partner of Owner.

Insurance

Contractor shall procure and maintain insurance in the following amounts:

Worker's Compensation	Statutory
Automobile Liability	\$500,000 Combined single Limit for each accident (Bodily injury and property damage).
General Liability	\$1,000,000 each occurrence (Bodily injury and property damage).

On all policies, except Worker's Compensation, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

Prevailing Wage Rates

The Contractor shall pay each employee prevailing wages as set forth in the Davis Bacon Wage Determination attached hereto.

Subcontracts and Assignments

Contractor's rights and obligations hereunder are deemed to be personal and may not be transferred or assigned. Any assignments shall be void and of no effect.

Indemnification

To the fullest extent permitted by law, Contractor, shall indemnify and hold harmless the Owner, and the Owner's officers, directors, partners and employees from and against any and all costs, losses and damages (including, without limitation, all fees and charges of attorneys and other professionals, and all court or dispute resolutions costs) caused by the negligent acts or omissions of the Contractor or its officers, directors, partners, employees and consultants with respect to the performance under this Agreement or the Project.

Termination

This Agreement may be terminated by either party for cause upon thirty (30) calendar days' written notice, provided such cause cannot be reasonably cured within such thirty (30) day period. Owner may terminate this Agreement for convenience effective upon receipt of written notice declaring the same and Contractor shall be compensated for all work completed at that time in accordance with this Agreement.

Texas Law

This Agreement shall be subject to and governed by the laws of the State of Texas. The Parties agree that for venue purposes, any and all lawsuits, disputes, or causes of action shall be in Bell County, Texas.

Severability

If any provision of this Agreement shall, for any reason, be held to violate any applicable law, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate the remaining provisions of this Agreement.

Survival

Any provision of this Agreement providing for indemnity, insurance or a duty that necessarily will not be completed until after the expiration or termination of this Agreement shall continue in full force and effect until such a time as all duties have been fully performed.

Non-waiver

Failure to enforce any provision of this Agreement by either party shall not constitute a waiver of that provision for purposes of the subsequent enforcement of that provision or the remainder of this Agreement.

The City's execution of and performance under this Agreement will not act as a waiver by the City of any immunity from suit or liability to which it is entitled under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.

Contract Verification.

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

- Texas Government Code, Chapter 2271 – the company must verify that it does not boycott Israel and will not boycott Israel during the term of the contract. Boycott Israel is defined in Government Code Chapter 808.
- Texas Government Code, Chapter 2274 – the company must verify that it does not boycott energy companies and will not boycott energy companies during

the term of the contract. Boycott energy company is defined in Government Code Chapter 809.

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

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

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

Entire Agreement

This agreement shall represent the entire agreement by and between the Parties and it may not be changed except by written amendment duly executed by all parties.

OWNER agrees to pay CONTRACTOR from available funds for performance of the Contract in accordance with the Proposal and the provisions of the Contract Documents, subject to additions and deductions, as provided therein.

The OWNER's payment obligations are payable only and solely from funds available for the purposes of this Agreement. Although drafted by the OWNER, this Agreement, in event of any disputes over its meaning or application, shall be interpreted fairly and reasonably, and neither more strongly for nor against either party.

OWNER

CONTRACTOR

By: _____
City of Killeen

By: _____
Andale Construction

Date

Date

For City Manager

Title of Signatory

Printed Name of Signatory

By: _____
City Attorney

Title of Signatory, Authorized Representative

Date

ATTEST (as applicable)



Headquarter Office
7700 N. Hayes Dr.
Valley Center, KS 67147
P: 316-832-0063
F: 316-440-8810

Southern Texas Division Off
1799 fm 766 Suite 100
Cuero, TX
P: 361-243-8535

PROPOSAL

Date	Estimate
3/03/2022	Killeen TX - 2022

www.andaleconstruction.com

Partner in Pavement Preservation		Project Description		Project Location	
City of Killeen 101 N. College St. Killeen, TX 76541		Apply HA5 (High Density Mineral Bond) to roads within City Limits of Killeen		City of Killeen, TX	
P.O. Number	Terms	Advisor	Region	State License #	
	Due upon completion	Caleb Fiske	Texas		

Description	Quantity	U/M	Rate	Total
HA5 HIGH DENSITY MINERAL BOND: -- Install "HA5" High Density Mineral Bond advanced performance pavement preservation treatment. -- No guarantee surface treatments will adhere to areas saturated with motor oil. -- HA5 meets demands of APWA (American Public Works Association) specification (Section 32 01 13.68 High Density Mineral Bond).	190,000	SY	3.35	636,500.00
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INSURANCE: These insurance limits are listed by Andale Construction to inform Client of such. Any premiums above the following to be paid by Client. This disclosure overrules any other contract language wherein Andale Construction agrees to differing limits. Certificates available upon request.

GENERAL LIABILITY: \$1m (inc.), \$2m (agg.) **AUTO:** \$1m **UMBRELLA:** \$2m (inc.), \$2m (agg.) **PERSONAL INJ:** \$1m **WORKERS COMP:** \$1m

One year guarantee on workmanship and product liability.

Signature _____ Print Name _____ Date _____ Andale Construction Inc. _____

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

OFFICE USE ONLY CERTIFICATION OF FILING

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

Andale Construction Inc
Wichita, KS United States

Certificate Number:
2022-861262

Date Filed:
03/15/2022

Date Acknowledged:

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

City of Killeen, TX

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

COK Overlay - Milling Services
High Density Mineral Bond Installation

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

5 Check only if there is NO Interested Party.




6 UNSWORN DECLARATION

My name is Peter J. Molitor - President / Andale Construction, Inc., and my date of birth is 04/21/1978.

My address is 442 Sevy Andale KS 67001 USA
(street) (city) (state) (zip code) (country)

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

Executed in Sedgwick County, State of Kansas, on the 15th day of March, 20 22.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)



AGREEMENT FOR HA5 SURFACE TREATMENT SERVICES

RS-22-048

April 5, 2022

Background

2

- ❑ The Transportation Division maintains 539 centerline miles (2,191 lane miles) of paved roadways within the City
- ❑ HA5 – High Density Mineral Bond surface treatment is a cost effective, viable pavement preservation treatment used to extend the life cycle of a street
- ❑ Andale Construction is a sole source vendor for the application of HA5 surface treatments
- ❑ Agreement is for two-years, with quantities determined by approved budgets



3

HA5 Treatment Before and After

HA5 surface treatment is a material that holds exceptionally high concentrations of fine aggregates and other components that resist deterioration.

Alternatives

4

- Do not authorize an agreement for HA5 High-Density Mineral Bond surface treatment services
- Authorize execution of contract to Andale Construction for HA5 High-Density Mineral Bond surface treatment in an amount not to exceed \$1,000,000 citywide for FY22

Recommendation

5

- ❑ City staff recommends that City Council authorize the City Manager, or designee, to enter into a contract with Andale Construction in an amount not to exceed \$1,000,000 citywide in FY22 and authorize the City Manager, or designee, to execute any and all change orders within the amounts set by State and Local law.



City of Killeen

Legislation Details

File #: RS-22-050 **Version:** 1 **Name:** Appointment to Boards and Commissions
Type: Resolution **Status:** Resolutions
File created: 3/30/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Consider a memorandum/resolution declaring vacancies on various citizen boards and commissions and appointing members to fill the unexpired terms.
Sponsors: City Council
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 5, 2022

TO: Kent Cagle, City Manager

FROM: Traci Briggs, City Attorney

SUBJECT: Appointing Citizen Members to Various Boards & Commissions

BACKGROUND AND FINDINGS:

The Mayor and City Council make annual appointments to the various boards, commissions, and committees each year and throughout the year as vacancies occur.

In addition, Section 3-20(o) of the City Council's Governing Standards and Expectations states that citizen committees are most effective when members are able to communicate freely and that no city councilmember will be appointed as a member of a citizen committee. On March 29, 2022, Mr. Riakos Adams who serves on several boards and commissions was appointed to serve the remaining City Council District 2 term.

Within the past month, a board/commission member has resigned from their seat creating a vacancy on the Senior Citizen Advisory Board. The member who has resigned is identified in the chart below in the status column as "Resigned."

In order to declare vacancies and make appointments to fill the unexpired terms of the vacancies, City Council action is required.

THE ALTERNATIVES CONSIDERED:

No other alternatives were considered.

Which alternative is recommended? Why?

N/A

CONFORMITY TO CITY POLICY:

Making these appointments conforms to relevant city ordinances and policies.

Community Development Advisory Committee (All Council)

Current Member	Status	New Member	Comments
Riakos Adams	Councilmember	LaDonna Barbee	Citizen Rep (unexpired term 20-22)

Comprehensive Planning Advisory Committee (All Council)

Current Member	Status	New Member	Comments
Riakos Adams	Councilmember	N/A	Councilmember Recommendation

Planning & Zoning Commission (All Council)

Current Member	Status	New Member	Comments
Riakos Adams	Councilmember	Bear Jones	Citizen Rep (unexpired term 21-24)

Senior Citizen Advisory (Sub-committee: J. Gonzalez, N. Cobb)

Current Member	Status	New Member	Comments
Patsy Bracey	Resigned	Rosalind Stubbs	Citizen Rep (unexpired term 20-23)

FINANCIAL IMPACT:

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

There is no current or future expenditure with these appointments.

Is this a one-time or recurring expenditure?

N/A

Is this expenditure budgeted?

N/A

If not, where will the money come from?

N/A

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

N/A

RECOMMENDATION:

Recommendation is to declare vacancies on various citizen appointed boards and commissions and appoint citizen members to fill the identified unexpired terms.

DEPARTMENTAL CLEARANCES:

N/A

ATTACHED SUPPORTING DOCUMENTS:

N/A



APPOINT CITIZENS TO BOARDS AND COMMISSIONS

RS-22-050

April 5, 2022

Boards & Commissions

2

- ❑ The Mayor and City Council make annual appointments to various boards, commissions and committees each year and throughout the year as vacancies occur
- ❑ A recent board member appointment to City Council and a recent board member resignation have caused several boards and commissions to need new members appointed

Boards & Commissions

3

Community Development Advisory Committee (All Council)

Current Member	Status	New Member	Comments
Riakos Adams	Councilmember		Citizen Rep (unexpired term 20-22)

Comprehensive Planning Advisory Committee (All Council)

Current Member	Status	New Member	Comments
Riakos Adams	Councilmember		Councilmember Recommendation

Planning & Zoning Commission (All Council)

Current Member	Status	New Member	Comments
Riakos Adams	Councilmember		Citizen Rep (unexpired term 21-24)

Senior Citizens Advisory Board (sub-committee: J. Gonzalez, N. Cobb)

Current Member	Status	New Member	Comments
Patsy Bracey	Resigned		Citizen Rep (unexpired term 21-23)

Recommendation

4

- Staff recommends that the City Council declare vacancies on various citizen appointed boards and commissions and appoint citizen members to fill the identified unexpired terms.



City of Killeen

Legislation Details

File #: RS-22-046 **Version:** 1 **Name:** Appoint Mayor Pro Tem
Type: Resolution **Status:** Resolutions
File created: 3/22/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Consider a memorandum/resolution appointing a new Mayor Protem.
Sponsors: City Council
Indexes:
Code sections:
Attachments: [Staff Report](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: March 22, 2022

TO: Mayor and City Council

FROM: Kent Cagle, City Manager

SUBJECT: Interlocal Agreement to Develop Regional Habitat Conservation Plan

BACKGROUND AND FINDINGS:

The purpose of the Interlocal Agreement is to facilitate a regional joint effort in support of creating a Regional Habitat Conservation Plan (HCP) and associated National Environmental Policy Act (NEPA) documentation for the conservation of federally listed species in the region of Bell and Coryell Counties, Texas.

Thirteen (13) entities are currently involved - Bell County, Coryell County, Clearwater Underground Water Conservation District, Middle Trinity Groundwater Conservation District, Brazos River Authority, Killeen-Temple Metropolitan Planning Organization, and the following cities: Belton, Copperas Cove, Gatesville, Harker Heights, Killeen, Salado, and Temple.

The parties intend to apply for a grant from the U.S. Fish and Wildlife Service in order to fund the regional habitat conservation planning efforts. There will be a regional grant match of no less than 25%. Below is the proposed match allocation.

- Four entities commit to fund 50% of the \$250,000 grant match requirement: \$31,250 from Bell County, Coryell County, Clearwater Underground Water Conservation District, and Brazos River Authority
- Four entities with populations over 25,000 equally share in 66% of the remaining \$125,000 grant match requirement ($\$83,334 \div 4 = \$20,833.50$ each): Copperas Cove, Harker Heights, Killeen, and Temple
- Remaining entities with populations under 25,000 (or 'other' type entities) equally share 33% of the remaining \$125,000 grant match requirement ($\$41,666 \div 5 = \$8,333.20$ each): Belton, Gatesville, Salado, Middle Trinity Groundwater Conservation District, and Killeen-Temple Metropolitan Planning Organization

Bell County has agreed to take the lead by preparing the RFP to apply for the grant and develop the HCP, if successfully awarded. Each party will have a designated representative having an equal vote to review RFP submission and the development of the HCP.

THE ALTERNATIVES CONSIDERED:

1. Enter into an Interlocal Agreement with various entities to develop a Regional Habitat Conservation Plan to share costs of a grant.
2. Apply for a grant to create a Habitat Conservation Plan for Killeen only.

Which alternative is recommended? Why?

Staff recommends entering into an Interlocal Agreement to create a regional plan. Cost-sharing will save the City money and will provide a unified conservation plan.

CONFORMITY TO CITY POLICY:

Conforms with City policy.

FINANCIAL IMPACT:

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

The City's local grant match would be \$20,833.50. Additionally, in-kind services are eligible to fulfill the City's commitment for the local grant match.

Is this a one-time or recurring expenditure?

One-time

Is this expenditure budgeted?

Yes, funds are available in the General Fund Non-Departmental account 010-9501-491.47-99.

If not, where will the money come from?

N/A

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

Yes

RECOMMENDATION:

Staff recommends City Council authorize the City Manager to enter into an Interlocal Agreement to create a Regional Habitat Conservation Plan.

DEPARTMENTAL CLEARANCES:

Finance
Legal

ATTACHED SUPPORTING DOCUMENTS:

Interlocal Agreement



City of Killeen

Legislation Details

File #: RS-22-034 **Version:** 1 **Name:** Interlocal Agreement w/Bell County
Type: Resolution **Status:** Resolutions
File created: 2/11/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Consider a memorandum/resolution authorizing an Interlocal Agreement with Bell County for the relocation of the Bell County Killeen Annex.
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Interlocal Agreement](#)
[FNBT Background](#)
[Bank Site Demolished](#)
[Bank Site Preserved](#)
[PD Site with Annex](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: March 1, 2022
TO: Mayor and City Council
FROM: Kent Cagle, City Manager
SUBJECT: Interlocal Agreement - Relocation of Bell County Killeen Annex

BACKGROUND AND FINDINGS:

The City Council and Bell County Commissioners Court have been discussing opportunities to relocate County offices to Downtown Killeen. The attached agreement represents the latest offer by Bell County.

Information has also been included that outlines the process to demolish a structure in the Historic District.

An additional site is included that could be suitable if the Council is interested in another location downtown.

THE ALTERNATIVES CONSIDERED:

Click or tap here to enter text.

Which alternative is recommended? Why?

Click or tap here to enter text.

CONFORMITY TO CITY POLICY:

This project will need approval of the Historic Preservation Board if the First National Bank building is demolished.

FINANCIAL IMPACT:

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

The total cost of demolition will be borne by the City. The estimated demolition cost is \$300,000.

Is this a one-time or recurring expenditure?

One-time expenditure.

Is this expenditure budgeted?

Yes, funds are available in Governmental CIP Fund account 349-8934-493.69-03.

If not, where will the money come from?

N/A

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

Yes

RECOMMENDATION:

Click or tap here to enter text.

DEPARTMENTAL CLEARANCES:

Finance

Legal

ATTACHED SUPPORTING DOCUMENTS:

Interlocal Agreement

FNBT Background

Bank Site Demolished

Bank Site Preserved

PD Site with Annex

State of Texas §

County of Bell §

Interlocal Agreement

This Interlocal Agreement is made and entered into by and among the City of Killeen ('City') and Bell County ('County'), collectively, 'the Parties'.

Recitals

WHEREAS, the Texas Government Code, Title 7, Chapter 791 provides for interlocal cooperation Contracts, or interlocal agreements, among political subdivisions of the State of Texas; and

WHEREAS, the Texas Government Code, Title 7, Chapter 791, states that its purpose is to increase the efficiency and effectiveness of local governments by authorizing them to contract with each other; and

WHEREAS, the Texas Government Code, Title 7, Chapter 791 further allows for interlocal agreements for 'governmental functions', as defined by Chapter 791, Texas Government Code; and

WHEREAS, the Texas Government Code, Title 7, Chapter 791 allows counties, municipalities and other political subdivisions of the State of Texas to enter into interlocal agreements under the terms and conditions set forth in Texas Government Code, Title 7, Chapter 791; and

WHEREAS, City is a home rule city under the laws of the State of Texas and, accordingly, has authority to enter into an interlocal agreement; and

WHEREAS, the County is a political subdivision of the State of Texas and, accordingly, has authority to enter into an interlocal agreement; and

WHEREAS, the County has indicated a need to relocate the Bell County Killeen Annex, currently located on Priest Drive in Killeen; and

WHEREAS, First National Bank of Texas has indicated it is amenable to transfer ownership of the property and all buildings ('Property') located at 507 North Gray, Killeen, Texas, to the County for the purposes of locating the Bell County Killeen Annex; and

WHEREAS, the City is supportive of this location for the Bell County Killeen Annex and has an interest in revitalizing its downtown area and seeks to keep and attract entities to locate in that area; and

NOW, THEREFORE, in consideration of the mutual promises, obligations, and benefits to derived by the Parties pursuant to this interlocal agreement, the Parties hereby agree that:

1. The County agrees to:
 - a. Notify the City when the County has received and closed on the Property;
 - b. Demolish or contract for the demolition of the buildings on the Property within six (6) months of receipt of the Property;

- c. Construct a new building(s) on the Property with square footage of at least thirty thousand (30,000) square feet, with the new building(s) substantially complete within thirty-six (36) months of receipt of the Property;
 - d. Locate all departments in the newly-constructed building on the Property that are currently located on Priest Drive, Killeen, Texas, although staffing levels may vary.
2. The City agrees to:
 - a. Reimburse the County for all reasonable demolition costs, subject to paragraph 4 below.
 - b. Reimbursement costs will not include payment of any salaries or other costs of employment for any County employee.
3. Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.
4. Each party acknowledges that the County has allocated \$10,000,000 for the design and construction of the new Killeen Annex ~~and that the City has allocated \$300,000 for the cost of demolition of the existing structures on site.~~ In the event the estimated demolition costs exceed \$500,000, the City has the option to terminate this agreement by giving written notice to the County.
5. This interlocal agreement becomes effective on the date the last signature is affixed and remains in effect the obligations of the Parties are complete, unless terminated earlier by mutual written consent of the parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed, effective on this the _____, day of _____, 2022.

City of Killeen

Bell County

Kent Cagle

City Manager

David A. Blackburn

County Judge

Background:

The First National Bank of Texas building, located at 507 N. Gray St. in downtown Killeen, was constructed in 1960 in the Mid-Century Modern style.

In 2008, the City of Killeen conducted a Historic Resources Survey, which identifies the building as a “High Priority” contributing resource. According to the Texas Historical Commission, a contributing building is one that contributes to the overall historic and architectural significance of a district. The survey identified eighteen (18) High Priority contributing buildings within the Downtown area.

Also in 2008, the Killeen City Council adopted a Heritage Preservation Ordinance, adding Sec. 31-821 of the Killeen Code of Ordinances, which states the following:

The City hereby declares that as a matter of public policy the protection, enhancement, rehabilitation, preservation and use of historic landmarks is a public necessity and is required in the interest of culture, prosperity, education and the general welfare of the people. The purpose of this division is to:

- A. Protect, enhance, and perpetuate historic landmarks and districts which represent distinctive elements of the City's unique historic, architectural, and cultural heritage;
- B. Foster civic pride in the history and accomplishments of the past;
- C. Protect and enhance the City's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- D. Insure the harmonious, orderly and efficient growth and development of the City;
- E. Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the City; and
- F. Encourage stabilization, rehabilitation, restoration, and improvements of property values.

In 2009, the Historic Overlay District (HOD) was established to “provide for the protection, preservation, and enhancement of buildings, structures, sites and areas of architectural, historical, archaeological, or cultural importance or value.”

Per Killeen Code of Ordinances Sec. 31-392: “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 historic overlay district is intended to help promote the development of a downtown consistent with the community objectives identified in the downtown action agenda.”

In 2014, the Killeen Downtown Historic District was added to the National Register of Historic Places. The National Register nomination for the Historic District also identifies this building as a contributing resource within the district.

Process for Demolition:

Killeen Code of Ordinances Sec. 31-830 states the following:

It is the intent of this and succeeding sections to preserve the historic and architectural resources of the City, through limitations on demolition and removal of historic buildings, structures and sites to the extent it is economically feasible, practical and necessary. The demolition or removal of historic buildings, structures and sites in the City diminishes the character of the City's historic district and it is strongly discouraged. Instead, the City recommends and supports preservation, rehabilitation, and relocation within the historic district. It is recognized, however, that structural deterioration, economic hardship and other factors not entirely within the control of the property owner may result in the necessary demolition or removal of a historic building, structure or site.

City of Killeen Code of Ordinances Sec. 31-830 sets forth the requirements and process for demolition of a contributing property within the HOD. Should the City resolve to demolish the First National Bank of Texas building, the process would be as follows:

1. *Review by Heritage Preservation Officer (HPO).*

The City's Heritage Preservation Officer (HPO) will review the demolition permit to determine if the building is a contributing resource or is historically or architecturally significant. If the property is determined by the HPO to be a contributing building, the applicant must apply for a hearing before the Heritage Preservation Board (HPB) for a determination of significance pursuant to Killeen Code of Ordinances Sec. 31-829.

2. *Review by Heritage Preservation Board (HPB).*

If upon review, the HPB concludes that the building is not a significant historic property, the applicant may apply for a demolition permit and demolish the building. If the HPB concludes that it does possess significance, the property owner is required to submit an Order of Economic Hardship application pursuant to Sec. 31-831.

As noted above, the First National Bank of Texas building is listed as a contributing resource in the National Register of Historic Places and is identified as a "high priority" resource in the 2008 Historic Resources Survey. Therefore, it's likely the HPB would conclude that it is historically significant. In that case, the property owner would need to demonstrate economic hardship.

3. *Determination of economic hardship by HPB.*

Upon receipt of a complete determination of economic hardship application, the HPO will schedule an HPB meeting within forty-five (45) days. At the meeting, the applicant may present testimony and evidence to demonstrate economic hardship. In order to sustain a claim of unreasonable economic hardship, the owner must prove that:

1. The subject historic property is incapable of earning a reasonable rate of return, regardless of whether the return represents the most profitable return possible; *and*
2. The subject historic property cannot be repaired or rehabilitated for any other beneficial use, whether by the current owner or by a purchaser, which would result in a reasonable return; *and*

3. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

The HPB may determine that unreasonable economic hardship exists and approve the demolition application if: 1) The building, structure or site cannot be feasibly used or rented at a reasonable rate of return in its present condition or if rehabilitated and denial of the application would deprive the owner of all reasonable use of the property; *and* 2) that the historic property cannot be feasibly moved or relocated.

If the HPB determines that an economic hardship exists, the owner may apply for a demolition permit and proceed to demolish the building.

If the HPB denies the application, the owner may not demolish the building and may not re-apply for an economic hardship application for at least three (3) years from date of the HPB's determination unless substantial changes in circumstances have occurred.

3. *Appeal of HPB decision to City Council.*

The applicant, or any persons adversely affected by the decision of the HPB, may appeal the decision to the City Council. Appeal requests must be filed with the City Manager's office within ten (10) days of the HPB's decision and must be scheduled for the next available regular City Council meeting. The appeal may only allege that the HPB's decision was arbitrary, capricious, or illegal.

Notice of the appeal shall be posted on the property for ten (10) days upon receipt of a formal appeal request. Written notice of the public hearing for the appeal request must be mailed to all property owners within one hundred (100) feet of the subject property. Appeals shall be considered only on the record made before the HPB and will require a $\frac{3}{4}$ majority vote of the City Council to overturn an HPB decision.

Potential Implications:

Demolition of a contributing building within the National Register Historic District could result in the district being removed from the National Register of Historic Places. Staff has been advised by the Texas Historical Commission that demolition of the First National Bank of Texas building could jeopardize the district's listing on the National Register.







E. Avenue B

N. 2nd St.

E. Avenue C

≈ 30,000 sq. ft.
(single story)

N. 4th St.



BELL COUNTY ANNEX – LOCATION OPTIONS

RS-22-034

April 5, 2022

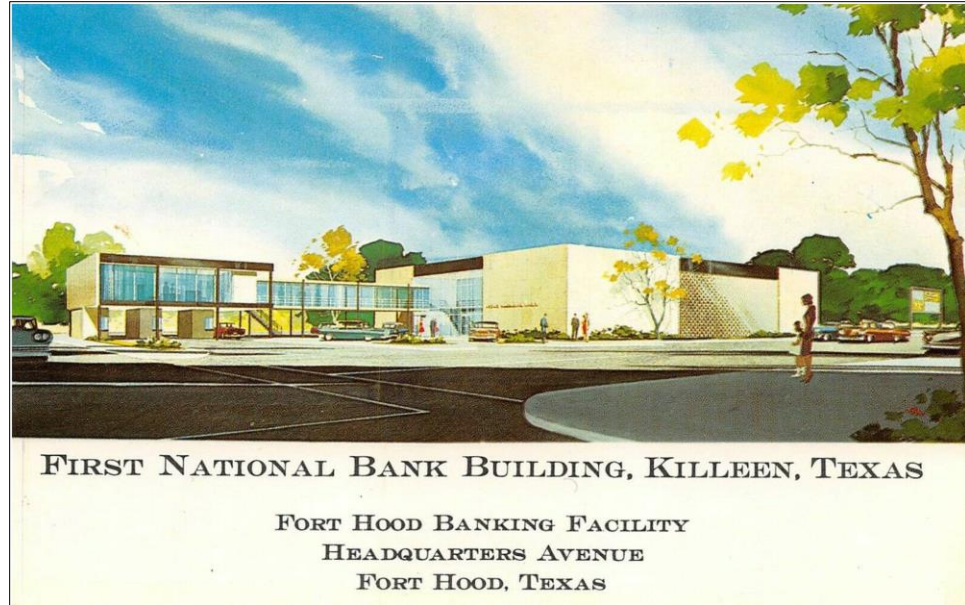
First National Bank Texas

2



First National Bank Texas

3



Options

4

❑ **Option 1:**

Proceed with the Interlocal Agreement to demolish the First National Bank building, and Bell County will build a new County Annex building in its place.

❑ **Option 2:**

Do not approve the Interlocal Agreement and donate land elsewhere downtown for an alternative County Annex location, such as the Police Station parking lot. The City of Killeen could then partner with a private developer to rehabilitate/redevelop the First National Bank building.

Option 1 – Bank Site

5



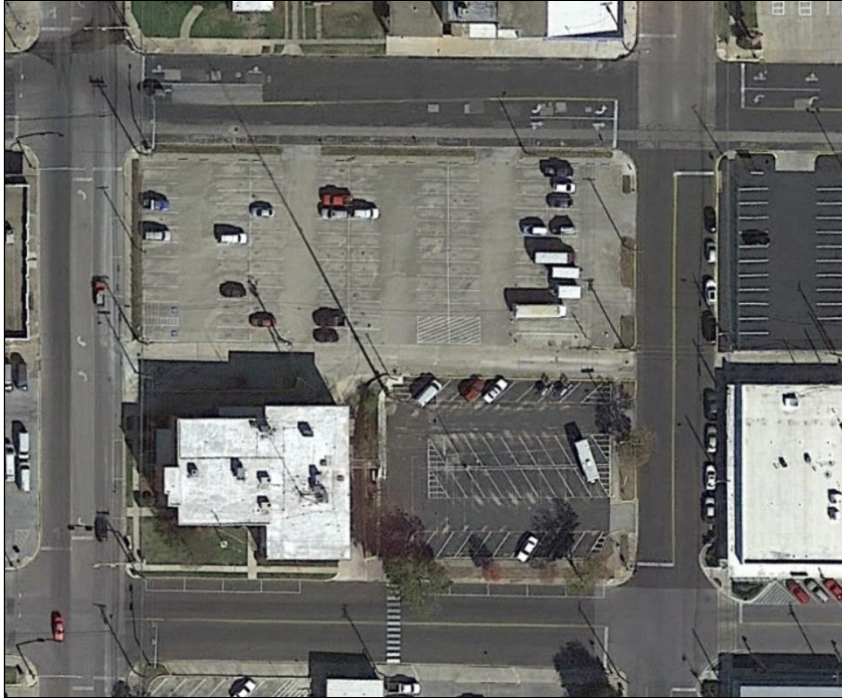
Steps to Demolish Bank

6

1. Review by Heritage Preservation Officer (HPO).
2. Review by Heritage Preservation Board (HPB).
3. Determination of economic hardship by HPB.
4. Appeal of HPB decision to City Council.

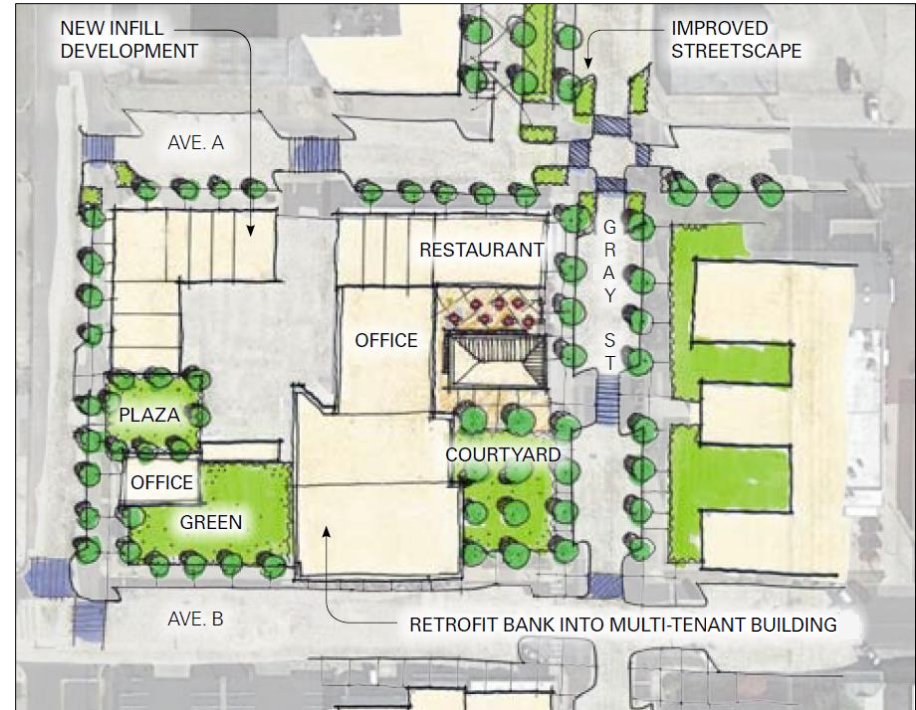
Option 2 — Police Station Site

7



Option 2 – Future redevelopment of Bank Site

8





City of Killeen

Legislation Details

File #:	RS-22-049	Version:	1	Name:	Nonprofit Application Process for ARPA and PFC Funding
Type:	Resolution	Status:			Resolutions
File created:	3/24/2022	In control:			City Council
On agenda:	4/12/2022	Final action:			
Title:	Consider a memorandum/resolution to approve a nonprofit application process for American Rescue Plan Act (ARPA) and Public Facility Corporation funding (PFC).				
Sponsors:	City Manager Department				
Indexes:	American Rescue Plan Act (ARPA)				
Code sections:					
Attachments:	Staff Report ARPA Nonprofit FAQs ARPA Nonprofit Application PFC Nonprofit Youth Organizations FAQs PFC Nonprofit Youth Organization Application				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 5, 2022
TO: Kent Cagle, City Manager
FROM: Danielle Singh, Assistant City Manager
SUBJECT: Nonprofit Application Process ARPA and PFC Funding

BACKGROUND AND FINDINGS:

The City of Killeen has been allocated \$29,117,907 in American Rescue Plan Act (ARPA) Funds. The City Council allocated \$150,000 of these funds to nonprofits. The Public Facility Corporation (PFC) received a \$350,000 structuring fee for the North Killeen Apartments Project (NRP) that was transferred to the City of Killeen. City Council, acting as the PFC, directed those funds to be used for a nonprofit grant program for youth organizations. Based on the City Council's direction, Staff drafted two separate grant programs for adoption - 1) PFC Nonprofit Youth Organization and 2) ARPA Nonprofit Program.

In order to qualify for the PFC Nonprofit Youth Organization Program, nonprofits must serve a public purpose by providing a service that enhances a service the City provides, provide an identifiable secondary benefit to the City, or providing a service the City could provide but chooses not to. In accordance with State law, the funds may not be used to benefit private parties, and the City must maintain control of the funds. Nonprofits will need to document that funds were used for a public purpose before reimbursement can occur under the program.

In order to qualify for the ARPA Nonprofit Grant Program, nonprofits must meet the same criteria as the PFC program, along with additional ARPA requirements. ARPA funds should be directed towards low to moderate income residents, residents disproportionately impacted by the pandemic, or provide services in or to those living in a Qualified Census Tract. The use of funds must directly address a negative impact of the pandemic. Any funding used must be proportional to the negative impact experienced.

Staff has drafted applications and frequently asked questions for each grant program.

THE ALTERNATIVES CONSIDERED:

The Council may accept the program criteria as drafted or make changes to the program criteria.

Which alternative is recommended? Why?

Staff recommends that the City Council approve the program criteria as drafted.

CONFORMITY TO CITY POLICY:

This item conforms with all applicable policies and laws.

FINANCIAL IMPACT:

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

This item approves criteria for the grant programs. Funds are not being expended at this time.

Is this a one-time or recurring expenditure?

N/A

Is this expenditure budgeted?

N/A

If not, where will the money come from?

N/A

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

N/A

RECOMMENDATION:

Staff recommends that the City Council approve the program criteria as drafted.

DEPARTMENTAL CLEARANCES:

Legal

ATTACHED SUPPORTING DOCUMENTS:

ARPA Nonprofit FAQs

ARPA Nonprofit Application

PFC Nonprofit Youth Organizations FAQs

PFC Nonprofit Youth Organization Application

AMERICAN RESCUE PLAN: NONPROFIT GRANT PROGRAM

What is the City of Killeen Nonprofit Grant Program?

Killeen 501(c)(3) and 501(c)(19) nonprofits play an essential role by delivering programs and services that address the needs of our residents and respond to the negative impacts of the COVID-19 Pandemic. Through the American Rescue Plan Act, the City of Killeen is making assistance available to Killeen nonprofits to enable nonprofits to continue to provide this ongoing support to the community.

When can nonprofits apply for the grant?

April 13, 2022 – May 12, 2022

How will the program be funded?

The program will be funded using a portion of the City's allocated American Rescue Plan Act funds. The Nonprofit Grant Program has been allocated \$150,000.

How much can a nonprofit receive through this program?

Nonprofits located in Killeen can request up to \$10,000 to provide programs and assistance in response to negative impacts of the COVID-19 Pandemic.

What are the requirements to apply for a grant under the City of Killeen Nonprofit Grant Program?

In order to qualify for grant funding under this program, the nonprofit must:

- ✓ Be designated as a 501(c)(3) or 501(c)(19) organization
- ✓ Be an existing non-profit organization and in operation prior to March 2020
- ✓ Serve residents of the City of Killeen
- ✓ Operate in the corporate city limits of Killeen, Texas
- ✓ Ensure funds will be used to respond to negative impacts of the COVID-19 pandemic in compliance with all requirements of the American Rescue Plan Act
- ✓ Not discriminate, or condition services based on religious affiliation (faith based organizations are eligible if providing a social service without requiring religious activities such as worship, religious instruction or proselytization)
- ✓ Be current on all financial obligations to the City of Killeen and State of Texas
- ✓ Not be owned by a City of Killeen employee, Council Member, or related to any Killeen official within the first degree of consanguinity (father, mother, son, daughter) or affinity (spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law)

- ✓ If awarded a grant, recipients will be required to enter into a contract to determine how funds will be disbursed to the applicant. Documentation will be required to receive funds and no lump sums will be awarded

What types of programs are eligible under the Nonprofit Grant Program?

- ✓ Projects must address a negative impact of the COVID-19 pandemic
- ✓ Projects must be directed at low to moderate income residents or residents disproportionately impacted by the COVID-19 Pandemic
- ✓ Provide household assistance through access to food, health care, safe and affordable housing, transportation, and other social services to low to moderate income citizens
- ✓ Provide technical assistance, counseling, or other services to assist with business planning or employment (in disproportionately impacted communities)
- ✓ Serve a population disparately impacted by the public health emergency and its economic impacts
- ✓ Provide assistance for childcare, early learning services, child welfare-involved families or foster youth
- ✓ Provide assistance for home repairs, digital literacy, or accessing public benefits for qualifying residents
- ✓ Address lost instructional time and educational disparities for students in kindergarten through twelfth grade (in disproportionately impacted communities)

CITY OF KILLEEN NONPROFIT APPLICATION

APPLICATIONS OPEN FROM:
APRIL 13, 2022 - MAY 12, 2022

Applicant Information

**Legal Name of Applicant/
Agency**

Applicant Web Page

FEIN/TIN

Physical Address

Mailing Address

Organizational DUNS Number

Application Contact Information

Name

(Prefix First Name Last Name)

E-Mail Address

Telephone Number

Program Information

Funding Request Amount

(maximum of \$10,000)

**Is organization a 501(c)(3) or
501(c)(19)?**

☐ 501(c)(3)

☐ 501(c)(19)

Program is:

- ☐ New Program/Service - not previously provided in the most recent 12 months
- ☐ Existing Program/Service - previously provided in the most recent 12 months

Program Description
(500 characters or less)

What service will you be providing with the use of these funds?
(500 characters or less)

Why is this service needed in Killeen?
(350 characters or less)

What specific population in Killeen is the program intended to serve?
(beneficiary population)

How many people are expected to be served with this program?

When are people able to access this program?
(hours of operation and frequency)

What is the expected timeline for expenditure of requested funds?

What is the expected timeline and duration of the program?
(if different from expenditure timeline)

Where will people receive services?

(if different from Agency location)

What negative impact of the COVID-19 Pandemic will this program address?

(if other please specify with justification)

Describe how the beneficiary population will be notified of the program.

(application, referral, social media, website, etc.)

Describe how eligibility of beneficiaries will be determined for the program.

(income, disproportionately impacted population, qualified census tract, etc.)

Program Oversight

Indicate how the proposed program meets eligibility standards and requirements described in the Department of Treasury's Final Rule for Coronavirus State and Local Fiscal Recovery Fund .

Describe other sources of funding used for the program.

Briefly describe your agency's fiscal oversight/internal controls to minimize opportunities for fraud, waste, and mismanagement.

How does your agency plan to segregate ARPA funds from other agency funds for purposes of identification, tracking, reporting and audit?

What other financial resources are committed to the program?

Describe the experience, number of staff, and percent of time each staff member will commit to the project.

Describe the amount and other sources of funding that will cover salaries and operational expenses for the organization.

Describe the organization's relative experience in undertaking a program of similar scope and complexity.

How does this program fit within the mission of your organization?

Describe in detail the information related to program systems used to monitor and track program progress and outcomes.

Please provide a power point presentation to be given at a City Council meeting. The presentation should include at a minimum: an overview of the organization, services provided by the organization, the financial request, the public purpose, and how the funds will be used. Presentations should not exceed 5 minutes in length.

Attachments

Attachments Required:

1. Proof of non-profit status
2. By-Laws
- 3 Articles of Incorporation/Texas Certificate of Formation
4. Organizational Chart
5. Signed W-9 form
6. Most recent IRS 990 Form
7. Existing Annual Budget
8. Proposed Program Budget, including line-item expenses
9. Personnel Policies and Volunteer Policies
- 10 Certificate/Proof of Insurance (Professional and General Liability)
- 11.City of Killeen Conflict of Interest Questionnaire
- 12.Presentation

Certifications

THE APPLICANT CERTIFIES TO THE BEST OF HIS/HER KNOWLEDGE AND/OR ACKNOWLEDGES:

1. The information submitted to the City of Killeen in this application, and substantially in connection with this application, is true and accurate.
2. The applicant organization is compliant with applicable laws, regulations, ordinances, and orders applicable to it that could have an adverse material impact on the project. Adverse material impact includes lawsuits, criminal or civil actions, bankruptcy proceedings, regulatory action by a governmental entity, or inadequate capital to complete the project.
3. The applicant organization is not in default under the terms and conditions of any grant or loan agreements, leases, or financing arrangements with its creditors that could have an adverse material impact on the program.
4. The applicant organization must disclose, and will continue to disclose, any occurrence or event that could have an adverse material impact on the program.
5. If funded, grant awards will be made in the form of a sub-recipient agreement executed between the applicant and the City. The grant period, scope, allowable budget, and reporting requirements will be outlined in the contract between the nonprofit and the City. Payments will be made on an itemized basis; no lump sums will be distributed through this program.
6. Submitting false or misleading information in connection with an application may result in the applicant being found ineligible for financial assistance under the funding program, and the applicant or its representative may be subject to civil and or criminal prosecution.
7. Applicant must complete entire application to be eligible.

Applicant Signature: _____

Date: _____

Printed Name: _____

KILLEEN NONPROFIT YOUTH ORGANIZATION ASSISTANCE PROGRAM

What is the City of Killeen Nonprofit Youth Organization Assistance Program?

Killeen nonprofit youth organizations deliver programs and services for the youth in our community. The City of Killeen is making assistance available to Killeen nonprofit youth organizations to enable these organizations to continue to provide these ongoing programs to the community.

When can nonprofit youth organizations apply for the grant?

April 13, 2022 – May 12, 2022

How will the program be funded?

The program will be funded using funds generated by the Public Facility Corporation. A total of \$350,000 has been allocated for this program.

How much can a nonprofit receive through this program?

Nonprofits located in Killeen can request up to \$10,000 to provide programs and services for the youth in our community.

What are the requirements to apply for a grant under the City of Killeen Nonprofit Grant Program?

In order to qualify for grant funding under this program, the nonprofit must:

- ✓ Be designated as a 501(c) organization
- ✓ Be an existing non-profit organization and in operation prior to March 2020
- ✓ Serve youth in the City of Killeen
- ✓ Operate in the corporate city limits of Killeen, Texas
- ✓ Ensure funds will be used to fulfill a public purpose
- ✓ Not discriminate, or condition services based on religious affiliation (faith based organizations are eligible if providing a social service without requiring religious activities such as worship, religious instruction or proselytization)
- ✓ Be current on all financial obligations to the City of Killeen and State of Texas
- ✓ Not be owned by a City of Killeen employee, Council Member, or related to any Killeen official within the first degree of consanguinity (father, mother, son, daughter) or affinity (spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law)

- ✓ If awarded a grant, recipients will be required to enter into a contract to determine how funds will be disbursed to the applicant. Documentation will be required to receive funds and no lump sums will be awarded

What types of programs are eligible under the Nonprofit Grant Program?

The types of programs that may be eligible include, but are not limited to mentoring, counseling, scouting, arts, drama, theatre, day camps, and recreational sports.

The programs must:

- ✓ Have a public purpose
- ✓ Not benefit private parties
- ✓ Provide documentation of how the funds are used; each use of funds must serve a public purpose
- ✓ Provide documentation of how the community benefited from the funds

CITY OF KILLEEN NONPROFIT YOUTH ORGANIZATION APPLICATION

APPLICATIONS OPEN FROM:
APRIL 13 , 2022 - MAY 12, 2022

Applicant Information

**Legal Name of Applicant/
Agency**

Applicant Web Page

Physical Address

Mailing Address

Application Contact Information

Name
(Prefix First Name Last Name)

E-Mail Address

Telephone Number

Program Information

Funding Request Amount
(maximum of \$10,000)

Is organization a 501(c)

☐ Yes

☐ No

Program is:

- ☐ New Program/Service - not previously provided in the most recent 12 months
- ☐ Existing Program/Service - previously provided in the most recent 12 months

Program Description
(500 characters or less)

What service will you be providing with the use of these funds?
(500 characters or less)

Why is this service needed in Killeen?
(350 characters or less)

What specific population and age group in Killeen is the program intended to serve? (beneficiary population)

How many people are expected to be serviced with this program?

When is this program offered?

What is the expected timeline for expenditure of requested funds?

What is the expected timeline and duration of the program?
(if different from expenditure timeline)

Where is the program held?

(if different from Agency location)

What public purpose will this program serve?

Describe how the community will be notified of the program.

(application, referral, social media, website, etc.)

Describe how eligibility of any individual beneficiaries will be determined for the program.

(income, disproportionately impacted population, qualified census tract, etc.)

Program Oversight

Describe other sources of funding used for the program.

Briefly describe your agency's fiscal oversight/internal controls to minimize opportunities for fraud, waste, and mismanagement.

How does your agency plan to segregate these funds from other agency funds for purposes of identification, tracking, reporting and audit?

What other financial resources are committed to the program?

Describe the experience, number of staff, and percent of time each staff member will commit to the project.

Describe the amount and other sources of funding that will cover salaries and operational expenses for the organization.

Describe the organization's relative experience in undertaking a program of similar scope and complexity.

How will these funds further the mission of your organization?

Please provide a power point presentation to be given at a City Council meeting. The presentation should include at a minimum: an overview of the organization, services provided by the organization, the financial request, the public purpose, and how the funds will be used. Presentations should not exceed 5 minutes in length.

Attachments

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1. The information submitted to the City of Killeen in this application, and substantially in connection with this application, is true and accurate.
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3. The applicant organization is not in default under the terms and conditions of any grant or loan agreements, leases, or financing arrangements with its creditors that could have an adverse material impact on the program.
4. The applicant organization must disclose, and will continue to disclose, any occurrence or event that could have an adverse material impact on the program.
5. If funded, grant awards will be made in the form of a sub-recipient agreement executed between the applicant and the City. The grant period, scope, allowable budget, and reporting requirements will be outlined in the contract between the nonprofit and the City. Payments will be made on an itemized basis; no lump sums will be distributed through this program.
6. Submitting false or misleading information in connection with an application may result in the applicant being found ineligible for financial assistance under the funding program, and the applicant or its representative may be subject to civil and or criminal prosecution.
7. Applicant must complete entire application to be eligible.

Applicant Signature: _____

Date: _____

Printed Name: _____



City of Killeen

Legislation Details

File #:	OR-22-004	Version:	1	Name:	Ordinance amending Chapter 26, Division VI-Traffic Impact Analysis
Type:	Ordinance	Status:			Ordinances
File created:	1/6/2022	In control:			City Council
On agenda:	4/12/2022	Final action:			
Title:	Consider an ordinance amending the Code of Ordinances Chapter 26, Subdivisions and Other Property Developments, to establish the requirements for a Traffic Impact Analysis.				
Sponsors:	Development Services, City Attorney Department				
Indexes:					
Code sections:					
Attachments:	Staff Report Ordinance January 22 Ordinance April 5, 2022 Ordinance April 12, 2022 Presentation				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		
1/18/2022	1	City Council Workshop		



STAFF REPORT

DATE: January 18, 2022

TO: Kent Cagle, City Manager

FROM: Andrew Zagars, City Engineer

SUBJECT: Consider an Ordinance amending Chapter 26 to establish the requirements for a Traffic Impact Analysis

BACKGROUND AND FINDINGS:

The City currently has no requirements for development proposals to analyze and report the impact to the City infrastructure as a result of increased traffic. The traffic impact analysis (TIA) is a study that assesses the adequacy of the existing and future transportation infrastructure as it relates to additional traffic generated by a proposed development, redevelopment, or land rezoning. The TIA also includes any necessary improvements to the City's transportation infrastructure that would be needed as a result of a proposed development, redevelopment, or land rezoning. A TIA allows the city to better manage their transportation infrastructure by requiring developers to participate in needed improvements to the infrastructure as a result of the proposed developments, redevelopment, or land rezoning.

THE ALTERNATIVES CONSIDERED:

1. Take no action
2. Request a modification or further studies to the proposed ordinance change
3. Adopt the ordinance to amend Chapter 26, Subdivisions and Other Property Developments of the City of Killeen's Code of Ordinances

Which alternative is recommended? Why?

Alternate 3 is recommended by staff. The addition of the Traffic Impact Analysis in developments that generate large amounts of traffic allow the city to better manage their traffic infrastructure system. This also allows the City a process to have developers participate in improvements to the City's infrastructure as a result of the development.

CONFORMITY TO CITY POLICY:

This complies with City Policy as established by Chapter 26, Subdivisions and Other Property Developments, and ensures the health, safety and general welfare of the city and the safe, orderly, and healthful developments of the city.

FINANCIAL IMPACT:

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

This action requires no expenditures at this time.

Is this a one-time or recurring expenditure?

This action requires no expenditures at this time.

Is this expenditure budgeted?

This action requires no expenditures at this time.

If not, where will the money come from?

Not applicable.

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

This action requires no expenditures at this time.

RECOMMENDATION:

Staff recommends that the attached ordinance to amend Chapter 26, Subdivision and Other Property Developments, be approved to allow the City of Killeen to require Traffic Impact Analysis reports to be a requirement for developments that generate large amounts of traffic that impact our infrastructure.

DEPARTMENTAL CLEARANCES:

Development Services
City Attorney

ATTACHED SUPPORTING DOCUMENTS:

Ordinance

AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S SUBDIVISION AND PROPERTY DEVELOPMENT REGULATIONS; ADDING STANDARDS FOR TRAFFIC IMPACT ANALYSES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code;

WHEREAS, the City of Killeen has declared the application and enforcement of the City's subdivision and development regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

WHEREAS, the City Council desires to amend subdivision and development regulations to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality;

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

SECTION I. That Chapter 26 of the City of Killeen Code of Ordinances is hereby amended as follows:

Sec. 26-2. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words not specifically defined shall have the meanings given in Webster's Ninth New Collegiate Dictionary, as revised.

Level of Service (LOS) shall mean a qualitative measure of roadway capacity and intersection delay. as set forth in the edition of the Highway Capacity Manual approved by the City Engineer.

Traffic Impact Analysis (TIA) shall mean a specialized engineering study that determines the potential traffic impacts of a proposed traffic generator or development.

DIVISION 5. RESERVED

Secs. 26-128—26-179. Reserved.

DIVISION 6. TRAFFIC IMPACT ANALYSIS

Sec. 26-180. When required.

- (a) A Traffic Impact Analysis (TIA) shall be submitted to and approved by the City Engineer prior to any application for a preliminary plat, commercial site plan, zoning change request, or [Certificate of Occupancy](#) where a change of use which will generate traffic in excess of 2,000 average daily trips or 100 peak hour trips, as based upon the [edition of the Institute of Transportation Engineers \(ITE\) Trip Generation Manual approved by the City Engineer](#). If specific land uses for the development are not specified at the time of application, the daily trip generation rate for the most intensive land use from the ITE Manual for the land use classification of the application shall be used to compute the estimated average daily trips. The average daily trip and peak hour trip estimates shall include a breakdown of trips by type of vehicle in accordance with the Federal Highway Administration Vehicle Classification Types.

Sec 26-181. Study scope.

- (a) When a [TIA](#) is required, the scope of the analysis shall be determined during a scoping meeting with the City Engineer. The City Engineer may involve representatives of or request assessments from other agencies and departments. The elements to be determined during the scoping session shall include the following:
- (1) The points of access and key streets and intersections that may be affected by development of the subject tract constitute the impact area. Traffic recorder and turning movement assessment locations shall be determined.
 - (2) The [area for the TIA](#) shall include traffic being generated by adjacent developments at a minimum of one-half (½) mile of the development boundaries that will be utilizing any street infrastructure or if the adjacent development is in the jurisdiction of another City or ETJ, the applicant must include that area in its TIA scope.
 - (3) Periods of analysis shall include average daily traffic, peak AM and PM, or weekend peak hour, [if found to be higher than the weekday](#).
 - (4) Scenarios for analysis include existing conditions, opening year conditions with and without development, and 10 years after opening with and without development.
 - (5) Process for determining trip generation and distribution, including trip generation category, diversion assumptions, distribution assumptions, and capacity analysis.
 - (6) The rate of growth assumed in background traffic assumptions.
 - (7) [Anticipated developments projects](#) in the [area of the study](#) that have been approved or are under review.
- (b) If a [TIA](#) is required, it shall be based on the ITE Manual, prepared in accordance with standard transportation engineering practices for purposes of determining the adequacy of the road network to serve the proposed development, and whether off-site road dedication and improvements should be made to mitigate the effects of the development proposed in the application.
- (c) An initial [TIA](#) shall be approved by the City Engineer prior to submittal of a preliminary plat. An updated [TIA](#) shall be approved prior to the submittal of all final plat applications and shall be generally consistent with the initial [TIA](#). The initial [TIA](#) shall be updated whenever a subdivision plat or site plan is modified to authorize more intensive development.

Sec 26-182. Traffic Impact Analysis elements.

When a [TIA](#) is required, the following items shall be included in the submitted report:

(a) An existing condition survey of the transportation system, which includes the following:

- (1) The street system shall be described including geometric features lane usage traffic control, signage, sight distances and adjacent uses and curb cuts.
- (2) Existing traffic volumes shall be provided for the impact area including both ADT (average daily traffic) and “Design” peak hour volumes. ADT shall be derived from the latest available counts taken by the City or Texas Department of Transportation. Peak hour volumes shall be obtained from field counts. Data shall be adjusted for daily and seasonal variations. Turning movement counts for the peak hour shall be provided for critical intersections. Peak hour periods shall be as determined at the scoping meeting.
- (3) Existing capacity analysis of signalized and un-signalized intersections. The analysis shall state the existing Level of Service (LOS) of all intersections in the study.
- (4) Other items may be required at the discretion of the City Engineer depending upon the type and scale of the project. These may include, but are not limited to, queue length analysis, pedestrian counts, accident data, traffic speeds (both 50th and 85th percentile), and stopping sight distances.

(b) A calculated future condition of the transportation system without development, which includes the following:

- (1) Capacity analysis to be provided for opening year plus ten (10) years for key intersections (and roadway segments where appropriate) without the development but including any planned developments. The analysis shall be based upon the edition of the Highway Capacity Manual approved by the City Engineer, or other methodologies approved in advance by the City Engineer. The analysis shall state the future LOS for all intersections within the study.

(c) A calculated condition of the future transportation system with development, which includes the following:

- (1) Projections of the daily and peak hour traffic generation of the project shall be made using the ITE Trip Generation Manual unless the City Engineer determines that locally derived data will provide more accurate forecasts. Data from similar facilities may be used where the information is not available from ITE.
- (2) The projected trips shall be distributed onto the road network as agreed in the scoping meeting.
- (3) Capacity analysis for opening year and plus 10-year for key intersections (and roadway segments where appropriate). The analysis shall state the future LOS for all analysis intersections within the study.
- (4) Special analysis as may be required to determine warrants for signalization, minimum safe sight distances, gap analysis, turning radius requirements, queue length analysis, turning lane length analysis, curb cut locations or similar requirements.

(d) Mitigation Plan of the transportation system as a result of the study.

- (1) The TIA shall identify any transportation improvements needed to maintain a LOS D or better as a result of the proposed development. Where the existing LOS is below D, the TIA shall clearly state needed improvements needed to match the existing conditions, and also obtain a LOS D that includes the increase traffic from the development. Where the analysis indicates that the project will create deficiencies in the impact area as a result of the development, improvements shall be recommended and include projected cost estimates. Cost estimates shall include right-of-way acquisition, utility relocation, and transportation facility design and construction. All cost estimates shall be approved by the City Engineer or the City Manager or his/her designee prior to acceptance of the TIA. The design of improvements shall be in accordance with specifications of the City Engineer and, where appropriate, the Texas Department of Transportation. The mitigation

plan shall also include any dedications necessary to comply with the City Minimum Road Standards. Where the final approval authority for any procedure determines that a mitigation plan is not adequate to address the traffic impacts of the project, it may serve as a basis for denial of the permit or subdivision plat.

Sec. 26-183. Level of Service Standards.

In conducting the TIA in accordance with this Division, the intersection and roadway segment LOS standard shall be a minimum of D.

Sec. 26-184. Consultants.

The City may require an independent licensed professional traffic engineer to review of all or part of the TIA submitted by the applicant. The fee for this additional review shall conform with the City's adopted fee schedule.

Sec. 26-185. City evaluation and action.

The City shall evaluate the adequacy of the TIA prepared by the applicant. Based upon such evaluation, the City shall determine (1) whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected thoroughfare and (2) the extent of the applicant's obligations to make such dedications or improvements. If additional dedication or improvements are necessary, as determined by the TIA, the City shall condition the approval of the application on one or more of the following performances by the applicant:

- (a) Delay or phasing of development until thoroughfares with adequate capacity or intersection improvements are constructed.
- (b) A reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development.
- (c) The dedication or construction of thoroughfares or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development.

Sec. 26-186. Deferral of obligation.

Upon request of the applicant or property owner, the obligation to dedicate or improve thoroughfare rights-of-way or to make intersection improvements imposed on an application may be deferred to a later stage of the development process. As a condition of deferring the obligation to dedicate rights-of-way for or to improve thoroughfares, which deferral shall be at the sole discretion of the City, the City may specify the amount and timing of the rights-of-way dedication or improvements to thoroughfares.

Sec. 26-187. Cash contributions.

In lieu of the obligation to improve thoroughfares or make traffic control improvements to achieve road adequacy, the applicant may propose to make equivalent cash contributions based upon the development project's proportionate share of the costs of improvements, which the City in its sole discretion may accept in satisfaction of road adequacy standards in this Division. Any funds accepted by the City shall be earmarked for construction of the improvements for which the contribution was made.

Sec 26-188. Options.

Whenever the proposed development's share of the costs of a thoroughfare or traffic control improvement needed to mitigate traffic generated by the development is less than 100 percent, the City in its sole discretion may do the following:

- (a) Participate in excess costs;

- (b) Aggregate the costs of improving the multiple thoroughfares or intersections identified in the Traffic Impact Analysis and require improvements to only some of the thoroughfares or intersections affected by the development; or
- (c) Cooperate with the developer in the use of its governmental powers to assist in the timely and cost-effective implementation of improvements. Assistance shall not mean financial aid in the actual easement/right-of-way acquisition, construction or engineering costs. Specifically, the City may:
 - (1) Assist in the acquisition of necessary right-of-way and easements;
 - (2) Assist in the relocation of utilities;
 - (3) Assist in obtaining approvals from Bell County
 - (4) Assist in obtaining approvals from TXDOT;
 - (5) Assist in securing financial participation from major thoroughfare improvements from Bell County, TXDOT or the Killeen-Temple Metropolitan Planning Organization (KTMPO) or other area wide transportation planning and management entities as may be established in the future.

Sec. 26-189. Appeal of road adequacy conditions.

- (a) An applicant may appeal the following decisions under this Division to the City Manager or designee:
 - (1) Denial of application resulting from a determination that the Mitigation Plan was insufficient;
 - (2) Some or all of the conditions required by the TIA for approval of the application;
- (b) The appeal may also allege that the imposition of the conditions deprives the owner of the economically viable use of the land, or of a vested property right.
- (c) The applicant shall provide a study in support of the appeal including information that includes the total vehicle miles of road capacity utilized by the proposed development, employing average trip length and equivalency Tables. The applicant shall provide the total vehicle miles of road capacity supplied by proposed dedications of rights of-way or improvements to thoroughfares.
- (d) The City Manager or designee shall consider the appeal and determine whether the street or traffic control dedication and construction requirements are roughly proportional to the nature and extent of the impacts on the road network created by the development proposed. If the petition also alleges that the proposed dedication or construction requirements constitute a deprivation of economically viable use or of a vested property right, the City Manager or designee also shall consider such issues. Following such determinations, the City Manager or designee may take any of the following actions regarding the road adequacy portion of the appeal:
 - (1) Deny the appeal, upon determining that the required dedications of rights-of-way for or improvements to thoroughfares or traffic control improvements are roughly proportional to the nature and extent of the impacts created by the development, and order that such dedication or improvements be made as a condition of approval of the application.
 - (2) Deny the appeal, finding that the dedication or improvement requirements are inadequate to achieve road adequacy, and either deny the application or require that additional dedications of rights-of-way dedication for or improvements to thoroughfares, or traffic control improvements, be made as a condition of approval of the application; or
 - (3) Grant the appeal and waive in whole or in part any dedication or construction requirement that is not roughly proportional.

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

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

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

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 25th day of January, 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED

Jose L. Segarra, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lucy C. Aldrich, CITY SECRETARY

Traci S. Briggs, CITY ATTORNEY

AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S SUBDIVISION AND PROPERTY DEVELOPMENT REGULATIONS; ADDING STANDARDS FOR TRAFFIC IMPACT ANALYSES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code;

WHEREAS, the City of Killeen has declared the application and enforcement of the City's subdivision and development regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

WHEREAS, the City Council desires to amend subdivision and development regulations to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality;

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

SECTION I. That Chapter 26 of the City of Killeen Code of Ordinances is hereby amended add the following:

Sec. 26-2. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words not specifically defined shall have the meanings given in Webster's Ninth New Collegiate Dictionary, as revised.

Level of Service (LOS) shall mean a qualitative measure of roadway capacity and intersection delay. as set forth in the edition of the Highway Capacity Manual approved by the City Engineer.

Traffic Impact Analysis (TIA) shall mean a specialized engineering study that determines the potential traffic impacts of a proposed traffic generator or development.

DIVISION 5. RESERVED

Secs. 26-128—26-179. Reserved.

DIVISION 6. TRAFFIC IMPACT ANALYSIS

Sec. 26-180. When required.

- (a) A Traffic Impact Analysis (TIA) shall be submitted to and approved by the City Engineer prior to any application for a final plat, commercial site plan, or Building Permit where a change of use which will generate additional traffic in excess of 2,000 average daily trips or 100 peak hour trips, as based upon the edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual approved by the City Engineer. A completed Traffic Impact Analysis Threshold Worksheet shall be submitted with all Preliminary Plat applications, initial permit applications for commercial, and change of use permits. In the event the project is adjacent to a TXDOT jurisdictional roadway and requires a TIA for their approval, the scope of the TIA shall be discussed in the scoping meeting shall address requirements from both the City and TXDOT. Only one TIA shall be created for the development with TXDOT involvement.

Sec 26-181. Study scope.

- (a) When a TIA is required, the scope of the analysis shall be determined during a scoping meeting with the City Engineer. The City Engineer may involve representatives of or request assessments from other agencies and departments. The elements to be determined during the scoping session shall include the following:
- (1) The points of access and key streets and intersections that may be affected by development of the subject tract constitute the impact area. Traffic recorder and turning movement assessment locations shall be determined.
 - (2) The TIA shall include traffic being generated by adjacent developments at a maximum of one-half (½) mile of the development boundaries that will be utilizing any street infrastructure or if the adjacent development is in the jurisdiction of another City or ETJ, the applicant must include that area in its TIA scope. Adjacent developments shall include developments that have been approved, conditionally approved, or approved with a preliminary plat.
 - (3) Periods of analysis shall include average daily traffic, peak AM and PM, or weekend peak hour, if found to be higher than the weekday.
 - (4) Scenarios for analysis include existing conditions, opening year conditions with and without development, and 5 years after opening with and without development if the study includes a signal warrant study.
 - (5) Process for determining trip generation and distribution, including trip generation category, diversion assumptions, distribution assumptions, and capacity analysis.

- (6) The rate of growth assumed in background traffic assumptions shall follow industry standards per the Texas Department of Transportation and the Texas Transportation Institute when local values are not available.
- (b) If a TIA is required, it shall be based on the ITE Manual, prepared in accordance with standard transportation engineering practices for purposes of determining the adequacy of the road network to serve the proposed development, and whether off-site road dedication and improvements should be made to mitigate the effects of the development proposed in the application.
- (c) An initial TIA worksheet or abbreviated report shall be approved by the City Engineer prior to submittal of a preliminary plat. An updated and/or final TIA shall be approved prior to the approval of all final plat applications and shall be generally consistent with the initial TIA. The final TIA shall be updated whenever a subdivision plat or site plan is modified to authorize more intensive development that generates increased traffic beyond what was stated in the initial report. In the event the traffic condition surrounding a development has changed beyond the TIA that shows a decrease in traffic, it shall be the discretion of the applicant to submit a revision to the TIA.

Sec 26-182. Traffic Impact Analysis elements.

When a TIA is required, the following items shall be included in the submitted report:

- (a) An existing condition analysis of the transportation system, which includes the following:
 - (1) The street system shall be described including geometric features lane usage traffic control, signage, sight distances and adjacent uses and curb cuts.
 - (2) Existing traffic volumes shall be provided for the impact area including both ADT (average daily traffic) and "Design" peak hour volumes when available. ADT shall be derived from the latest available counts taken by the City, and/or the Texas Department of Transportation. If unavailable, then field counts can be used to determine the ADT. Peak hour volumes shall be obtained from field counts. Data shall be adjusted for daily and seasonal variations. Turning movement counts for the peak hour shall be provided for critical intersections. Peak hour periods shall be as determined at the scoping meeting.
 - (3) Existing capacity analysis of signalized and un-signalized intersections. The analysis shall state the existing Level of Service (LOS) of all intersections in the study.
 - (4) Other items may be required at the discretion of the City Engineer depending upon the type and scale of the project. These may include, but are not limited to, queue length analysis, pedestrian counts, accident data, traffic speeds (both 50th and 85th percentile), and stopping sight distances. Items that will be required shall be discussed and agreed upon in the scoping meeting.
- (b) A calculated future condition of the transportation system without development, which includes the following:
 - (1) Capacity analysis to be provided for opening year plus five (5 years for key intersections (and roadway segments where appropriate) without the development but including any planned developments. The analysis shall be based upon the edition of the Highway Capacity Manual approved by the City Engineer, or other methodologies approved in advance by the City Engineer. The analysis shall state the future LOS for all intersections within the study. In the event the City has adopted a Transportation Demand Model, the analysis shall be consistent with the methodologies and processes of said model. The City shall provide necessary model information at the scoping meeting for use by the developer to create a TIA.
- (c) A calculated condition of the future transportation system with development at the estimated time of opening year which includes the following:

- (1) Projections of the daily and peak hour traffic generation of the project shall be made using the ITE Trip Generation Manual unless the City Engineer determines that locally derived data will provide more accurate forecasts. Data from similar facilities may be used where the information is not available from ITE.
 - (2) The projected trips shall be distributed onto the road network as agreed in the scoping meeting.
 - (3) Capacity analysis for opening year and plus five (5)-years for key intersections if a warrant study is required. The analysis shall state the future LOS for all analysis intersections within the study. In the event the City has adopted a Transportation Demand Model, the analysis shall be consistent with the methodologies and process of said model. The City shall provide necessary model information at the scoping meeting for use by the developer to create a TIA.
 - (4) Special analysis as may be required to determine warrants for signalization, minimum safe sight distances, gap analysis, turning radius requirements, queue length analysis, turning lane length analysis, curb cut locations or similar requirements.
- (d) Mitigation Plan of the transportation system as a result of the study.
- (1) The TIA shall identify any transportation improvements needed to maintain a LOS D or better as a result of the proposed development. Where the existing LOS is below D, the TIA shall clearly state needed improvements needed to match the existing conditions, and also obtain a LOS D that includes the increase traffic from the development. Where the analysis indicates that the project will create deficiencies in the impact area as a result of the development, improvements shall be recommended and include projected cost estimates. Cost estimates shall include right-of-way acquisition, utility relocation, and transportation facility design and construction. All cost estimates shall be approved by the City Engineer or the City Manager or his/her designee prior to acceptance of the TIA. The design of improvements shall be in accordance with the standard details and specifications of the City of Killeen and, where appropriate, the Texas Department of Transportation. The mitigation plan shall also include any dedications necessary to comply with the City Minimum Road Standards. Where the final approval authority for any procedure determines that a mitigation plan is not adequate to address the traffic impacts of the project, it may serve as a basis for denial of the permit or subdivision plat.

Sec. 26-183. Level of Service Standards.

In conducting the TIA in accordance with this Division, the intersection and roadway segment LOS standard shall be a minimum of D.

Sec. 26-184. Consultants.

The City may require an independent licensed professional traffic engineer to review of all or part of the TIA submitted by the applicant.

Sec. 26-185. City evaluation and action.

The City shall evaluate the adequacy of the TIA prepared by the applicant. Based upon such evaluation, the City shall determine (1) whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected roadways and (2) the extent of the applicant's obligations to make such dedications or improvements. If additional dedication or improvements are necessary, as determined by the TIA, the City shall condition the approval of the application on one or more of the following performances by the applicant:

- (a) Delay or phasing of development until roadways with adequate capacity or intersection improvements are constructed.

- (b) A reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development.
- (c) The dedication or construction of roadways or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development.

Sec. 26-186. Deferral of obligation.

Upon request of the applicant or property owner, the obligation to dedicate or improve roadway rights-of-way or to make intersection improvements imposed on an application may be deferred to a later stage and/or phase of the development process. As a condition of deferring the obligation to dedicate rights-of-way for or to improve roadways, which deferral shall be at the sole discretion of the City, the City may specify the amount and timing of the rights-of-way dedication or improvements to roadways. This section does not create an obligation to make improvements before the obligation is triggered under the TIA.

Sec. 26-187. Cash contributions.

The developer may propose to make equivalent cash contributions in lieu of the obligation to improve roadways. Any funds accepted by the City shall be earmarked for construction of the improvements for which the contribution was made. Funds shall be due prior to the final acceptance of the phase of development or Certificate of Occupancy (CO) requiring traffic mitigation as described in this Division. On the request of an applicant, the City shall refund the contribution or part of the contribution that is not spent as authorized within ten (10) years from the date of payment.

Sec 26-188. Options.

Whenever the proposed development's share of the costs of a thoroughfare or traffic control improvement needed to mitigate traffic generated by the development is less than 100 percent, the City in its sole discretion may do the following:

- (a) Participate in excess costs; or
- (b) Aggregate the costs of improving the multiple roadways or intersections identified in the Traffic Impact Analysis and require improvements to only some of the roadways or intersections affected by the development; or
- (c) Cooperate with the developer in the use of its governmental powers to assist in the timely and cost-effective implementation of improvements. Assistance shall not mean financial aid in the actual easement/right-of-way acquisition, construction or engineering costs. Specifically, the City may:
 - (1) Assist in the acquisition of necessary right-of-way and easements;
 - (2) Assist in the relocation of utilities;
 - (3) Assist in obtaining approvals from Bell County;
 - (4) Assist in obtaining approvals from TXDOT.

This section does not create an obligation for the applicant to dedicate or construct an improvement that is not proportional to the impact of the proposed development.

Sec 26-189. Fee.

For each Traffic Impact Analysis and/or Traffic Impact Analysis Worksheet submitted for review, the applicant shall pay a fee in advance of the acceptance thereof to defray the actual expense of administration of this division. The fee shall be \$750 for a TIA and \$100 per TIA worksheet. Fees will be reviewed and updated as necessary. If a TIA or TIA worksheet fee is listed in the fee schedule that conflicts with the fee herein, the fee schedule takes precedence. The fee is nonrefundable.

Sec. 26-190. Exemptions

The City Manager or his/her designee may waive the requirement to require traffic impact analysis for the following area(s):

- a) Special parking district “A” as described in Sec. 31-488(a)
- b) Developments located outside the City limits and within the ETJ, unless required by Bell County
- c) For developments adjacent to a known required improvement, the developer shall work with the City to determine the required mitigations.

Sec. 26-191. Appeal of road adequacy conditions.

An applicant may appeal the following decisions under this Division to the City Manager or designee:

- (1) Denial of application resulting from a determination that the Mitigation Plan was insufficient.
- (2) Some or all of the conditions required by the TIA for approval of the application.
- (b) The appeal may also allege that the imposition of the conditions deprives the owner of the economically viable use of the land, or of a vested property right.
- (c) The applicant shall provide a study in support of the appeal including information that includes the total vehicle miles of road capacity utilized by the proposed development, employing average trip length and equivalency Tables. The applicant shall provide the total vehicle miles of road capacity supplied by proposed dedications of rights-of-way or improvements to roadways.
- (d) The City Manager or designee shall consider the appeal and determine whether the street or traffic control dedication and construction requirements are roughly proportional to the nature and extent of the impacts on the road network created by the development proposed. If the petition also alleges that the proposed dedication or construction requirements constitute a deprivation of economically viable use or of a vested property right, the City Manager or designee also shall consider such issues. Following such determinations, the City Manager or designee may take any of the following actions regarding the road adequacy portion of the appeal:
 - (1) Deny the appeal, upon determining that the required dedications of rights-of-way for or improvements to roadways or traffic control improvements are roughly proportional to the nature and extent of the impacts created by the development, and order that such dedication or improvements be made as a condition of approval of the application.
 - (2) Deny the appeal, finding that the dedication or improvement requirements are inadequate to achieve road adequacy, and either deny the application or require that additional dedications of rights-of-way dedication for or improvements to roadways, or traffic control improvements, be made as a condition of approval of the application; or
 - (3) Grant the appeal and waive in whole or in part any dedication or construction requirement that is not roughly proportional.

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

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

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

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 12th day of April, 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED

Debbie Nash-King, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lucy C. Aldrich, CITY SECRETARY

Traci S. Briggs, CITY ATTORNEY

AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S SUBDIVISION AND PROPERTY DEVELOPMENT REGULATIONS; ADDING STANDARDS FOR TRAFFIC IMPACT ANALYSES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code;

WHEREAS, the City of Killeen has declared the application and enforcement of the City's subdivision and development regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

WHEREAS, the City Council desires to amend subdivision and development regulations to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality;

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

SECTION I. That Chapter 26 of the City of Killeen Code of Ordinances is hereby amended add the following:

Sec. 26-2. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words not specifically defined shall have the meanings given in Webster's Ninth New Collegiate Dictionary, as revised.

Level of Service (LOS) shall mean a qualitative measure of roadway capacity and intersection delay, as set forth in the edition of the Highway Capacity Manual approved by the City Engineer.

Traffic Impact Analysis (TIA) shall mean a specialized engineering study that determines the potential traffic impacts of a proposed traffic generator or development.

DIVISION 5. RESERVED

Secs. 26-128—26-179. Reserved.

DIVISION 6. TRAFFIC IMPACT ANALYSIS

Sec. 26-180. When required.

- (a) A Traffic Impact Analysis (TIA) shall be submitted to and approved by the City Engineer prior to any application for a final plat, commercial site plan, or Building Permit where a change of use which will generate additional traffic in excess of 2,000 average daily trips or 100 peak hour trips, as based upon the edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual approved by the City Engineer. A completed Traffic Impact Analysis Threshold Worksheet shall be submitted with all Preliminary Plat applications, initial permit applications for commercial, and change of use permits. In the event the project is adjacent to a TXDOT jurisdictional roadway and requires a TIA for their approval, the scope of the TIA shall be discussed in the scoping meeting shall address requirements from both the City and TXDOT. Only one TIA shall be created for the development with TXDOT involvement. The TIA is valid for two (2) years, after such time any new applications associated with the TIA shall require an updated TIA.

Sec 26-181. Study scope.

- (a) When a TIA is required, the scope of the analysis shall be determined during a scoping meeting with the City Engineer. The City Engineer may involve representatives of or request assessments from other agencies and departments. The elements to be determined during the scoping session shall include the following:
- (1) The points of access and key streets and intersections that may be affected by development of the subject tract constitute the impact area. Traffic recorder and turning movement assessment locations shall be determined.
 - (2) The TIA shall include traffic being generated by adjacent developments at a maximum of one-half (1/2) mile radius of the development boundaries that will be utilizing any street infrastructure or if the adjacent development is in the jurisdiction of another City or ETJ, the applicant must include that area in its TIA scope. Adjacent developments shall include developments that have been approved, conditionally approved, or approved with a preliminary plat. For substantial developments that generate traffic in excess of 500 peak hour trips and schools that generate over 300 peak hour trips shall have the radius increased to one (1) mile.
 - (3) Periods of analysis shall include average daily traffic, peak AM and PM, or weekend peak hour, if found to be higher than the weekday.
 - (4) Scenarios for analysis include existing conditions, opening year conditions with and without development, 10 years after opening with and without development, and 5 years after opening with and without development if the study includes a signal warrant study.
 - (5) Process for determining trip generation and distribution, including trip generation category, diversion assumptions, distribution assumptions, and capacity analysis.
 - (6) The rate of growth assumed in background traffic assumptions shall follow industry standards per the Texas Department of Transportation and the Texas Transportation Institute when local values are not available.
- (b) If a TIA is required, it shall be based on the ITE Manual, prepared in accordance with standard transportation engineering practices for purposes of determining the adequacy of the road network to serve the proposed development, and whether off-site road dedication and improvements should be made to mitigate the effects of the development proposed in the application.
- (c) An initial TIA worksheet or abbreviated report shall be approved by the City Engineer prior to submittal of a preliminary plat and all zoning applications. An updated and/or final TIA shall be approved prior to the approval of all final plat applications and shall be generally consistent with the initial TIA. The

final TIA shall be updated whenever a subdivision plat or site plan is modified to authorize more intensive development that generates increased traffic beyond what was stated in the initial report. In the event the traffic condition surrounding a development has changed beyond the TIA that shows a decrease in traffic, it shall be the discretion of the applicant to submit a revision to the TIA.

Sec 26-182. Traffic Impact Analysis elements.

When a TIA is required, the following items shall be included in the submitted report:

- (a) An existing condition analysis of the transportation system, which includes the following:
 - (1) The street system shall be described including geometric features lane usage traffic control, signage, sight distances and adjacent uses and curb cuts.
 - (2) Existing traffic volumes shall be provided for the impact area including both ADT (average daily traffic) and “Design” peak hour volumes when available. ADT shall be derived from the latest available counts taken by the City and/or the Texas Department of Transportation. If unavailable, then field counts can be used to determine the ADT. Peak hour volumes shall be obtained from field counts. Data shall be adjusted for daily and seasonal variations. Turning movement counts for the peak hour shall be provided for critical intersections. Peak hour periods shall be as determined at the scoping meeting.
 - (3) Existing capacity analysis of signalized and un-signalized intersections. The analysis shall state the existing Level of Service (LOS) of all intersections in the study.
 - (4) Other items may be required at the discretion of the City Engineer depending upon the type and scale of the project. These may include, but are not limited to, queue length analysis, pedestrian counts, accident data, traffic speeds (both 50th and 85th percentile), and stopping sight distances. Items that will be required shall be discussed and agreed upon in the scoping meeting.
- (b) A calculated future condition of the transportation system without development, which includes the following:
 - (1) Capacity analysis to be provided for opening year plus ten (10) years ~~five (5) years~~ for key intersections (and roadway segments where appropriate) without the development but including any planned developments. Intersection warrant studies shall provide for opening year plus five (5) years in conformance of TXDOT requirements. The analysis shall be based upon the edition of the Highway Capacity Manual approved by the City Engineer, or other methodologies approved in advance by the City Engineer. The analysis shall state the future LOS for all intersections within the study. In the event the City has adopted a Transportation Demand Model, the analysis shall be consistent with the methodologies and processes of said model. The City shall provide necessary model information at the scoping meeting for use by the developer to create a TIA.
- (c) A calculated condition of the future transportation system with development at the estimated time of opening year which includes the following:
 - (1) Projections of the daily and peak hour traffic generation of the project shall be made using the ITE Trip Generation Manual unless the City Engineer determines that locally derived data will provide more accurate forecasts. Data from similar facilities may be used where the information is not available from ITE.
 - (2) The projected trips shall be distributed onto the road network as agreed in the scoping meeting.
 - (3) Capacity analysis for opening year and plus ~~five~~ ten (10) years for key ~~intersections~~ intersections (and roadway segments where appropriate) with the development and including any planned developments. Intersection warrant studies shall provide for opening year and five (5) years in conformance with TXDOT requirements. ~~if a warrant study is required.~~ The analysis shall state the

future LOS for all analysis intersections within the ~~study.~~Instudy. In the event the City has adopted a Transportation Demand Model, the analysis shall be consistent with the methodologies and process of said model. The City shall provide necessary model information at the scoping meeting for use by the developer to create a TIA.

- (4) Special analysis as may be required to determine warrants for signalization, minimum safe sight distances, gap analysis, turning radius requirements, queue length analysis, turning lane length analysis, curb cut locations or similar requirements.
- (d) Mitigation Plan of the transportation system as a result of the study.
 - (1) The TIA shall identify any transportation improvements needed to maintain a LOS D or better as a result of the proposed development. Where the existing LOS is below D, the TIA shall clearly state needed improvements needed to match the existing conditions, and also obtain a LOS D that includes the increase traffic from the development. Where the analysis indicates that the project will create deficiencies in the impact area as a result of the development, improvements shall be recommended and include projected cost estimates. Cost estimates shall include right-of-way acquisition, utility relocation, and transportation facility design and construction. All cost estimates shall be approved by the City Engineer or the City Manager or his/her designee prior to acceptance of the TIA. The design of improvements shall be in accordance with the standard details and specifications of the City of Killeen and, where appropriate, the Texas Department of Transportation. The mitigation plan shall also include any dedications necessary to comply with the City Minimum Road Standards. Where the final approval authority for any procedure determines that a mitigation plan is not adequate to address the traffic impacts of the project, it may serve as a basis for denial of the permit or subdivision plat.

Sec. 26-183. Level of Service Standards.

In conducting the TIA in accordance with this Division, the intersection and roadway segment LOS standard shall be a minimum of D.

Sec. 26-184. Consultants.

The City may require an independent licensed professional traffic engineer to review of all or part of the TIA submitted by the applicant.

Sec. 26-185. City evaluation and action.

The City shall evaluate the adequacy of the TIA prepared by the applicant. Based upon such evaluation, the City shall determine (1) whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected roadways and (2) the extent of the applicant's obligations to make such dedications or improvements. If additional dedication or improvements are necessary, as determined by the TIA, the City shall condition the approval of the application on one or more of the following performances by the applicant:

- (a) Delay or phasing of development until roadways with adequate capacity or intersection improvements are constructed.
- (b) A reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development.
- (c) The dedication or construction of roadways or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development. Any required dedications for improvements shall be required in the final plat of the proposed development.

Sec. 26-186. Deferral of obligation.

Upon request of the applicant or property owner, the obligation to dedicate or improve roadway rights-of-way or to make intersection improvements imposed on an application may be deferred to a later stage and/or phase of the development process. As a condition of deferring the obligation to dedicate rights-of-way for or to improve roadways, which deferral shall be at the sole discretion of the City, the City may specify the amount and timing of the rights-of-way dedication or improvements to roadways. This section does not create an obligation to make improvements before the obligation is triggered under the TIA.

Sec. 26-187. Cash contributions.

The developer may propose to make equivalent cash contributions in lieu of the obligation to improve roadways. Any funds accepted by the City shall be earmarked for construction of the improvements for which the contribution was made. Funds shall be due prior to the final acceptance of the phase of development or Certificate of Occupancy (CO) requiring traffic mitigation as described in this Division. On the request of an ~~applicant~~, applicant, the City shall refund the contribution or part of the contribution that is not spent as authorized within ten (10) years from the date of final payment. For multi-phased developments, the required amount shall be 25% of the full contribution due at the time of final acceptance of each phase. Subsequent phases shall be responsible for additional amounts of 25% until the phase that triggers the required mitigation. The phase which triggers the traffic mitigation need shall be required to pay any remaining amount of the total.

Sec 26-188. Options.

Whenever the proposed development's share of the costs of a thoroughfare or traffic control improvement needed to mitigate traffic generated by the development is less than 100 percent, the City in its sole discretion may do the following:

- (a) Participate in excess costs; or
- (b) Aggregate the costs of improving the multiple roadways or intersections identified in the Traffic Impact Analysis and require improvements to only some of the roadways or intersections affected by the development; or
- (c) Cooperate with the developer in the use of its governmental powers to assist in the timely and cost-effective implementation of improvements. Assistance shall not mean financial aid in the actual easement/right-of-way acquisition, construction or engineering costs. Specifically, the City may:
 - (1) Assist in the acquisition of necessary right-of-way and easements;
 - (2) Assist in the relocation of utilities;
 - (3) Assist in obtaining approvals from Bell County;
 - (4) Assist in obtaining approvals from TXDOT.

This section does not create an obligation for the applicant to dedicate or construct an improvement that is not proportional to the impact of the proposed development.

Sec 26-189. Fee.

For each Traffic Impact Analysis and/or Traffic Impact Analysis Worksheet submitted for review, the applicant shall pay a fee in advance of the acceptance thereof to defray the actual expense of administration of this division. The fee shall be \$750 for a TIA and \$100 per TIA worksheet. Fees will be reviewed and updated as necessary. If a TIA or TIA worksheet fee is listed in the fee schedule that conflicts with the fee herein, the fee schedule takes precedence. The fee is nonrefundable.

Sec. 26-190. Exemptions

The City Manager or his/her designee may waive the requirement to require traffic impact analysis for the following area(s):

- a) Special parking district “A” as described in Sec. 31-488(a)
- b) Developments located outside the City limits and within the ETJ, unless required by Bell County
- c) For developments adjacent to a known required improvement, the developer shall work with the City to determine the required mitigations.

Sec. 26-191. Appeal of road adequacy conditions.

A TIA Appeals Board ~~shall be~~ is hereby established for the purpose of reviewing any appeals made by the City related to decisions resulting from the TIA. The TIA Appeals Board shall consist of two (2) members of the City Council, two (2) members of staff as assigned by the City Manager or their designee, and two (2) members of the Planning and Zoning Commission.

- (a) An applicant may appeal the following decisions under this Division to the ~~City Manager or designee~~ TIA Appeals Board within thirty (30) day of the initial decision:
 - (1) Denial of application resulting from a determination that the Mitigation Plan was insufficient.
 - (2) Some or all of the conditions required by the TIA for approval of the application.
- (b) The appeal may also allege that the imposition of the conditions deprives the owner of the economically viable use of the land, or of a vested property right.
- (c) The applicant shall provide a study in support of the appeal including information that includes the total vehicle miles of road capacity utilized by the proposed development, employing average trip length and equivalency Tables. The applicant shall provide the total vehicle miles of road capacity supplied by proposed dedications of rights-of-way or improvements to roadways.
- (d) The ~~City Manager or designee~~ TIA Appeals Board shall consider the appeal and determine whether the street or traffic control dedication and construction requirements are roughly proportional to the nature and extent of the impacts on the road network created by the development proposed. If the petition also alleges that the proposed dedication or construction requirements constitute a deprivation of economically viable use or of a vested property right, the ~~City Manager or designee~~ TIA Appeals Board also shall consider such issues. Following such determinations, the ~~City Manager or designee~~ TIA Appeals Board may take any of the following actions regarding the road adequacy portion of the appeal:
 - (1) Deny the appeal, upon determining that the required dedications of rights-of-way for or improvements to roadways or traffic control improvements are roughly proportional to the nature and extent of the impacts created by the development, and order that such dedication or improvements be made as a condition of approval of the application.
 - (2) Deny the appeal, finding that the dedication or improvement requirements are inadequate to achieve road adequacy, and either deny the application or require that additional dedications of rights-of-way dedication for or improvements to roadways, or traffic control improvements, be made as a condition of approval of the application; or
 - (3) Grant the appeal and waive in whole or in part any dedication or construction requirement that is not roughly proportional.

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

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

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

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 12th day of April, 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED

Debbie Nash-King, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lucy C. Aldrich, CITY SECRETARY

Traci S. Briggs, CITY ATTORNEY



TRAFFIC IMPACT ANALYSIS ORDINANCE

OR-22-004

April 5, 2022

Background

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- ❑ On September 21, 2021, City Council directed staff to move forward with a discussion on Traffic Impact Analysis (TIA) requirements
- ❑ On January 3, 2022, Planning and Zoning Commission reviewed Municipal Code Section 26, and 31 Update Ordinance that included the Traffic Impact Analysis
- ❑ On January 4, 2022, Staff presented a discussion item on the proposed Traffic Impact Analysis progress.
- ❑ On January 18, 2022, Council directed staff to work with a stakeholders group to review the draft Ordinance and return to council on March 15.

Background (Cont.)

3

- Between January 24, 2022 and March 7, 2022, 5 stakeholder meeting occurred to review the draft TIA Ordinance.
- On March 15, 2022, Council directed staff to bring the TIA Ordinance back to the City Council for consideration for direction.

Traffic Impact Analysis

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- ❑ Developer studies impacts of a particular development
 - ▣ Provides improvements when traffic conditions reach undesirable level due to increased traffic
- ❑ Improvements can include turn lanes, deceleration lanes, and participation in traffic signals
- ❑ Improvements happen when impact occurs
 - ▣ Built and designed by developer
- ❑ Incremental approach to improvements based on need

Traffic Impact Analysis

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- ❑ The Ordinance will establish a required TIA for developments generating 2,000 average daily trips or 100 peak hour trips.
- ❑ Requires a scoping meeting prior to the development of the TIA that establishes the report requirements.
- ❑ Establishes mitigations from developers for traffic impacts as a result of developments.
- ❑ Establishes a review fee for each application of a TIA (\$750) and TIA Worksheet (\$100)

Council Discussion Items

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- ❑ Does Council want a Traffic Impact Analysis with Zoning cases? (Sec. 26-180)
 - ▣ Proposed Ordinance requires TIA prior to Final Plat, TIA Worksheet prior to Preliminary Plat
 - ▣ Second Option to require for all Zoning applications
- ❑ How does Council propose to address appeals? (Sec. 26-190)
 - ▣ City Manager (Proposed Ordinance)
 - ▣ City Council
 - ▣ Planning and Zoning Commission

Alternatives Considered

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

- ❑ Adopt this Ordinance to amend Chapter 26, Subdivisions and Other Property Developments of the City of Killeen's Code of Ordinances
- ❑ Request a modification or further studies to the proposed Ordinance change
- ❑ Take no action

Recommendation

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- Staff recommends that the City Council Adopt this Ordinance to amend Chapter 26, Subdivisions and Other Property Developments of the City of Killeen's Code of Ordinances



City of Killeen

Legislation Details

File #:	PH-22-021	Version:	1	Name:	FLUM 22-10
Type:	Ordinance/Public Hearing		Status:	Public Hearings	
File created:	2/9/2022		In control:	City Council	
On agenda:	4/12/2022		Final action:		
Title:	HOLD a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Texas Land and Living, LLC (Case #FLUM22-10) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'Rural' (R) designation to a 'General Residential' (GR) designation for approximately 9.147 acres out of the James Cook Survey, Abstract No. 161. The property is generally located east of the intersection of Pinar Trail & Grand Terrace Drive, Killeen, Texas.				
Sponsors:	Development Services				
Indexes:					
Code sections:					
Attachments:	Staff Report Maps Minutes Ordinance Response FLUM Exhibit Presentation				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 5, 2022
TO: Kent Cagle, City Manager
FROM: Edwin Revell, Executive Director of Development Services
SUBJECT: FLUM CASE # 22-10: 'RURAL' (R) TO 'GENERAL RESIDENTIAL' (GR)

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Texas Land and Living, LLC
Agent: Mitchell & Associates, Inc.
Current FLUM Designation: 'Rural' (R)
Requested FLUM Designation: 'General Residential' (GR)
Current Zoning: "A" (Agricultural District)
Proposed Zoning: "R-1" (Single-Family Residential District)

Summary of Request:

Mitchell & Associates, Inc., on behalf of Texas Land and Living, LLC, has submitted a request to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'Rural' (R) designation to a 'General Residential' (GR) designation for approximately 9.147 acres out of the James Cook Survey, Abstract No. 161. If approved, the applicant intends to develop single-family homes on the property.

Zoning/Plat Case History:

The subject property was annexed on September 25, 2007 via Ordinance No. 07-090 and zoned "A" (Agricultural District) with the adoption of the annexation ordinance in accordance with Killeen Code of Ordinances Sec. 31-124(a). The "A" (Agricultural District) zoning remained via Ordinance No. 08-097 on November 25, 2008. The property is currently unplatted.

The applicant previously submitted a request to amend the FLUM designation from 'R' to 'GR' (Case #FLUM21-09) and a zoning change request from "A" to "RT-1" (Case #Z21-33), which was withdrawn on January 21, 2022.

Character of the Area:

	Current Land Use	Zoning District	Future Land Use
North	Single-family homes	A (Agricultural District) & R-1 (Single-Family Residential District)	Rural (R) & General Residential (GR)

East	Commercial property (Texas Human Heroes Animal Shelter)	A (Agricultural District), B-3 (Local Business District), & B-4 (Business District)	Suburban Commercial (SC)
South	Undeveloped residential lots	SF-2 (Single-Family Residential District) & R-2 (Two-Family Residential District)	General Residential (GR)
West	Single-family homes	R-1 (Single-Family Residential District)	General Residential (GR)

Future Land Use Map Analysis:

This property is designated as 'Rural' (R) on the Future Land Use Map (FLUM) of the Comprehensive Plan. The 'Rural' (R) designation encourages rural character with wide open landscapes, large parcels, and scattered residential development on relatively large acreages and encourages the following development types:

- Residential homesteads;
- Planned development to accommodate conservation and cluster residential designs;
- Agricultural uses;
- Agriculture-focused commercial retail;
- Public/institutional;
- Parks and public spaces; and
- Natural and protected floodplain areas.

If approved, the 'General Residential' (GR) designation encourages the following development types:

- Detached residential dwellings as a primary focus
- 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 applicant has submitted a concurrent request to rezone the property from "A" (Agricultural District) to "R-1" (Single-Family Residential District).

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

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

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from Pinar Trail, which is classified as a 60' wide Local Street on the City of Killeen Thoroughfare Plan.

Environmental Assessment:

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Public Notification:

Staff mailed courtesy notices to one hundred and eleven (111) surrounding property owners regarding this request. Of those property owners notified, fourteen (14) reside outside of Killeen. Staff has received one written response in opposition to the request, which has eighteen (18) signatures.

Staff Findings:

The current zoning of the subject property is "A" (Agricultural District). The surrounding area includes residential and commercial uses. The area to the north and west is the Estancia West Subdivision, which consists of existing single-family residential properties. Also to the north is an existing single-family home on approximately 4 acres of land. To the east is an existing commercial property (Texas Humane Heroes animal shelter). To the south is McGregor Estates, Phase Three, which consists of garden home lots and two-family residential lots.

THE ALTERNATIVES CONSIDERED:

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

- Disapprove the applicant's FLUM amendment request;
- Approve a more restrictive FLUM designation; or
- Approve the applicant's FLUM amendment request.

Which alternative is recommended? Why?

Staff recommends approval of the applicant's FLUM amendment request as presented.

Staff finds the requested FLUM amendment is consistent with the adjacent residential land uses.

CONFORMITY TO CITY POLICY:

This request conforms to the City's policy and procedures as detailed in the Comprehensive Plan.

FINANCIAL IMPACT:

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

The proposed FLUM amendment does not involve the expenditure of City funds. However, subsequent development and dedication of public infrastructure will involve the expenditure of maintenance funds over the life cycle of future development.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

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

This is not applicable.

RECOMMENDATION:

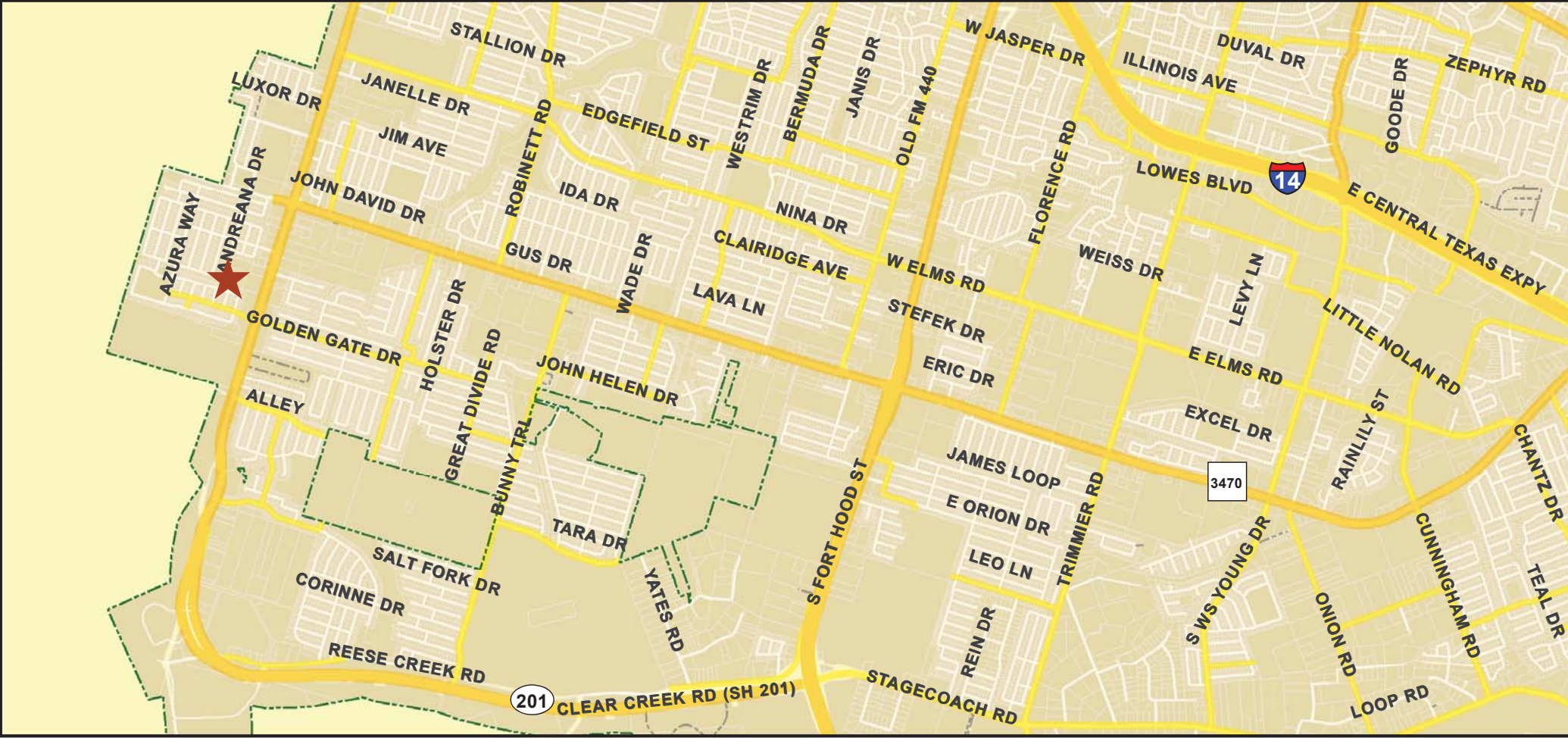
At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.

DEPARTMENTAL CLEARANCES:

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

ATTACHED SUPPORTING DOCUMENTS:

Maps
Minutes
Ordinance
Response
FLUM Exhibit



LOCATION MAP

Case: FLUM AMENDMENT 2022-10

Council District: 4

FROM R TO GR

Subject Property Legal Description: A0161BC J COOK, 1-2, (PT OF 6.285AC TR), ACRES 3.602 AND A0161BC J COOK, (PT 2.862AC TRACT), ACRES 2.047



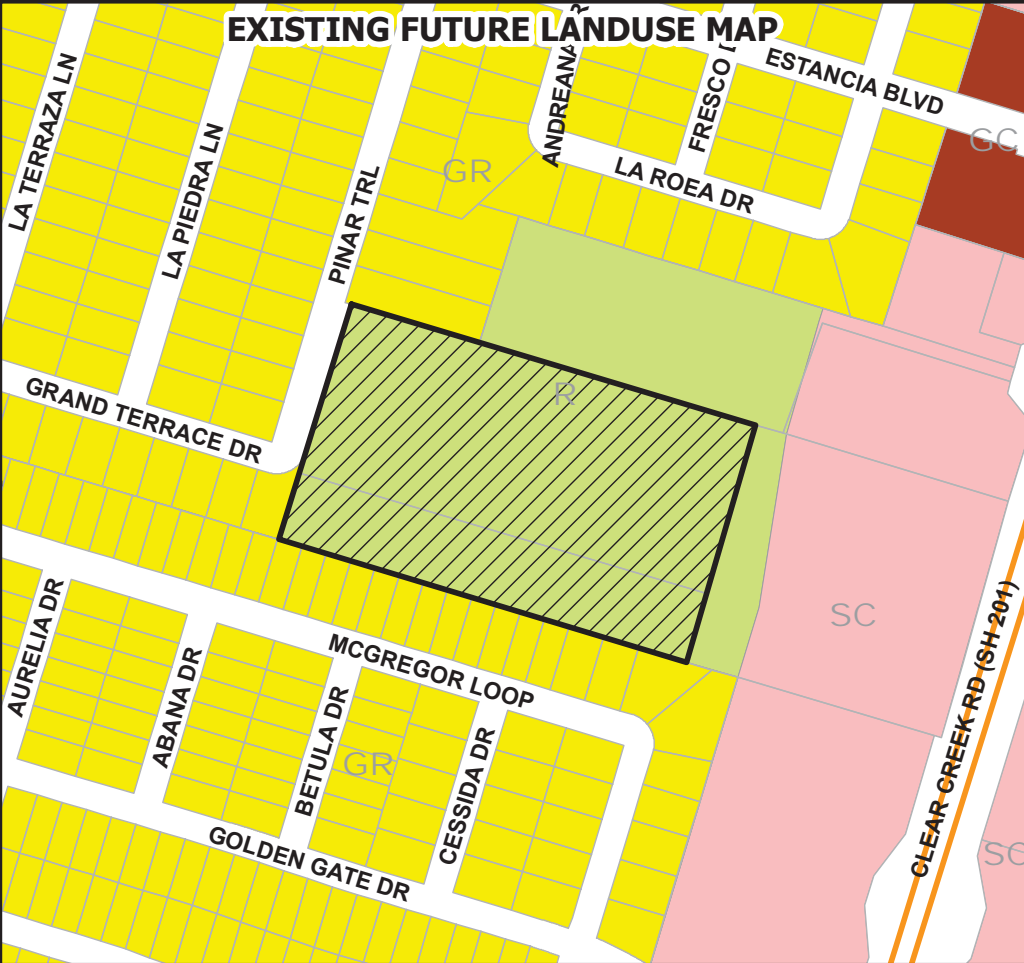
FLUM LOCATION



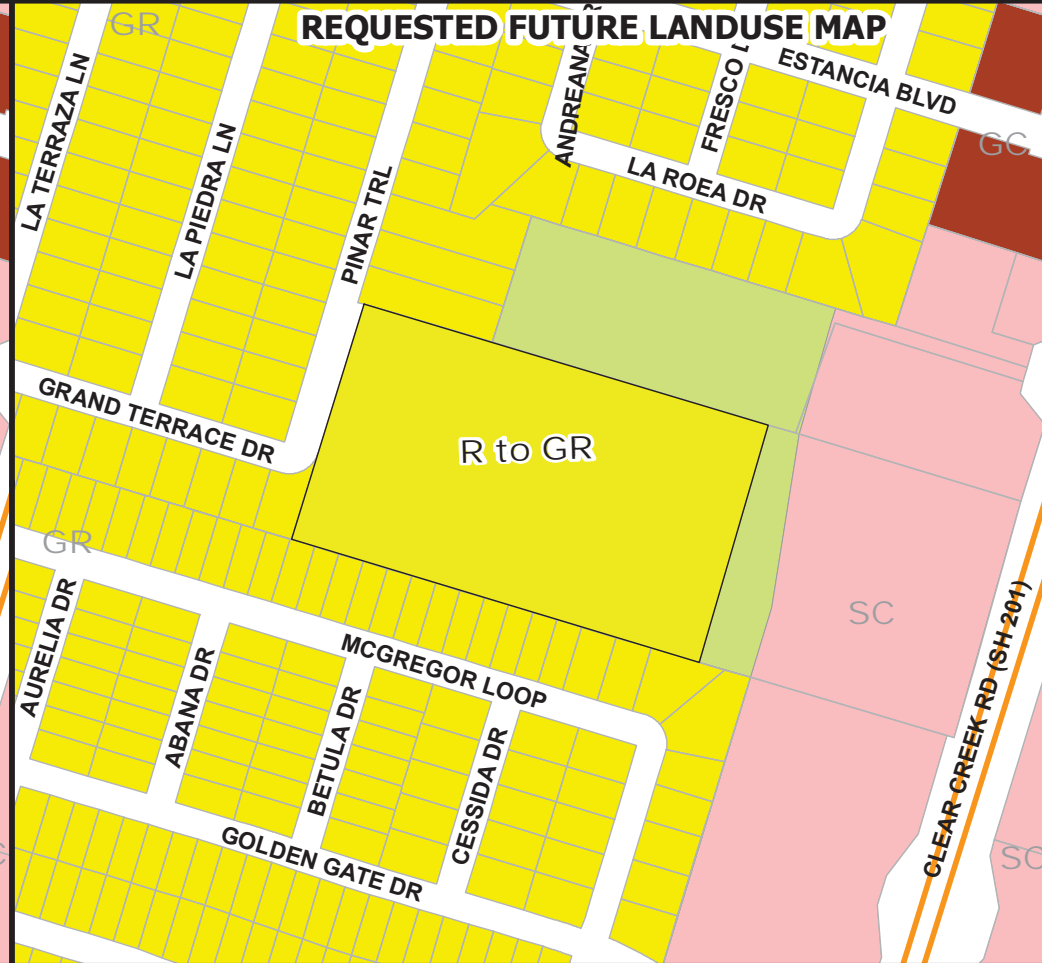
1 inch = 4,167 feet

Date: 2/10/2022

EXISTING FUTURE LANDUSE MAP



REQUESTED FUTURE LANDUSE MAP



FUTURE LAND USE MAP






Case: FLUM AMENDMENT 2022-10

Council District: 4

FROM R TO GR

Subject Property Legal Description: A0161BC J COOK, 1-2, (PT OF 6.285AC TR), ACRES 3.602 AND A0161BC J COOK, (PT 2.862AC TRACT), ACRES 2.047

Future Land Use Legend

-  FLUM Case Location selection
-  General Residential (GR)
-  General Commercial (GC)
-  Suburban Commercial (SC)
-  Rural (R)



1 inch = 417 feet

Date: 2/10/2022

MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 07, 2022

CASE # FLUM 22-10
'R' to 'GR'

HOLD a public hearing and consider a request submitted by Mitchell & Associates, Inc. on behalf of Texas Land and Living, LLC (**Case #FLUM22-10**) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'Rural' (R) designation to a 'General Residential' (GR) designation for approximately 9.147 acres out of the James Cook Survey, Abstract No. 161. The property is generally located east of the intersection of Pinar Trail and Grand Terrace Drive, Killeen, Texas.

Ms. Larsen briefed the Commission regarding the applicant's request. She stated that staff recommends approval of the request, as it is consistent with the Future Land Use Map and the character of the area.

The applicant's agent, Mr. Ace Reneau of Mitchell & Associates, was present to represent the case.

Chairman Latham opened the public hearing.

Mr. John Clapper, 5003 Pinar Trail, spoke in opposition to the request. Mr. Clapper stated that he submitted a signed petition in opposition with 18 signatures to staff regarding the proposed FLUM amendment and concurrent zoning request. Mr. Clapper noted concerns regarding the proposed egress on Pinar Trail, adding that additional density would cause increased traffic and crime. He also noted concerns regarding the proposed development's impact on property values in the area.

Ms. Makeda Mitchell, 5012 Hacienda Drive, spoke in opposition to the request, stating that she agreed with Mr. Clapper.

Mr. Wayne Hughes, 5007 Nuevo Lane, spoke in opposition to the request, stating that he also agreed with Mr. Clapper.

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

Commissioner Minor made a motion to approve the request as presented. The motion died for lack of a second.

Commissioner Ploeckelmann made a motion to disapprove the request. Commissioner Sabree seconded, and the motion passed by a vote of 7 to 1 with Commissioner Minor in opposition. Commissioner Minor stated that he was in favor of the request.

ORDINANCE _____

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP TO CHANGE APPROXIMATELY 9.147 ACRES OUT OF THE JAMES COOK SURVEY, ABSTRACT NO. 161, FROM A 'RURAL' (R) TO 'GENERAL RESIDENTIAL' (GR) DESIGNATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

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

WHEREAS, the Planning and Zoning Commission has received a request from Mitchell & Associates, Inc., on behalf of Texas Land and Living, LLC, for a revision to the Future Land Use Map (FLUM) of the Comprehensive Plan to change the 'Rural' (R) designation to a 'General Residential' (GR) designation, said property being legally described as being approximately 9.147 acres out of the James Cook Survey, Abstract No. 161; said revision having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 7th day of March 2022, 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 12th day of April, 2022, at the City Hall, City of Killeen;

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

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

SECTION I: That the future land use designation of approximately 9.147 acres out of the James Cook Survey, Abstract No. 161, be amended from a 'Rural' (R) designation to a 'General Residential' (GR) designation.

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 12th day of April 2021, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, City Attorney

Case #: FLUM 22-10

Ord#: 21-____

6 March 2022

Killeen Planning and Services
Killeen, TX

Attention: Ms W Meshier, Director of Planning and Ms K Strickland, Assistant Planner

Subject: Petition in Opposition to FLUM 22-10 and Associated Rezoning

Residents living within 200 feet of the subject FLUM (17 from Estancia West and 1 living off of Clear Creek Road) are unified with the rest of the Estancia West community in their opposition to the FLUM and associated rezoning. Estancia West has an active private Facebook page (Estancia West Killeen Families) which has 414 members, including 17 of the 18 residents living within 200 feet of the FLUM who have signed the attached petition.

Our opposition to the subject FLUM and the rezoning effort is summed up below:

1. As we understand, the planned egress point from the subject property is onto Pinar Trail, directly into our neighborhood. We are opposed to the proposed development having its egress point directly into our neighborhood.
2. Increasing density in a residential neighborhood increases congestion. Increased traffic on our already congested streets from this proposed non resident community increases the danger to our children and pets as speeding non-resident vehicles blow through our neighborhood.
3. Increased density increases transience and turnover of residents in a neighborhood which allows crime to increase.
4. If this rezoning were to be approved with the egress point as it currently is (directly into our community) property values that now range from \$400K to \$600K could fall creating a huge financial loss to our neighbors who, in many cases, have invested their life savings into their Estancia West home.

For the above reasons the petition signatories along with our entire community oppose both the FLUM and rezoning effort.

However, If the developers were to abandon the planned egress onto Pinar Trail in favor of an egress at a point NOT in our Estancia West subdivision, our members would have no objection.

Sincerely,



John Clapper
5003 Pinar Trail
Killeen, TX 76549

817-313-8770 (cell)

1 Attachment
as

City of Killeen FLUM 22-10 Petition
The addresses below are residents living within 200 feet of the FLUM 22-10

Pinar Trail

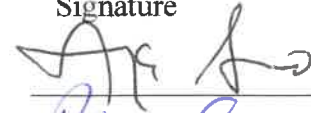
House Number

Printed Name

Signature

5204

JORGE A. DELGADO



5205

Paris Graves



5206

W. Jackson III



5207

Tarrara Smith



5208

Smart, Michael



5209

Ursula Smith



5301

Pamish Walker



5303

Maurice



5305

Jershaun Estill



5307

Jerome Julian



5309

MARLA McGhee



Grand Terrace

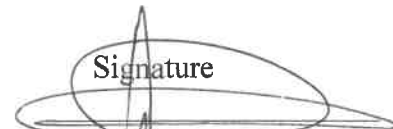
House Number

Printed Name

Signature

6000

Jose Morales



6002

Tiffany Martin



6004

Dorothy Bannister



6006

Andrade, Alba



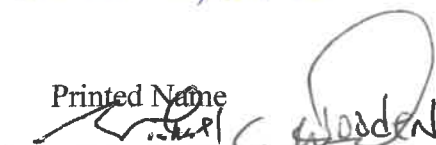
La Piedra

House Number

Printed Name

Signature

5308





Andreana

House Number

Printed Name

Signature

~~5308~~

Cosetta Howard

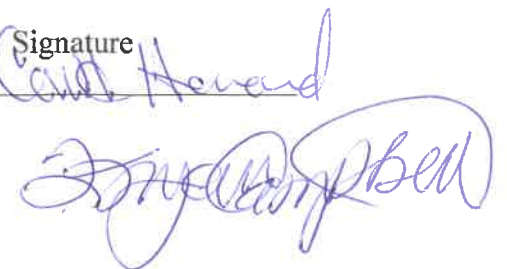


5107

CLEAR CREEK

5301 Clear Creek

Rashika Campbell



Deed Sketch for a tract of land in Bell County, Texas, being part of the J Cook Survey,
Abstract No. 161, Official Public Records of Real Property, Bell County, Texas

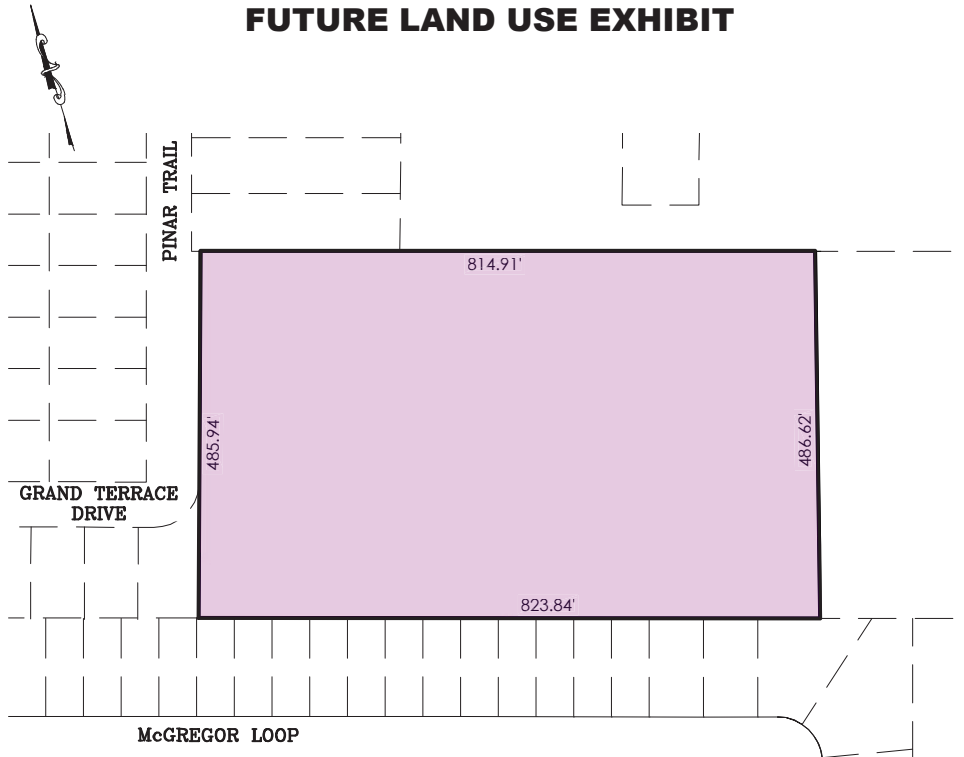
DRAWN BY: FRB

1:11 PM

S:\SUBDIVISIONS\21-079-D-S (9 Ac. Clear Creek)\dwg\Rezone & FLUM AG to RT1\21-079-D-S Clear Creek Inmap RT1 FLUM.dwg 9/23/2021

TAX I.D. NO:

FUTURE LAND USE EXHIBIT



Future Land Use:
General Residential (GR)

NOTE:

The above drawing does not represent
an on the ground survey. Sketch has
been drawn based on existing
recording information.

(IN FEET)
1 inch=200ft.



102 N. COLLEGE ST., KILLEEN, TEXAS (254) 634-5541

T. B. P. L. S. FIRM REGISTRATION NO. 10020400

411 S. WESTERN AVE. (P.O. BOX 349), LAMPASAS, TEXAS (512) 556-6885

T. B. P. L. S. FIRM REGISTRATION NO. 100204-00

600 AUSTIN AVE. STE. 29, WACO, TEXAS (254) 776-5151

T. B. P. L. S. FIRM REGISTRATION NO. 10194044



MITCHELL & ASSOCIATES, INC.
ENGINEERING & SURVEYING

ALL RIGHTS RESERVED
BY: MITCHELL & ASSOC., INC. 2021



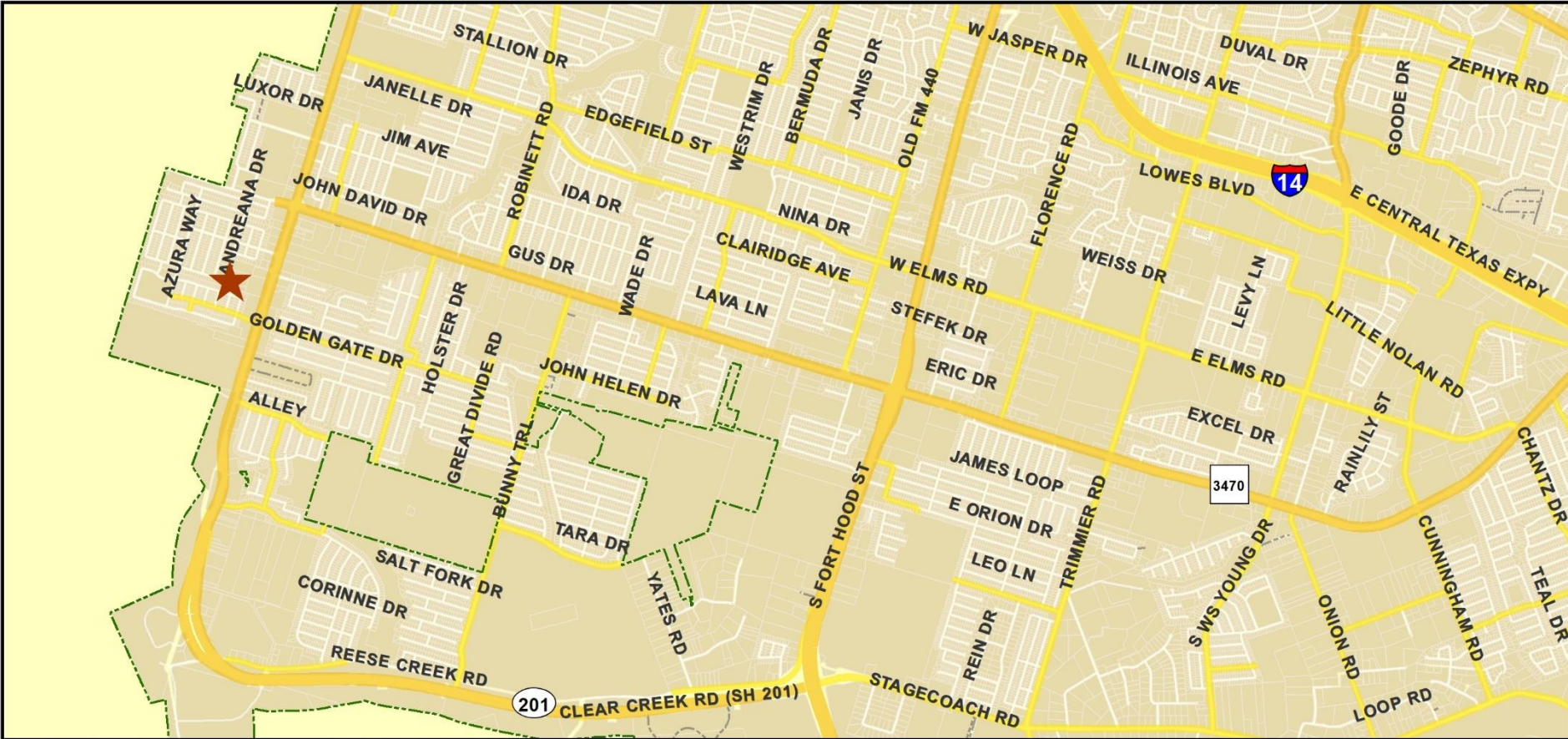
CASE #FLUM22-10: 'R' TO 'GR'

PH-22-021

April 5, 2022

Case #FLUM 22-10 – ‘R’ to ‘GR’

- ❑ **HOLD** a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Texas Land and Living, LLC (**Case #FLUM22-10**) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'Rural' (R) designation to a 'General Residential' (GR) designation for approximately 9.147 acres out of the James Cook Survey, Abstract No. 161.
- ❑ The property is generally located east of the intersection of Pinar Trail and Grand Terrace Drive, Killeen, Texas.



LOCATION MAP

Case: FLUM AMENDMENT 2022-10

Council District: 4

FROM R TO GR

Subject Property Legal Description: A0161BC J COOK, 1-2, (PT OF 6.285AC TR), ACRES 3.602 AND A0161BC J COOK, (PT 2.862AC TRACT), ACRES 2.047

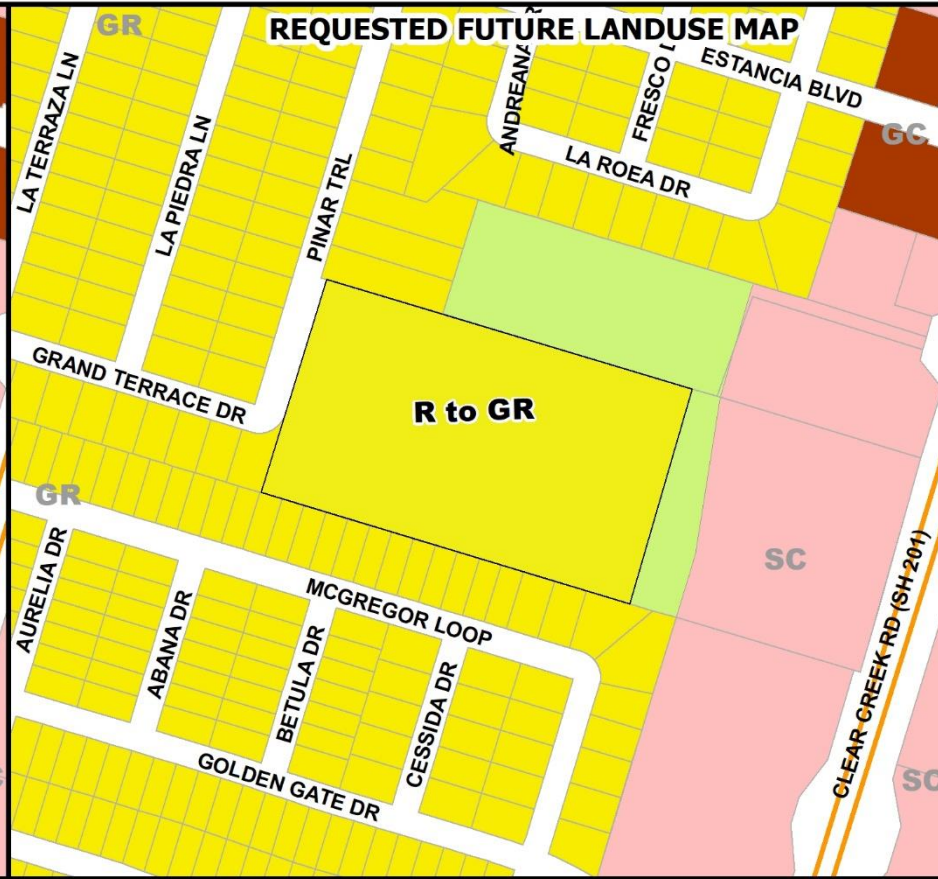
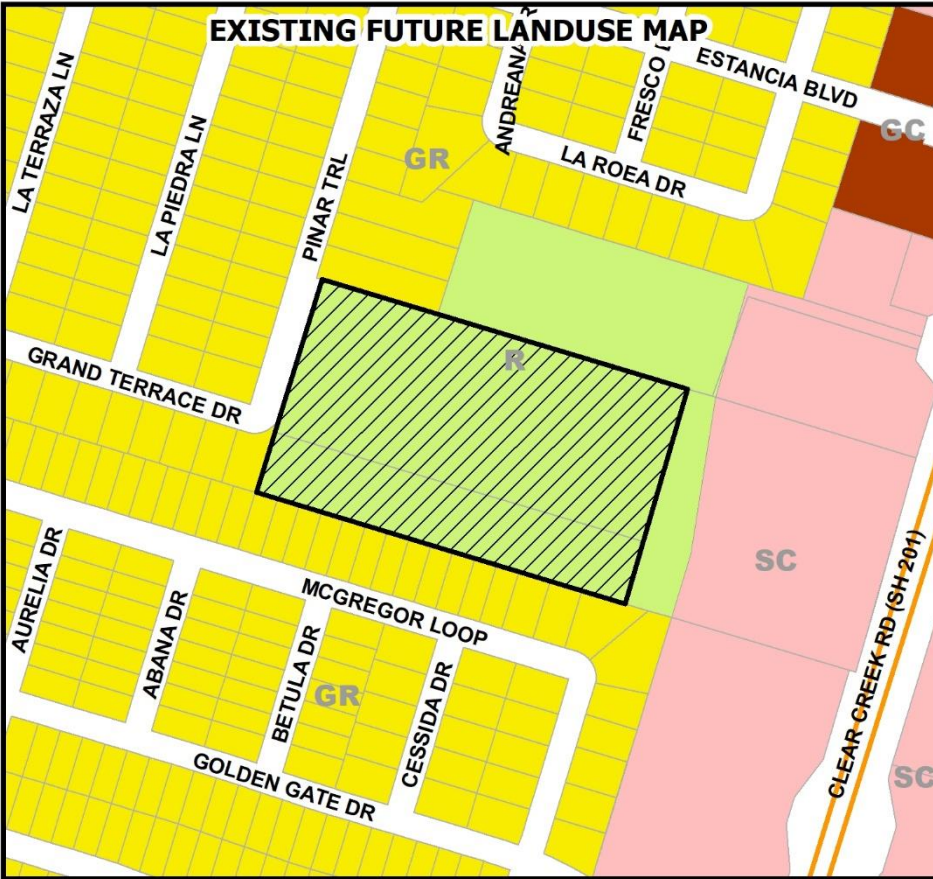


FLUM LOCATION



1 inch = 4,167 feet

Date: 2/10/2022



FUTURE LAND USE MAP






Case: FLUM AMENDMENT 2022-10

Council District: 4

FROM R TO GR

Subject Property Legal Description: A0161BC J COOK, 1-2, (PT OF 6.285AC TR), ACRES 3.602 AND A0161BC J COOK, (PT 2.862AC TRACT), ACRES 2.047

Future Land Use Legend

-  FLUM Case Location selection
-  General Residential (GR)
-  General Commercial (GC)
-  Suburban Commercial (SC)
-  Rural (R)



1 inch = 417 feet

Date: 2/10/2022

Case #FLUM 22-10 – ‘R’ to ‘GR’

5

- If approved, the applicant intends to develop single-family housing on the property.
- The applicant has submitted a concurrent request to rezone the property from “A” (Agricultural District) to “R-1” (Single-Family Residential District).

Case #FLUM 22-10 – ‘R’ to ‘GR’

6

- The ‘Rural’ (R) designation encourages the following development types:
 - ▣ Residential homesteads;
 - ▣ Planned development to accommodate conservation and cluster residential designs;
 - ▣ Agricultural uses;
 - ▣ Agriculture-focused commercial retail;
 - ▣ Public/institutional;
 - ▣ Parks and public spaces; and
 - ▣ Natural and protected floodplain areas.

Case #FLUM 22-10 – ‘R’ to ‘GR’

7

- If approved, the ‘General Residential’ (GR) designation encourages the following development types:
 - ▣ Detached residential dwellings as a primary focus;
 - ▣ 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; and
 - ▣ Parks and public spaces.

Case #FLUM 22-10 – ‘R’ to ‘GR’

8

- The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Case #FLUM 22-10 – ‘R’ to ‘GR’

9

View of the subject property looking east (from Pinar Trail):



Case #FLUM 22-10 – ‘R’ to ‘GR’

10

View of the subject property looking north (from McGregor Loop):



Case #FLUM 22-10 – ‘R’ to ‘GR’

11

Surrounding property to the east (Texas Humane Heroes):



Case #FLUM 22-10 – ‘R’ to ‘GR’

12

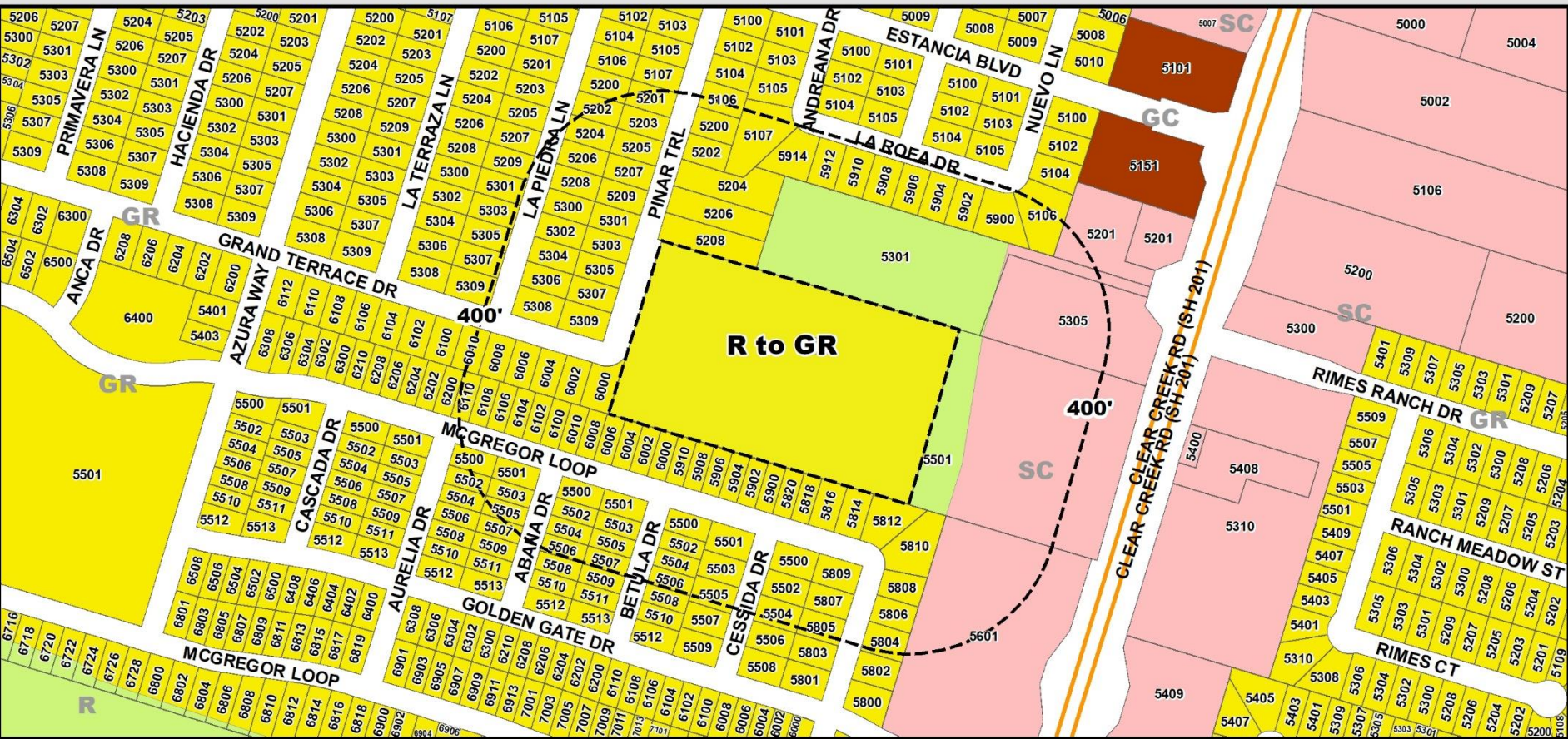
Surrounding property to the west (Estancia West Subdivision):



Public Notification

13

- Staff mailed courtesy notices to one-hundred and eleven (111) surrounding property owners regarding this request.
- Of those notified, fourteen (14) property owners reside outside of Killeen.
- To date, staff has received one written response with 18 property owner signatures in opposition to this request.



NOTIFICATION MAP

Case: FLUM AMENDMENT 2022-10

Council District: 4

FROM R TO GR

Subject Property Legal Description: A0161BC J COOK, 1-2, (PT OF 6.285AC TR), ACRES 3.602 AND A0161BC J COOK, (PT 2.862AC TRACT), ACRES 2.047

Legend

Killen City Limits	General Residential (GR)	Rural (R)
Bell County Area	General Commercial (GC)	
Principal Arterial, Existing	Suburban Commercial (SC)	



Date: 3/7/2022

Alternatives

15

- ❑ The City Council has three (3) alternatives. The Council may:
 - ▣ Disapprove the applicant's FLUM amendment request;
 - ▣ Approve a more restrictive FLUM designation than requested; or
 - ▣ Approve the applicant's FLUM amendment request as presented.

Staff Recommendation

16

- Staff finds that the request for 'General Residential' (GR) is consistent with the adjacent residential land uses.
- Staff recommends approval of the applicant's FLUM amendment request.

Commission Recommendation

17

- ❑ At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.



City of Killeen

Legislation Details

File #:	PH-22-022	Version:	1	Name:	Zoning 22-11
Type:	Ordinance/Public Hearing	Status:		Status:	Public Hearings
File created:	2/9/2022	In control:		In control:	City Council
On agenda:	4/12/2022	Final action:		Final action:	
Title:	HOLD a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Texas Land and Living, LLC (Case #Z22-11) to rezone approximately 9.147 acres out of the James Cook Survey, Abstract No. 161 from "A" (Agricultural District) to "R-1" (Single-Family Residential District). The property is generally located east of the intersection of Pinar Trail and Grand Terrace Drive, Killeen, Texas. (Requires a ¾ Majority Vote)				
Sponsors:	Development Services				
Indexes:					
Code sections:					
Attachments:	Staff Report Maps Site Photos Minutes Ordinance Considerations Responses Letter to Residents Presentation				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 5, 2022
TO: Kent Cagle, City Manager
FROM: Edwin Revell, Executive Director of Development Services
SUBJECT: ZONING CASE #Z22-11: "A" (AGRICULTURAL DISTRICT) TO "R-1"
(SINGLE-FAMILY RESIDENTIAL DISTRICT)

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Texas Land and Living, LLC
Agent: Mitchell & Associates, Inc.
Current Zoning: "A" (Agricultural District)
Requested Zoning: "R-1" (Single-Family Residential District)
Future Land Use Designation: 'Rural' (R)
Requested FLUM Designation: 'General Residential' (GR)

Summary of Request:

Mitchell & Associates, Inc., on behalf of Texas Land and Living, LLC, has submitted a request to rezone approximately 9.147 acres out of the James Cook Survey, Abstract No. 161 from "A" (Agricultural District) to "R-1" (Single-Family Residential District). If approved, the applicant intends to develop single-family homes on the property.

Zoning/Plat Case History:

The subject property was annexed on September 25, 2007 via Ordinance No. 07-090 and zoned "A" (Agricultural District) with the adoption of the annexation ordinance in accordance with Killeen Code of Ordinances Sec. 31-124(a). The "A" (Agricultural District) zoning remained via Ordinance No. 08-097 on November 25, 2008. The property is currently unplatted.

The applicant previously submitted a request to amend the FLUM designation from 'R' to 'GR' (Case #FLUM21-09) and a zoning change request from "A" to "RT-1" (Case #Z21-33), which was withdrawn on January 21, 2022.

Character of the Area:

	Current Land Use	Zoning District	Future Land Use
North	Single-family homes	A (Agricultural District) & R-1 (Single-Family Residential District)	Rural (R) & General Residential (GR)
East	Commercial property (Texas Human Heroes Animal Shelter)	A (Agricultural District), B-3 (Local Business District), & B-4 (Business District)	Suburban Commercial (SC)
South	Undeveloped residential lots	SF-2 (Single-Family Residential District) & R-2 (Two-Family Residential District)	General Residential (GR)
West	Single-family homes	R-1 (Single-Family Residential District)	General Residential (GR)

Future Land Use Map Analysis:

This property is designated as 'Rural' (R) on the Future Land Use Map (FLUM) of the Comprehensive Plan. The 'Rural' (R) designation encourages rural character with wide open landscapes, large parcels, and scattered residential development on relatively large acreages and encourages the following development types:

- Residential homesteads;
- Planned development to accommodate conservation and cluster residential designs;
- Agricultural uses;
- Agriculture-focused commercial retail;
- Public/institutional;
- Parks and public spaces; and
- Natural and protected floodplain areas.

If approved, the 'General Residential' (GR) designation encourages the following development types:

- Detached residential dwellings as a primary focus
- 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 request to rezone the property from "A" (Agricultural District) to "R-1" (Single-Family Residential District) is inconsistent with the Future Land Use Map (FLUM) of the Comprehensive Plan. However, a concurrent request to amend the Future Land Use Map (FLUM) from "R" (Rural) to "GR" (General Residential) has been submitted.

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: YES

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

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from Pinar Trail, which is classified as a 60' wide Local Street on the City of Killeen adopted Thoroughfare Plan.

Environmental Assessment:

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Public Notification:

Staff notified one hundred and eleven (111) surrounding property owners regarding this request. Of those property owners notified, sixty-two (62) reside outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and fourteen (14) reside outside the city limits of Killeen.

As of the date of this staff report, staff has received three (3) written responses, including a petition with 18 property owner signatures, in opposition to this request. The property owners in opposition to the request comprise approximately 40.8% of the area within the 200-foot notification boundary. Therefore, in accordance with Section 21.006(d) of the Texas Local Government Code, approval of this request will require the affirmative vote of three-fourths of the City Council.

Staff Findings:

The current zoning of the subject property is "A" (Agricultural District). The surrounding area includes residential and commercial uses. The area to the north and west is the Estancia West Subdivision, which consists of existing single-family residential properties. Also to the north is an existing single-family home on approximately 4 acres of land. To the east is an existing commercial property (Texas Humane Heroes animal shelter). To the south is McGregor Estates, Phase Three, which consists of garden home lots and two-family residential lots.

THE ALTERNATIVES CONSIDERED:

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

- Disapprove the applicant's zoning request;
- Approve a more restrictive zoning district than requested by the applicant; or
- Approve the applicant's zoning request as presented (three-fourths majority required).

Which alternative is recommended? Why?

Staff recommends approval of the applicant's request to rezone the property from "A" (Agricultural District) to "R-1" (Single-Family Residential District) as presented.

Staff finds that the applicant's request is consistent with the predominantly residential character of the area. The proposed development is considered infill development, which is consistent with the guiding principles of the Comprehensive Plan. Finally, staff finds that approval of this request will not negatively affect the adjacent property owners.

CONFORMITY TO CITY POLICY:

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

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

This zoning request does not involve the expenditure of city funds. However, subsequent development and dedication of public infrastructure will involve the expenditure of maintenance funds over the life cycle of future development.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

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

This is not applicable.

RECOMMENDATION:

At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.

DEPARTMENTAL CLEARANCES:

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

ATTACHED SUPPORTING DOCUMENTS:

Maps
Site Photos
Minutes
Ordinance
Considerations
Responses
Letter to Residents



Attachment #3

Council District: 1

0 155 310 Feet

Subject Property Legal Description: A0161BC J COOK, 1-2, 6.285AC TR & ACRES 3.602

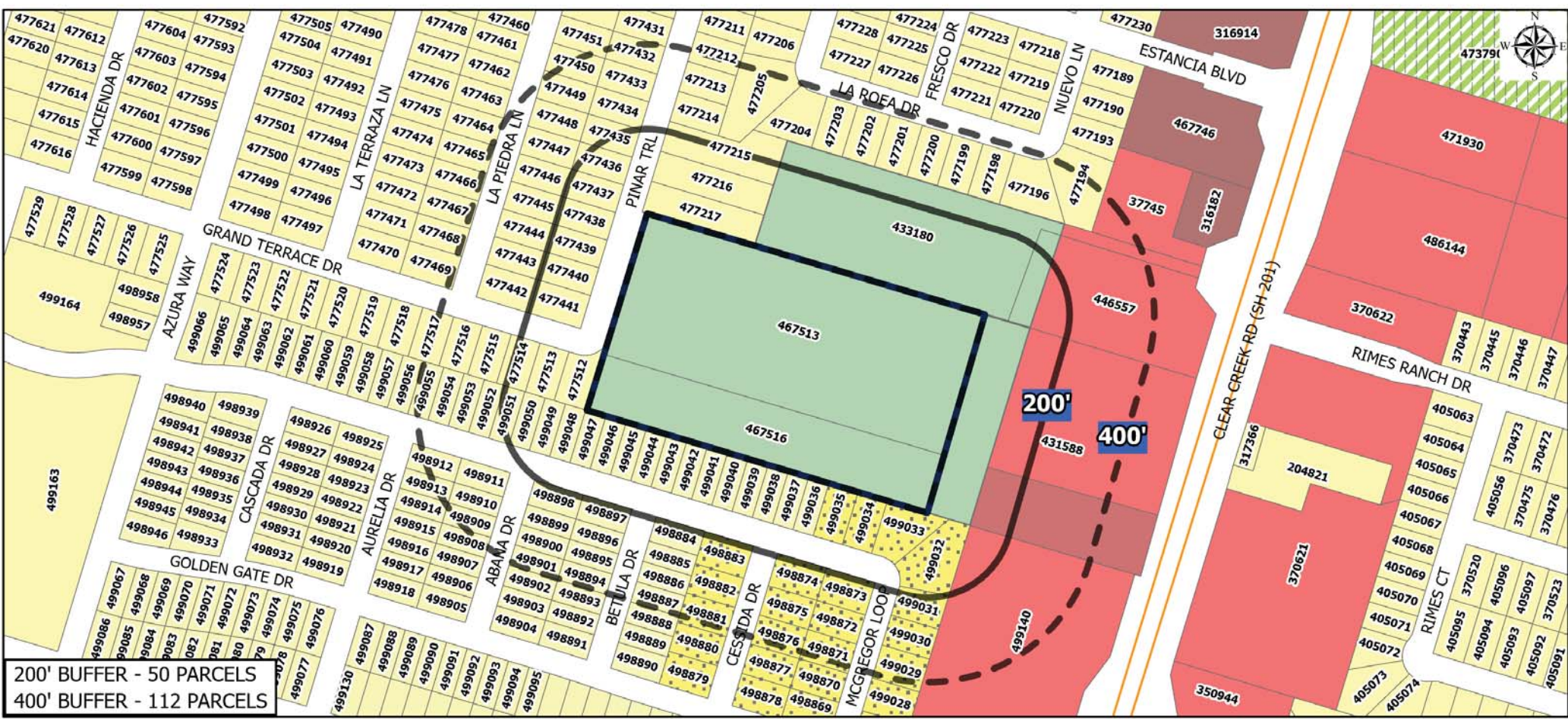
Zoning Case 2022-11

A to R-1

Legend

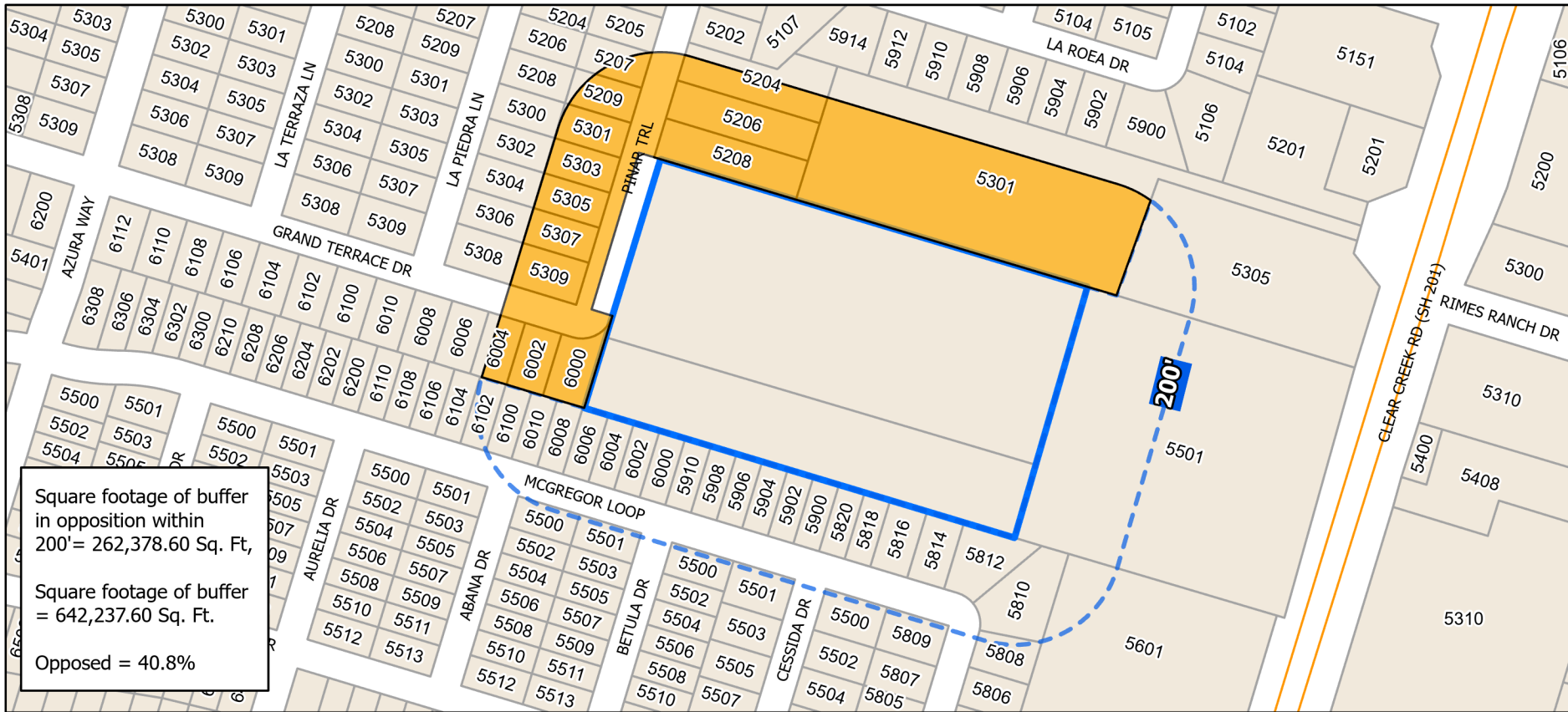
 Citylimits

 Zoning Case Location

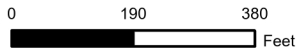


Zoning Case 2022-11 A to R-1

Legend	CurrentZoning	B-4	R-1
	A	B-5	R-2
	B-3	PUD	SF-2



Attachment #1
Council District: 4



Subject Property Legal Description: A0161BC J COOK, 1-2, 6.285AC TR & ACRES 3.602

Zoning Case 2022-11

Opposition Map

Legend

- Opposed
- Remaining Area



SITE PHOTOS

Case #Z22-11: "A" (Agricultural District) to "R-1" (Single-Family Residential District).



View of the subject property looking east (from Pinar Trail):



View of the subject property looking north (from McGregor Loop):



SITE PHOTOS

Case #Z22-11: "A" (Agricultural District) to "R-1" (Single-Family Residential District).



Surrounding property to the east (Texas Humane Heroes):



Surrounding property to the west (Estancia West subdivision):



MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 07, 2022

CASE # Z22-11
“A” to “R-1”

HOLD a public hearing and consider a request submitted by Mitchell & Associates, Inc. on behalf of Texas Land and Living, LLC (**Case #Z22-11**) to rezone approximately 9.147 acres out of the James Cook Survey, Abstract No. 161 from “A” (Agricultural) to “R-1” (Residential Single-Family District). The property is generally located east of the intersection of Pinar Trail and Grand Terrace Drive, Killeen, Texas.

Ms. Larsen briefed the Commission regarding the applicant’s request. She stated that staff recommends approval of the request, as it is consistent with the character of the area.

The agent, Mr. Ace Reneau of Mitchell & Associates, was present to represent the case. Mr. Reneau addressed the concerns expressed during the public hearing. He stated that the Commission had recommended approval of a similar request on November 1, 2021.

Chairman Latham opened the public hearing.

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

A discussion was held regarding the action taken by the Commission on November 1, 2021.

Commissioner Alvarez asked if the Commission could reconsider their vote on the previous item. The Commission was advised by Ms. Clements that they could reconsider the previous item.

Commissioner Gukeisen made a motion to reconsider PH-1A. Commissioner Alvarez seconded, and the motion passed by a vote of 8 to 0.

Commissioner Adams made a motion to approve PH-1A as presented. Commissioner Minor seconded, and the motion passed by a vote of 8 to 0.

Commissioner Ploeckelmann made a motion to approve PH-1B as presented. Commissioner Gukeisen seconded, and the motion passed by a vote of 8 to 0.

ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 9.147 ACRES OUT OF THE JAMES COOK SURVEY, ABSTRACT NO. 161, FROM “A” (AGRICULTURAL DISTRICT) TO “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Mitchell & Associates, Inc, on behalf of Texas Land and Living, LLC, 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 9.147 acres out of the James Cook Survey, Abstract No. 161 from “A” (Agricultural District) to “R-1” (Single-Family Residential District), said request having been duly recommended for approval of “R-1” (Single-Family Residential District) by the Planning and Zoning Commission of the City of Killeen on the 7th day of March 2022, 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 12th day of April 2022, at the City Hall, City of Killeen;

WHEREAS, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the majority opinion that the applicant’s zoning request should be approved as recommended by the Planning and Zoning Commission;

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

SECTION I. That the zoning classification of approximately 9.147 acres out of the James Cook Survey, Abstract No. 161, be changed from “A” (Agricultural District) to “R-1” (Single-Family Residential District), said request having been duly recommended for approval of “R-1” (Single-Family Residential District), for the property generally located east of the intersection of Pinar Trail and Grand Terrace Drive, 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 12th day of April 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, City Attorney

Case #22-11

Ord. #22-____

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.

6 March 2022

Killeen Planning and Services
Killeen, TX

Attention: Ms W Meshier, Director of Planning and Ms K Strickland, Assistant Planner

Subject: Petition in Opposition to FLUM 22-10 and Associated Rezoning

Residents living within 200 feet of the subject FLUM (17 from Estancia West and 1 living off of Clear Creek Road) are unified with the rest of the Estancia West community in their opposition to the FLUM and associated rezoning. Estancia West has an active private Facebook page (Estancia West Killeen Families) which has 414 members, including 17 of the 18 residents living within 200 feet of the FLUM who have signed the attached petition.

Our opposition to the subject FLUM and the rezoning effort is summed up below:

1. As we understand, the planned egress point from the subject property is onto Pinar Trail, directly into our neighborhood. We are opposed to the proposed development having its egress point directly into our neighborhood.
2. Increasing density in a residential neighborhood increases congestion. Increased traffic on our already congested streets from this proposed non resident community increases the danger to our children and pets as speeding non-resident vehicles blow through our neighborhood.
3. Increased density increases transience and turnover of residents in a neighborhood which allows crime to increase.
4. If this rezoning were to be approved with the egress point as it currently is (directly into our community) property values that now range from \$400K to \$600K could fall creating a huge financial loss to our neighbors who, in many cases, have invested their life savings into their Estancia West home.

For the above reasons the petition signatories along with our entire community oppose both the FLUM and rezoning effort.

However, If the developers were to abandon the planned egress onto Pinar Trail in favor of an egress at a point NOT in our Estancia West subdivision, our members would have no objection.

Sincerely,



John Clapper
5003 Pinar Trail
Killeen, TX 76549

817-313-8770 (cell)

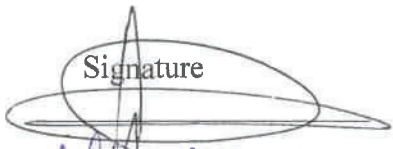



1 Attachment
as

City of Killeen FLUM 22-10 Petition
The addresses below are residents living within 200 feet of the FLUM 22-10

Pinar Trail

House Number	Printed Name	Signature
5204	JORGE A. DELGADO	
5205	Paris Graves	
5206	W. Jackson III	
5207	Tarrara Smith	
5208	Smart, Michael	
5209	Ursula Smith	
5301	Pamish Walker	
5303	Maurice	
5305	Jershaun Estill	
5307	Jerome Julian	
5309	MARLA McGhee	


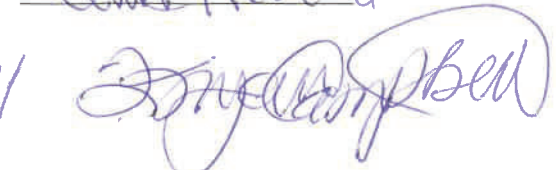
Grand Terrace

House Number	Printed Name	Signature
6000	Jose Morales	
6002	Tiffany Martin	
6004	Dorothy Bannister	
6006	Andrade, Alba	

La Piedra

House Number	Printed Name	Signature
5308	Wooden	

Andreana

House Number	Printed Name	Signature
5308 5107	Cosetta Howard	
5301 Clear Creek	Rashenka Campbell	

Clear Creek

YOUR NAME: JORGE A. DELGADO	PHONE NUMBER: 254-229-0591
CURRENT ADDRESS: 5204 PINAK TRAIL, KILLEEN TX 76549,	
ADDRESS OF PROPERTY OWNED: SAME AS ABOVE	
COMMENTS: I OPPOSE THIS REQUEST. THIS REGION OF KILLEEN CURRENTLY HAS OVER 1000 FAMILY HOUSES. HOWEVER, THERE IS NOT A SINGLE GREEN SPACE/PARK FOR THIS COMMUNITY. CREATING A PARK WILL BENEFIT THIS COMMUNITY.	
SIGNATURE: <i>Org A-2</i>	REQUEST: "A" to "R-1" SPO #Z22-11/37

P.O. BOX 1329, KILLEEN, TEXAS 76540-1329, 254-501-7631, FAX 254-501-7628
WWW.KILLEENTEXAS.GOV

YOUR NAME: Michael Flory	PHONE NUMBER: 254-317-5287
CURRENT ADDRESS: 6010 Grand Terrace Dr. Killeen TX 76549	
ADDRESS OF PROPERTY OWNED: SAME	
COMMENTS: 1) pro spectral adult family unit would	
Adversity affect property values. Most homes are 300K	
2) increase in traffic + speeding down Grand Terrace	
3) Increase in Theft & Burglaries + crime	
SIGNATURE: <i>Michael Flory</i>	REQUEST: "A" to "R-1" SPO #Z22-11/15

03/07/2022

To the Residents near the property located on Pinar Trail and Grand Terrace Drive:

We are requesting to rezone approximately 9.1 acres located on Pinar Trail near Grand Terrace Drive from Agricultural to R-1 – residential single family homes.

R-1 is the same zoning as single family homes in the Estancia West neighborhood.

If approved, we would build single family residential homes that are similar in size and price point to those in the Estancia West neighborhood.

Adding single family homes would complete the look of the street and increase the value of surrounding homes and the neighborhood compared to leaving it undeveloped.

With homeowners, the frontage facing Pinar Trail, currently owned by the City, would be completed with a continuous matching sidewalk and have a maintained lawn.

We request your support of the rezone to R-1. Thank you.

Texas Land and Living LLC



CASE #Z22-11: “A” TO “R-1”

PH-22-022

April 5, 2022

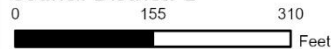
Case #Z22-11 – “A” to “R-1”

- ❑ **HOLD** a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Texas Land and Living, LLC (**Case #Z22-11**) to rezone approximately 9.147 acres out of the James Cook Survey, Abstract No. 161 from “A” (Agricultural District) to “R-1” (Single-Family Residential District).
- ❑ The property is generally located east of the intersection of Pinar Trail and Grand Terrace Drive, Killeen, Texas.



Attachment #3

Council District: 1



Subject Property Legal Description: A0161BC J COOK, 1-2, 6.285AC TR & ACRES 3.602

Zoning Case 2022-11

A to R-1

Legend

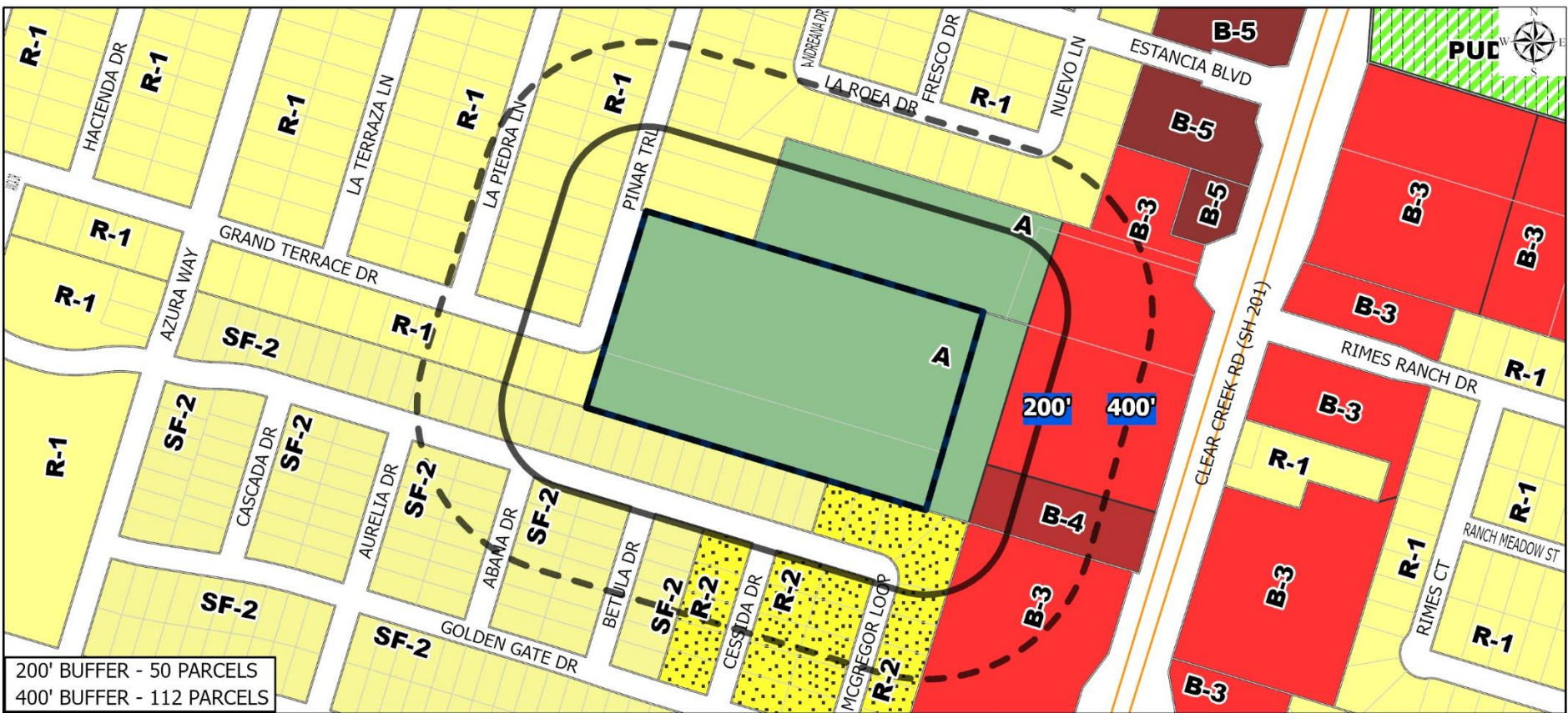
 Citylimits

 Zoning Case Location

Case #Z22-11 – “A” to “R-1”

5

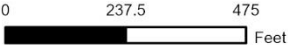
- If approved, the applicant intends to develop single-family housing on the property.
- This request is inconsistent with the Future Land Use Map (FLUM) of the Comprehensive Plan. However, the applicant has submitted a concurrent FLUM amendment request from ‘Rural’ (R) to ‘General Residential’ (GR).



Attachment #5
Zoning Map
Council District: 5
Subject Property Legal Description: A0161BC J COOK, 1-2, 6.285AC TR & ACRES 3.602

Zoning Case 2022-11

A to R-1



Case #Z22-11 – “A” to “R-1”

7

- The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Case #Z22-11 – “A” to “R-1”

8

View of the subject property looking east (from Pinar Trail):



Case #Z22-11 – “A” to “R-1”

9

View of the subject property looking north (from McGregor Loop):



Case #Z22-11 – “A” to “R-1”

10

Surrounding property to the east (Texas Humane Heroes):



Case #Z22-11 – “A” to “R-1”

11

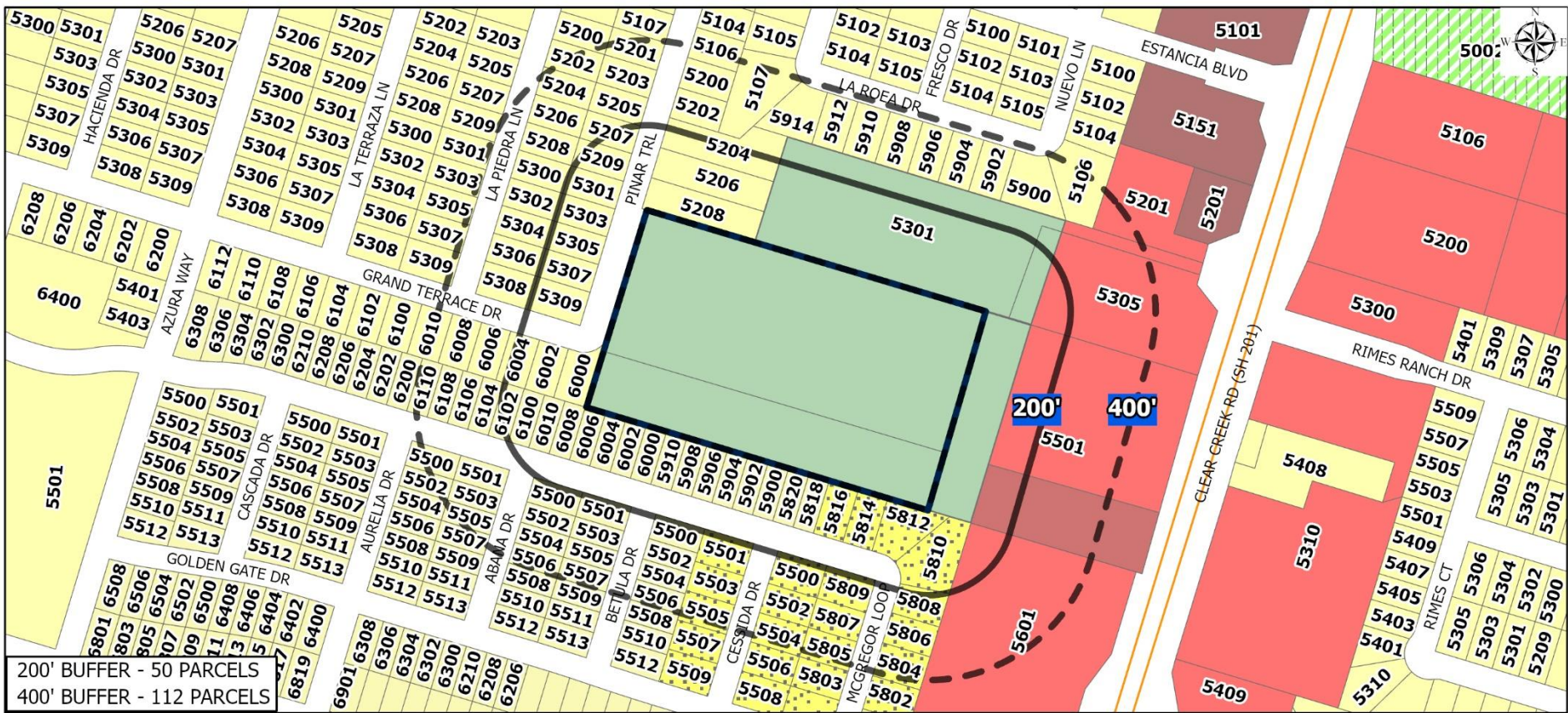
Surrounding property to the west (Estancia West Subdivision):



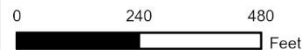
Public Notification

12

- Staff notified one-hundred and eleven (111) surrounding property owners regarding this request.
- Of those notified, sixty-two (62) properties are located outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and fourteen (14) property owners reside outside of Killeen.



Attachment #1
Council District: 4



Subject Property Legal Description: A0161BC J COOK, 1-2, 6.285AC TR & ACRES 3.602

Zoning Case 2022-11

A to R-1

Legend

CurrentZoning	B-4	R-1
A	B-5	R-2
B-3	PUD	SF-2

Public Notification

14

- To date, staff has received three (3) written responses, including a petition with 18 signatures, in opposition to this request.
- The property owners in opposition to the request comprise approximately 40.8% of the 200 ft. notification boundary.
- Therefore, in accordance with Section 21.006(d) of the Texas Local Government Code, approval of this request will require the affirmative vote of three-fourths of the City Council.

Alternatives

16

- ❑ The City Council has three (3) alternatives. The Council may:
 - ▣ Disapprove the applicant's zoning request;
 - ▣ Approve a more restrictive zoning district than requested by the applicant; or
 - ▣ Approve the applicant's zoning request as presented.

Staff Findings

17

- Staff finds that the applicant's request is consistent with the predominantly residential character of the area. The proposed development is considered infill development, which is consistent with the guiding principles of the Comprehensive Plan. Finally, staff finds that approval of this request will not negatively affect the adjacent property owners.

Staff Recommendation

18

- Therefore, staff recommends approval of the applicant's request to rezone the property from "A" (Agricultural District) to "R-1" (Single-Family Residential District) as presented.

Commission Recommendation

19

- ❑ At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.



City of Killeen

Legislation Details

File #:	PH-22-023	Version:	1	Name:	Zoning 22-13
Type:	Ordinance/Public Hearing		Status:	Public Hearings	
File created:	2/9/2022		In control:	City Council	
On agenda:	4/12/2022		Final action:		
Title:	HOLD a public hearing and consider an ordinance requested by Franklin Land Associates, LLC. on behalf of D&SC Enterprises, Inc. (Case #Z22-13) to rezone approximately 1.516 acres out of the W. H. Cole, Abstract No. 200, from "R-1" (Single-Family Residential District) to "B-3" (Local Business District). The property is generally located west of Featherline Road and north of Chaparral Road, Killeen, Texas.				
Sponsors:	Development Services				
Indexes:					
Code sections:					
Attachments:	Staff Report Maps Site Photos Minutes Ordinance Considerations Response Site Plan Presentation				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 5, 2022

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: ZONING CASE #Z22-13: "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO "B-3" (LOCAL BUSINESS DISTRICT)

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: D&SC Enterprises, Inc.
Agent: Franklin Land Associates, LLC.
Current Zoning: "R-1" (Single-Family Residential District)
Proposed Zoning: "B-3" (Local Business District)
Future Land Use Map Designation: 'Suburban Commercial' (SC)

Summary of Request:

Franklin Land Associates, LLC, on behalf of D&SC Enterprises, Inc., submitted a request to rezone approximately 1.516 acres out of the W. H. Cole, Abstract No. 200, from "R-1" (Single-Family Residential District) to "B-3" (Local Business District). If approved, the owner intends to develop the property as a general retail store.

Zoning/Plat Case History:

The subject property was annexed into the City limits on May 1, 2004 via Ordinance No. 04-12. It was assigned an initial zoning of "A" (Agricultural District) with the adoption of the annexation ordinance. The subject property was rezoned from "A" (Agricultural District) to "R-1" (Single-Family Residential District) on September 26, 2006 via Ordinance No. 06-109. The property is currently unplatted.

Character of the Area:

	Current Land Use	Zoning District	Future Land Use
North	Vacant	R-1 (Single-Family Residential District)	Suburban Commercial (SC)
East	Vacant	R-1 (Single-Family Residential District)	Suburban Commercial (SC)

South	Single-family residential property (ETJ)	ETJ	General Residential (GR) & Suburban Commercial (SC)
West	Single-family residential properties	R-1 (Single-Family Residential District)	Suburban Residential (SR)

Future Land Use Map Analysis:

This property is designated as 'Suburban Commercial' (SC) on the Future Land Use Map (FLUM) of the Comprehensive Plan.

'Suburban Commercial' (SC) designations should be utilized at key community entries and along high-profile corridors, may also involve other criteria to yield less intensive and more attractive development outcomes relative to auto-oriented areas, including higher standards for landscaping (along street frontages and within parking areas), signs, and building design. 'Suburban Commercial' (SC) character may exclude some auto-oriented uses that, by their very nature, cannot achieve a Suburban character. Near residential properties and areas, the permitted scale and intensity of non-residential uses should be limited to ensure compatibility (including adequate buffering/screening, criteria for placement and orientation of buildings and parking areas, height limits, and residential-in-appearance architectural standards).

The 'Suburban Commercial' (SC) designation encourages the following development types:

- Range of commercial retail and service uses, at varying scales and intensities depending on the site
- Office (both large and/or multi-story buildings and small-scale office uses depending on the site)
- Planned development to accommodate custom site designs or mixing of uses in a Suburban character setting
- Public/institutional; or
- Parks and public spaces.

The request is consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan.

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

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

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from Chaparral Road, which is classified as a 110' wide Minor Arterial on the City of Killeen Thoroughfare Plan.

Environmental Assessment:

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Public Notification:

Staff notified twenty-two (22) surrounding property owners regarding this request. Of those property owners notified, thirteen (13) properties are located outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and two (2) reside outside of Killeen.

As of the date of this staff report, staff has received one (1) written response in support of this request.

Staff Findings:

If approved, "B-3" (Local Business District) allows commercial uses including boat sales; oil and lube stations; hotels and motels; auto part sales (new, at retail); mini/self-storage facilities; and storage warehouses (with leasable space of less than twenty-five thousand (25,000) square feet).

The subject property abuts residentially zoned property on the north, east, and west sides. Staff finds that a small general retail store would be appropriate in this location. However, staff is of the determination that the "B-3" (Local Business) district allows several uses that would not be appropriate in this location.

THE ALTERNATIVES CONSIDERED:

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

- 1) Disapprove the applicant's zoning request;
- 2) Approve a more restrictive zoning district than requested by the applicant;
- 3) Approve the applicant's zoning request as presented.

Which alternative is recommended? Why?

Per Killeen Code of Ordinances Sec. 31-316.1, the "NBD" (Neighborhood Business) district was established "to provide for limited commercial uses serving the common and frequent needs of the residents in the immediate vicinity." The "NBD" (Neighborhood Business) district allows all uses permitted in "B-3" (Local Business District) with the following exceptions:

- (1) Home for the aged;
- (2) Hospital, nursing home, or assisted living facility;
- (3) Mortuary or funeral chapel;
- (4) Appliance (household) sales and service;
- (5) Boat and accessory sales, rental and service;
- (6) Marine supplies, sales and service;
- (7) Restaurant or café with drive-in or drive-through service;
- (8) Tennis or swim club;

- (9) Hotel or motel;
- (10) Gasoline service station in excess of four (4) pumps, auto laundry or car wash;
- (11) Auto parts sales, new at retail
- (12) Theaters or general release;
- (13) Mini/self-storage facilities;
- (14) Outdoor fruits and vegetable sales (farmer's markets);
- (15) Bowling alley; and
- (16) Oil/lube service station.

However, Killeen Code of Ordinances Sec. 31-316.2 states: "A building or premises in the "NBD" (Neighborhood Business) district shall not exceed gross building size of 10,000 square feet and no single leased/owned business area shall exceed 4,000 square feet. In this case, the applicant intends to build a single-tenant retail store of approximately 10,640 square feet.

Therefore, staff recommends approval of "NBD" (Neighborhood Business District) with a Conditional Use Permit (CUP) for a single-tenant general retail store no greater than 10,650 square feet. This would limit the potential use of the property for those uses listed above, while still allowing the applicant to move forward as planned.

CONFORMITY TO CITY POLICY:

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

FINANCIAL IMPACT:

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

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

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

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

This is not applicable.

RECOMMENDATION:

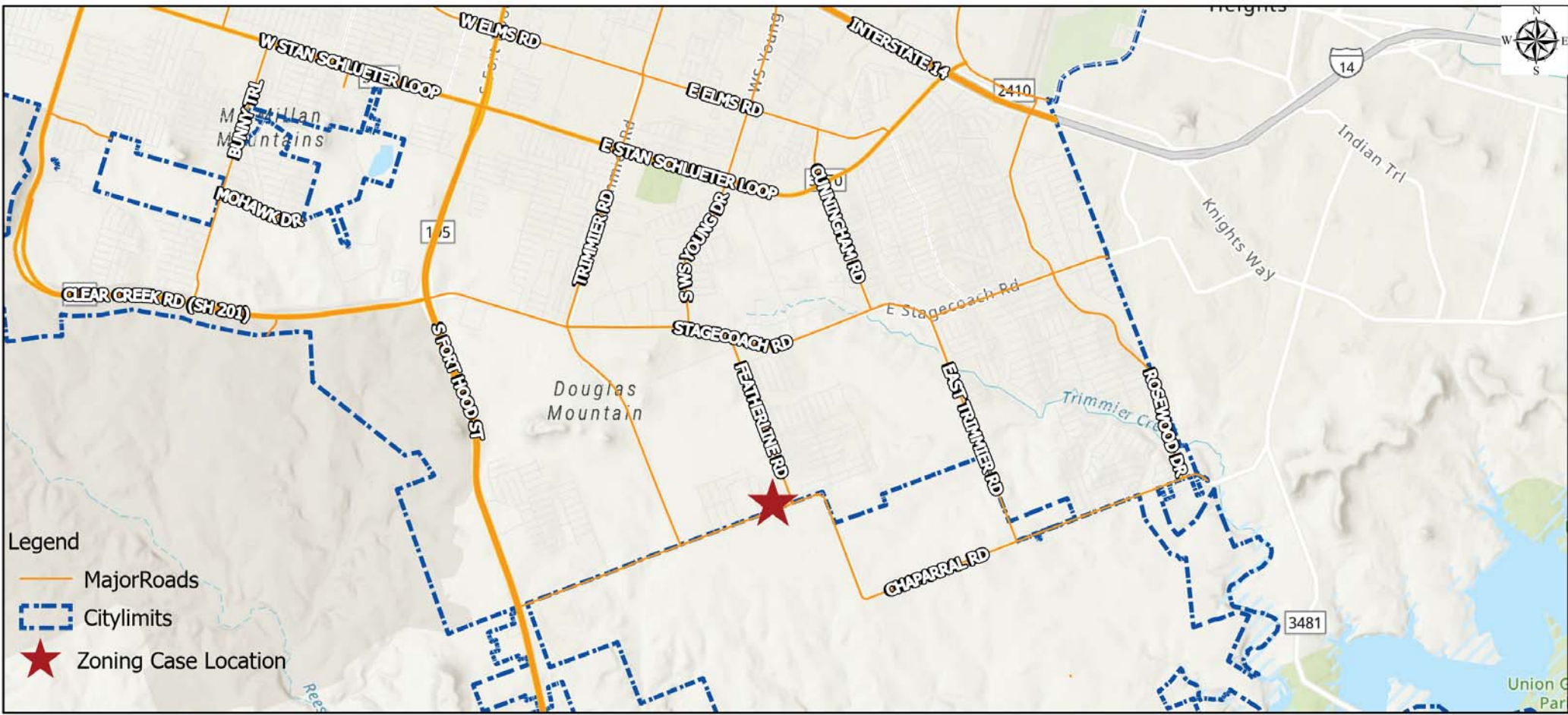
At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request to rezone the property to "B-3" by a vote of 7 to 0.

DEPARTMENTAL CLEARANCES:

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

ATTACHED SUPPORTING DOCUMENTS:

Maps
Site Photos
Minutes
Ordinances
Considerations
Response
Site Plan

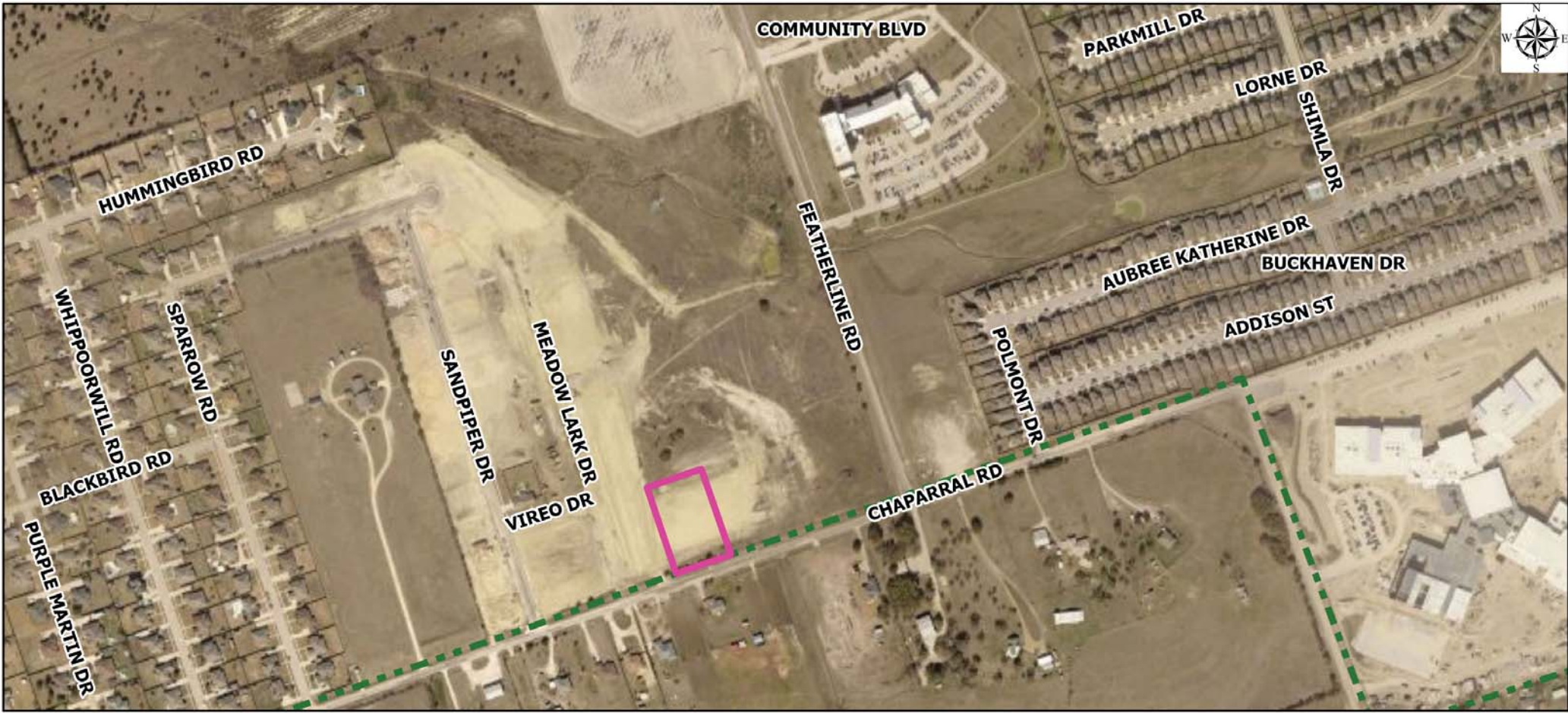


Attachment #4
Location Map
Council District: 3
Subject Property Legal Description: A0200BC W H COLE, 1, ACRES 1.516

Zoning Case 2022-13

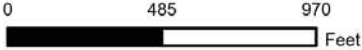
R-1 to B-3





Attachment #3

Council District: 3

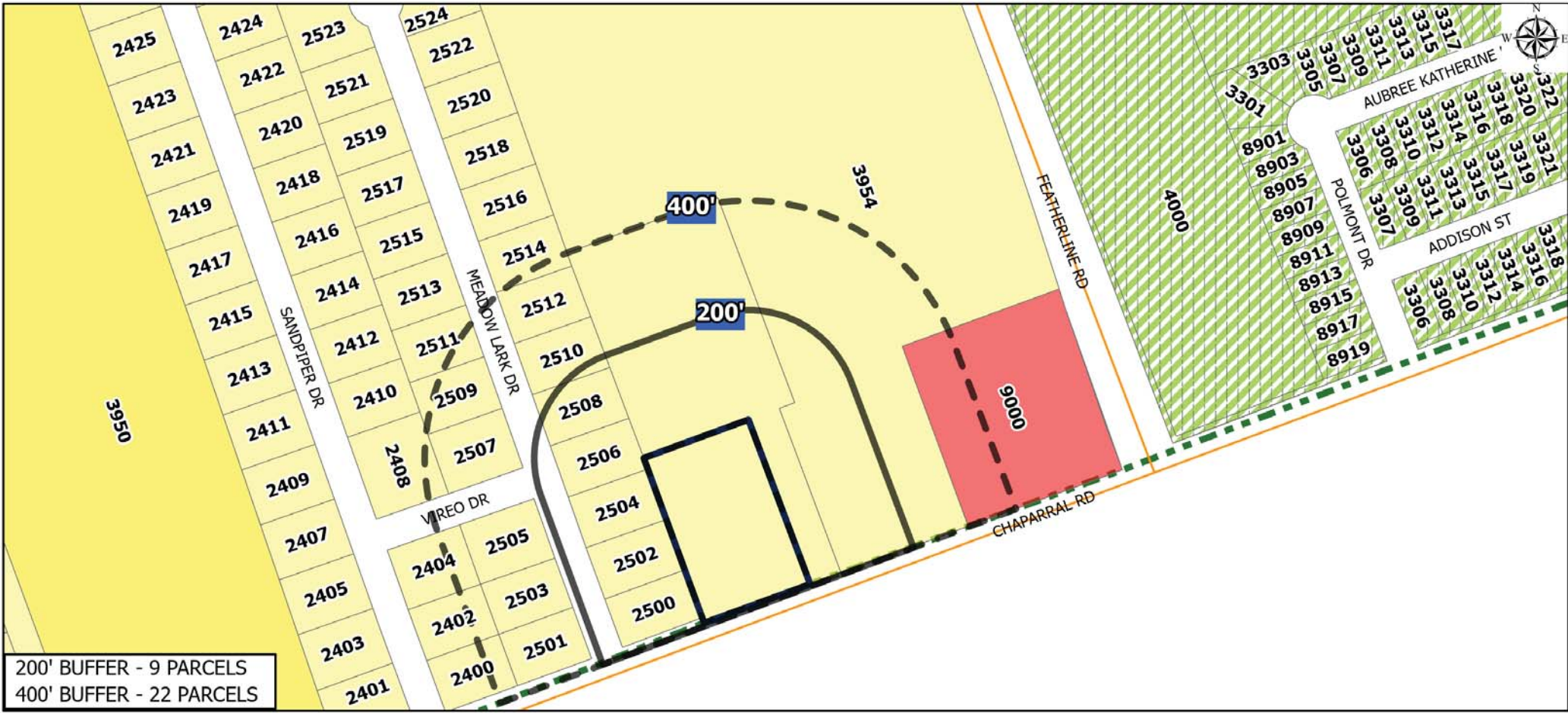


Subject Property Legal Description: A0200BC W H COLE, 1, ACRES 1.516

Zoning Case 2022-13

R-1 to B-3

- Legend
- Citylimits
 - Zoning Case Location



Attachment #1
 Council District: 3
 0 187.5 375
 Feet
 Subject Property Legal Description: A0200BC W H COLE, 1, ACRES 1.516

Zoning Case 2022-13 R-1 to B-3

- Legend
- | | |
|----------------|-----|
| Current Zoning | R-1 |
| B-3 | R-3 |
| PUD | |

SITE PHOTOS

Case #Z22-13: "R-1" to "B-3"



View of the subject property looking north:



View of the surrounding property to the east:



SITE PHOTOS

Case #Z22-13: "R-1" to "B-3"



View of the surrounding property to the west:



View of the surrounding property to the south (across Chaparral Rd):



MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 07, 2022

CASE # Z22-13
“R-1” to “B-3”

HOLD a public hearing and consider a request submitted by Franklin Land Associates, LLC on behalf of D&SC Enterprises, Inc. (**Case #Z22-13**) to rezone approximately 1.516 acres out of the W. H. Cole, Abstract No. 200 from “R-1” (Single-Family Residential District) to “B-3” (Local Business District). The property is located west of Featherline Road and north of Chaparral Road, Killeen, Texas.

Ms. Larsen briefed the Commission regarding the applicant’s request. She stated that staff recommends approval of “NBD” (Neighborhood Business District), which is a more restrictive district than requested.

Commissioner Minor stepped down from dais due to a conflict of interest.

The agent, Mr. Bob Gage of GBT Realty, was present to represent the case. He stated that the proposed retail store is 10,640 square feet, and that the recommended “NBD” (Neighborhood Business District) would not meet the needs of the applicant. He requested that the Commission approve the request for “B-3” (Local Business District) as presented.

Chairman Latham opened the public hearing.

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

Commissioner Alvarez made a motion to approve the request for “B-3” (Local Business District) as presented. Commissioner Adams seconded, and the motion passed by a vote of 7 to 0.

Commissioner Minor returned to the dais.

ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 1.516 ACRES OUT OF THE W H COLE, ABSTRACT NO. 200, FROM “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO “B-3” (LOCAL BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Franklin Land Associates, LLC, on behalf of D&SC Enterprises, 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 approximately 1.516 acres out of the W H Cole, Abstract No. 200, from “R-1” (Single-Family Residential District) to “B-3” (Local Business District), said request having been duly recommended for approval of “B-3” (Local Business District) by the Planning and Zoning Commission of the City of Killeen on the 7th day of March 2022, 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 12th day of April 2022, at the City Hall, City of Killeen;

WHEREAS, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the majority opinion that the applicant’s zoning request should be approved as recommended by the Planning and Zoning Commission;

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

SECTION I. That the zoning classification of approximately 1.516 acres out of the W. H. Cole, Abstract No. 200, from “R-1” (Single-Family Residential District) be changed to “B-3” (Local Business District), said request having been duly recommended for approval of “B-3” (Local Business District), for the property generally located west of the Featherline Road & 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 12th day of April 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, City Attorney

Case #22-13

Ord. #22-____

CUT HERE	
YOUR NAME: Michelle Bates	PHONE NUMBER: 254-285-9517
CURRENT ADDRESS: 2408 Sandpiper Dr Killeen TX 76542	
ADDRESS OF PROPERTY OWNED: 2408 Sandpiper Dr Killeen TX 76542	
COMMENTS:	
I Support the request Case # 722-13	
SIGNATURE: Michelle Bates	REQUEST: "R-1" to "B-3" SPO #Z22-13/ 15

KILLEEN, TX (CF)
Chaparral Rd

PROTOTYPE: A PLUS		DEVELOPER		DESIGNER		DATE	
BLDG/SALES SF: 10,640 / 8,450		Company: GBT Realty Corp.		Company: GBT Realty Corp.		01-04-22	
ACREAGE: 1.50		Name: Austin Rogers		Name: Colton Jumper			
PARKING SPACES: 35		Phone #: (615) 370-0670		Phone #: (615) 370-0670			



SCALE = NTS



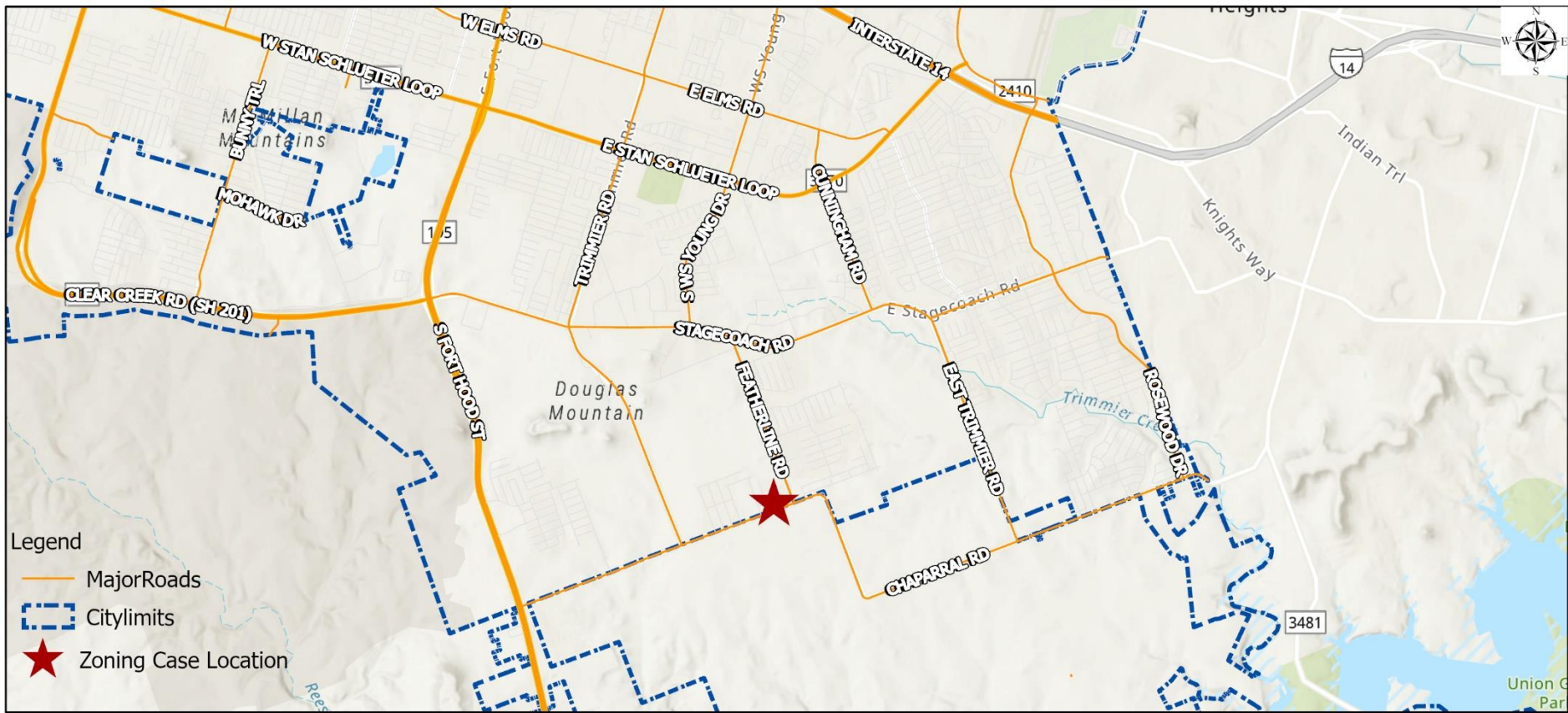
CASE #Z22-13: “R-1” TO “B-3”

PH-22-023

April 5, 2022

Case #Z22-13: “R-1” to “B-3”

- ❑ **HOLD** a public hearing and consider an ordinance requested by Franklin Land Associates, LLC. on behalf of D&SC Enterprises, Inc. (**Case #Z22-13**) to rezone approximately 1.516 acres out of the W H Cole, Abstract No. 200 from “R-1” (Residential Single-Family District) to “B-3” (Local Business District).
- ❑ The property is located west of Featherline Road & north of Chaparral Road, Killeen, Texas.



Attachment #4

Location Map

Council District: 3

Subject Property Legal Description: A0200BC W H COLE, 1, ACRES 1.516

Zoning Case 2022-13

R-1 to B-3

0 1 2
Miles



Attachment #3

Council District: 3



Subject Property Legal Description: A0200BC W H COLE, 1, ACRES 1.516

Zoning Case 2022-13

R-1 to B-3

Legend

 Citylimits

 Zoning Case Location

Case #Z22-13: “R-1” to “B-3”

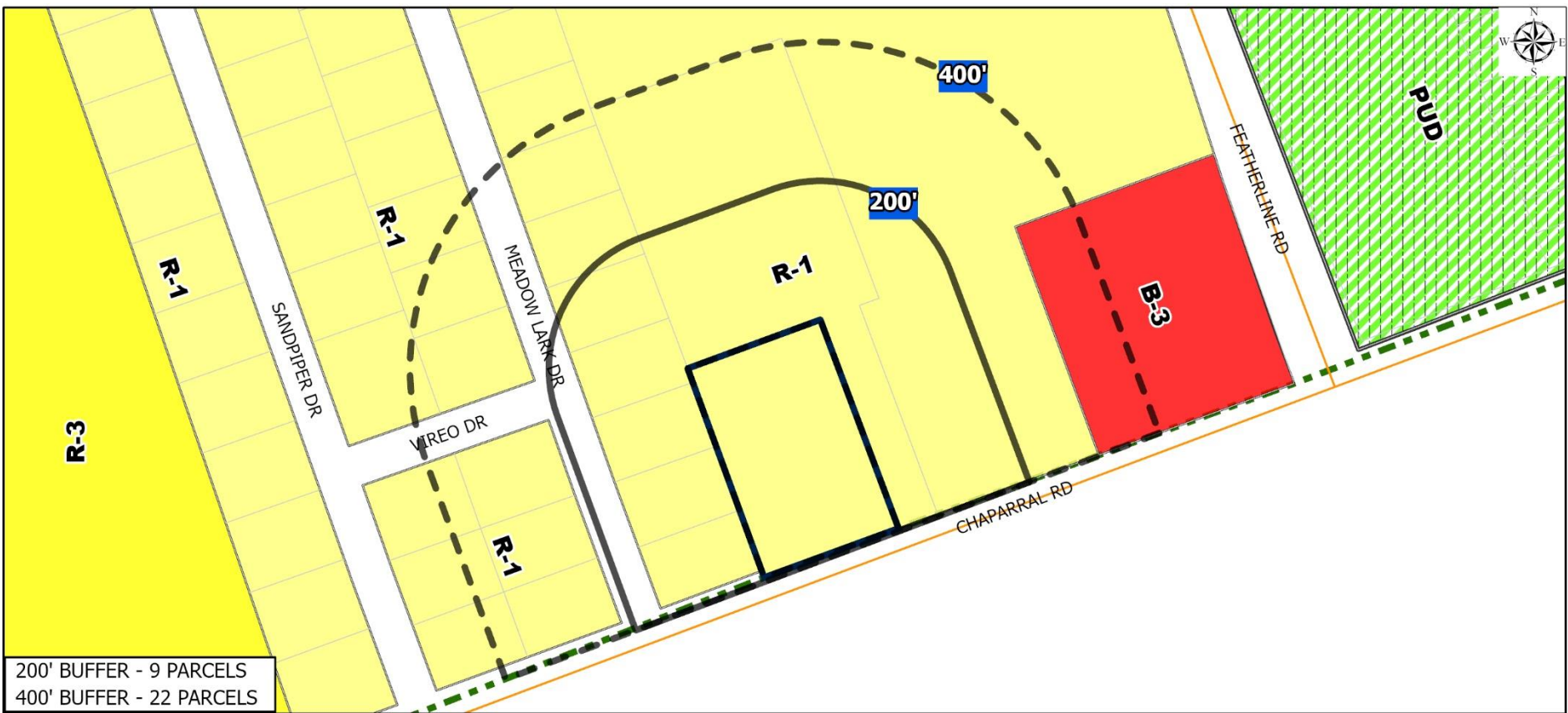
5

- If approved, the owner intends to develop the property as a general retail store of approximately 10,640 square feet.
- This property is designated as ‘Suburban Commercial’ (SC) on the Future Land Use Map (FLUM) of the Comprehensive Plan.
- This request is consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan.

Case #Z22-13: “R-1” to “B-3”

6

- The ‘Suburban Commercial’ (SC) designation encourages the following development types:
 - ▣ Range of commercial retail and service uses, at varying scales and intensities depending on the site
 - ▣ Office (both large and/or multi-story buildings and small-scale office uses depending on the site)
 - ▣ Planned development to accommodate custom site designs or mixing of uses in a Suburban character setting
 - ▣ Public/institutional
 - ▣ Parks and public spaces



Attachment #5
Zoning Map
Council District: 3
Subject Property Legal Description: A0200BC W H COLE, 1, ACRES 1.516

Zoning Case 2022-13

R-1 to B-3



Case #Z22-13: “R-1” to “B-3”

8

- The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Case #Z22-13: “R-1” to “B-3”

9

View of the subject property looking north:



Case #Z22-13: “R-1” to “B-3”

10

View of the surrounding property to the east:



Case #Z22-13: “R-1” to “B-3”

11

Surrounding property to the west:



Case #Z22-13: “R-1” to “B-3”

12

Adjacent property to the south (across Chaparral Rd):



Public Notification

13

- Staff notified twenty-two (22) surrounding property owners regarding this request.
- Of those notified, thirteen (13) properties are located outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and two (2) property owners reside outside of Killeen.
- To date, staff has received one (1) written response in support of this request.



Staff Findings

15

- If approved, “B-3” (Local Business District) allows commercial uses including boat sales; oil and lube stations; hotels and motels; auto part sales (new, at retail); mini/self-storage facilities; and storage warehouses (with leasable space of less than twenty-five thousand (25,000) square feet).

Staff Findings

16

- ❑ The subject property abuts residentially zoned property on the north, east, and west sides.
- ❑ Staff finds that a small general retail store would be appropriate in this location, but that “B-3” (Local Business District) allows several uses that would not be appropriate in this location.

Staff Findings

17

- ❑ "NBD" (Neighborhood Business District) was established to “provide for limited commercial uses serving the common and frequent needs of the residents in the immediate vicinity.”
- ❑ The “NBD” (Neighborhood Business) district allows all uses permitted in “B-3” (Local Business District) with several exceptions – including hospitals, appliance sales, boat sales and rentals, drive-through restaurants, hotels, gas stations with more than 4 pumps, mini/self-storage facilities, auto parts stores, and oil/lube stations.

Staff Findings

18

- However, Sec. 31-316.2 states that “a building or premises in "NBD" (Neighborhood Business District) shall not exceed gross building size of 10,000 square feet and no single leased/owned business area shall exceed 4,000 square feet.
- In this case, the applicant intends to build a single-tenant retail store of approximately 10,640 square feet.

Alternatives

19

- ❑ The City Council has four (4) alternatives. The Council may:
 - ▣ Disapprove the applicant's zoning request;
 - ▣ Approve a more restrictive zoning district than requested by the applicant;
 - ▣ Approve a conditional use permit; or
 - ▣ Approve the applicant's zoning request as presented.

Staff Findings

20

- Staff recommends approval of “NBD” (Neighborhood Business District) with a Conditional Use Permit (CUP) for a single-tenant general retail store no greater than 10,650 square feet.
- Staff finds that this would allow the property to be used as contemplated by the applicant, while also limiting uses that are potentially incompatible with the adjacent single-family residential development.

Commission Recommendation

21

- ❑ At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request to rezone the property to "B-3" (Local Business District) by a vote of 7 to 0.



City of Killeen

Legislation Details

File #:	PH-22-024	Version:	1	Name:	Zoning 22-14
Type:	Ordinance/Public Hearing	Status:	Public Hearings		
File created:	2/9/2022	In control:	City Council		
On agenda:	4/12/2022	Final action:			
Title:	HOLD a public hearing and consider an ordinance requested by Edward McIntyre on behalf of Gurunath Vadamudala (Case #Z22-14) to rezone Holder Addition, Block 1, Lot 1, from “B-5” (Business District) to “R-1” (Single-Family Residential District). The property is locally addressed as 1118 18th Street, Killeen, Texas.				
Sponsors:	Development Services				
Indexes:					
Code sections:					
Attachments:	Staff Report				
	Maps				
	Site Photos				
	Minutes				
	Ordinance				
	Considerations				
	Presentation				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 5, 2022

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: ZONING CASE #Z22-14: "B-5" (BUSINESS DISTRICT) TO "R-1"
(SINGLE-FAMILY RESIDENTIAL DISTRICT)

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Gurunath Vadamudala

Agent: Edward McIntyre

Current Zoning: "B-5" (Business District)

Requested Zoning: "R-1" (Single-Family Residential District)

Future Land Use Designation: 'General Residential' (GR)

Summary of Request:

Edward McIntyre, on behalf of Gurunath Vadamudala, has submitted a request to rezone Holder Addition, Block 1, Lot 1, from "B-5" (Business District) to "R-1" (Residential Single-Family District). If approved, the applicant intends to develop a single-family home on the property.

Zoning/Plat Case History:

The property was rezoned via Ordinance No. 86-67 from "R-1" (Single-Family Residential District) to "B-5" (Business District) on September 23, 1986. The property was platted as Holder Addition, Block 1, Lot 1 on August 24, 1950.

Character of the Area:

	Current Land Use	Zoning District	Future Land Use
North	Vacant	R-3 (Multifamily Residential District)	General Residential (GR)
East	Single-family home	R-1 (Single-Family Residential District)	General Residential (GR)
South	Single-family home	R-1 (Single-Family Residential District)	General Residential (GR)

West	Multifamily home and single-family home	R-3 (Multifamily Residential District)	General Residential (GR)
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Future Land Use Map Analysis:

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

The 'General Residential' (GR) designation encompasses most existing residential areas within Killeen. The character of 'General Residential' (GR) areas is typically auto-oriented (especially where driveways and front-loading garages dominate the front yard and building facades of homes), which can be offset by "anti-monotony" architectural standards, landscaping, and limitations on "cookie cutter" subdivision layouts characterized by straight streets and uniform lot sizes and arrangement.

The 'General Residential' (GR) designation encourages the following development types:

- Detached residential dwellings as a primary focus;
- 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; and
- Parks and public spaces.

This request is consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan.

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

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

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from 18th Street and Culp Avenue, which are classified as 60' wide local streets on the City of Killeen Thoroughfare Plan.

Environmental Assessment:

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Public Notification:

Staff notified fifty-seven (57) surrounding property owners regarding this request. Of those notified, thirty-seven (37) properties were located outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and seventeen (17) reside outside of Killeen. As of the date of this staff report, staff has received no written responses regarding this request.

Staff Findings:

The subject property is surrounded on all four sides by property that is zoned for residential use. Therefore, staff finds the applicant's request consistent with the surrounding land uses and prevailing community character.

THE ALTERNATIVES CONSIDERED:

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

- Disapprove the applicant's zoning request;
- Approve a more restrictive zoning district than requested by the applicant; or
- Approve the applicant's zoning request as presented.

Which alternative is recommended? Why?

Staff recommends approval of the applicant's request to rezone the property from "B-5" (Business District) to "R-1" (Single-Family Residential District) as presented.

The subject property is surrounded on all four sides by property that is zoned for residential use. Therefore, staff finds the applicant's request consistent with the surrounding land uses and prevailing community character.

CONFORMITY TO CITY POLICY:

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

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

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

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

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

This is not applicable.

RECOMMENDATION:

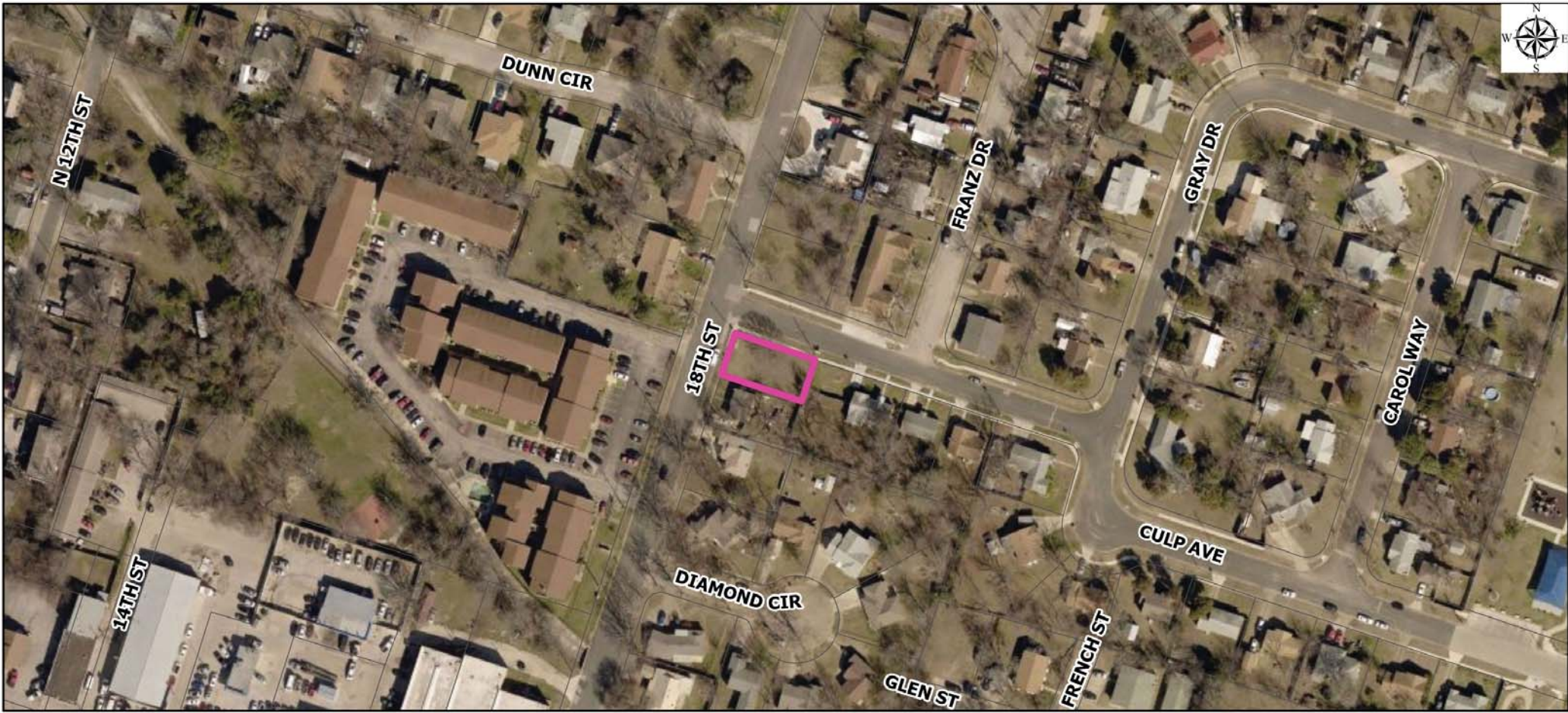
At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.

DEPARTMENTAL CLEARANCES:

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

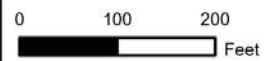
ATTACHED SUPPORTING DOCUMENTS:

Maps
Site Photos
Minutes
Ordinance
Considerations



Attachment #3

Council District: 1




Subject Property Legal Description: HOLDER ADDITION, BLOCK 001, LOT 1, PT 2, (N 10' OF 2)

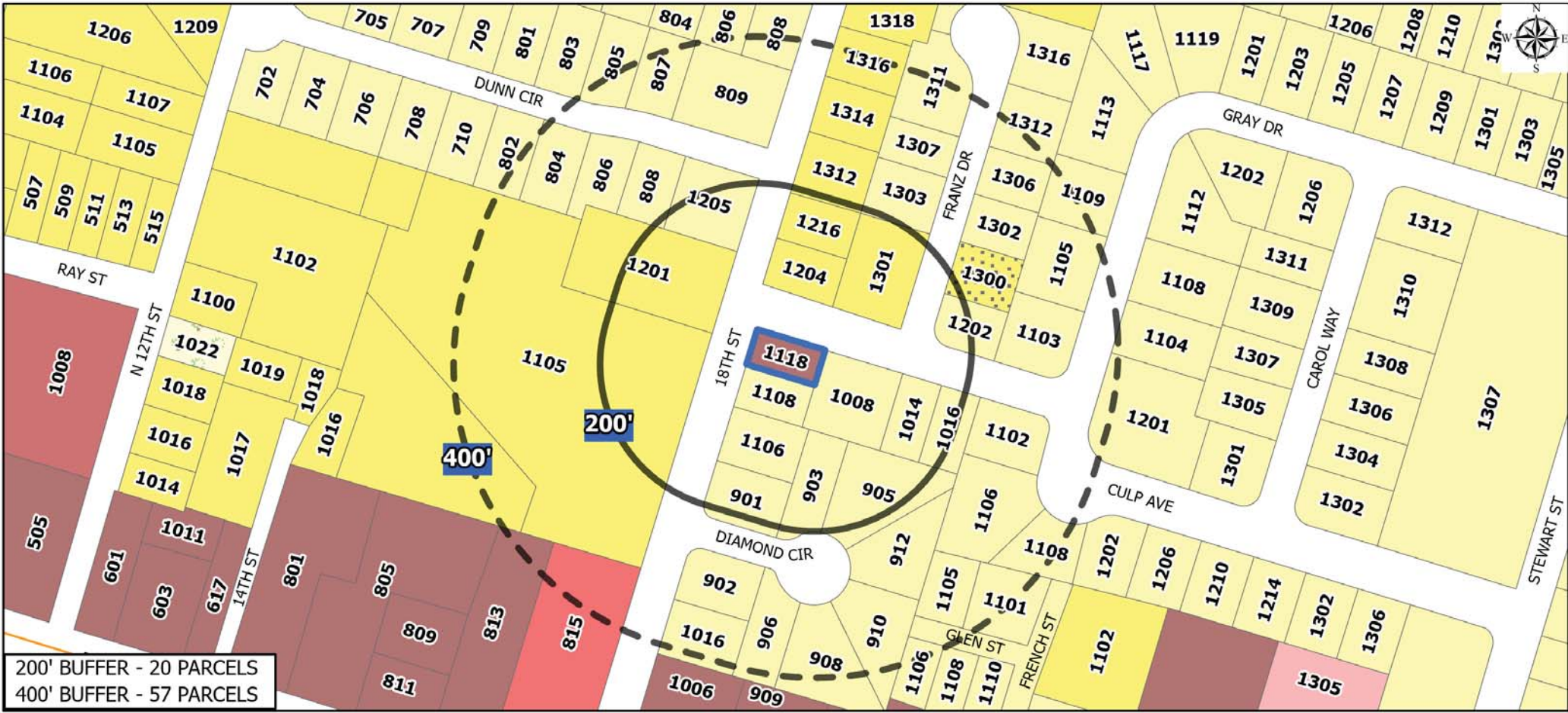
Zoning Case 2022-14

B-5 TO R-1

Legend

 Citylimits

 Zoning Case 2022



Attachment #1

Council District: 1

0 100 200 Feet

Zoning Case 2022-14

B-5 TO R-1

Subject Property Legal Description: HOLDER ADDITION, BLOCK 001, LOT 1, PT 2, (N 10' OF 2)

Legend

CurrentZoning	B-4	R-2
B-2	B-5	R-3
B-3A	R-1	RMH

SITE PHOTOS

Case #Z22-14: "B-5" to "R-1"



View of the subject property looking east:



View of the surrounding property to the north (across Culp Ave):



SITE PHOTOS

Case #Z22-14: "B-5" to "R-1"



View of the surrounding property to the south:



View of the surrounding property to the east:



MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 07, 2022

CASE # Z22-14
“B-5” to “R-1”

HOLD a public hearing and consider a request submitted by Edward McIntyre on behalf of Gurunath Vadamudala (**Case #Z22-14**) to rezone approximately 0.11 acres out of the Holder Addition Block 1, Lot 2, from “B-5” (Local Business District) to “R-1” (Single-Family Residential District). The property addressed as 1118 18th Street, Killeen, Texas.

Ms. Larsen briefed the Commission regarding the applicant’s request. She stated that staff recommends approval of the applicant’s request as presented.

The agent, Mr. Edward McIntyre, 615 Blake Street, Killeen, Texas, was present to represent the case.

Chairman Latham opened the public hearing.

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

Commissioner Adams made a motion to approve the request as presented. Commissioner Alvarez seconded, and the motion passed by a vote of 8 to 0.

ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF HOLDER ADDITION, BLOCK 1, LOT 1, FROM “B-5” (BUSINESS DISTRICT) TO “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Edward McIntyre, on behalf of Gurunath Vadamudala, 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 Holder Addition, Block 1, Lot 1, from “B-5” (Business District) to “R-1” (Single-Family Residential District), said request having been duly recommended for approval of “R-1” (Single-Family Residential District) by the Planning and Zoning Commission of the City of Killeen on the 7th day of March 2022, 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 12th day of April 2022, at the City Hall, City of Killeen;

WHEREAS, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the majority opinion that the applicant’s zoning request should be approved as recommended by the Planning and Zoning Commission;

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

SECTION I. That the zoning classification of Holder Addition Block 1, Lot 1 be changed from “B-5” (Business District) to “R-1” (Single-Family Residential District), said request having been duly recommended for approval of “R-1” (Single-Family Residential District), for the property locally addressed as 1118 18th 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 12th day of April 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, City Attorney

Case #22-14

Ord. #22-____



CASE #Z22-14: “B-5” TO “R-1”

PH-22-024

April 5, 2022

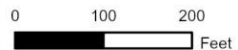
Case #Z22-14 – “B-5” to “R-1”

- ❑ **HOLD** a public hearing and consider an ordinance requested by Edward McIntyre on behalf of Gurunath Vadamudala (**Case #Z22-14**) to rezone approximately 0.11 acres out of the Holder Addition Block 1, Lot 2, from “B-5” (Local Business District) to “R-1” (Residential Single-Family District).
- ❑ The property addressed as 1118 18th Street, Killeen, Texas.



Attachment #3

Council District: 1



Subject Property Legal Description: HOLDER ADDITION, BLOCK 001, LOT 1, PT 2, (N 10' OF 2)

Zoning Case 2022-14

B-5 TO R-1

Legend

 Citylimits

 Zoning Case 2022

Case #Z22-14 – “B-5” to “R-1”

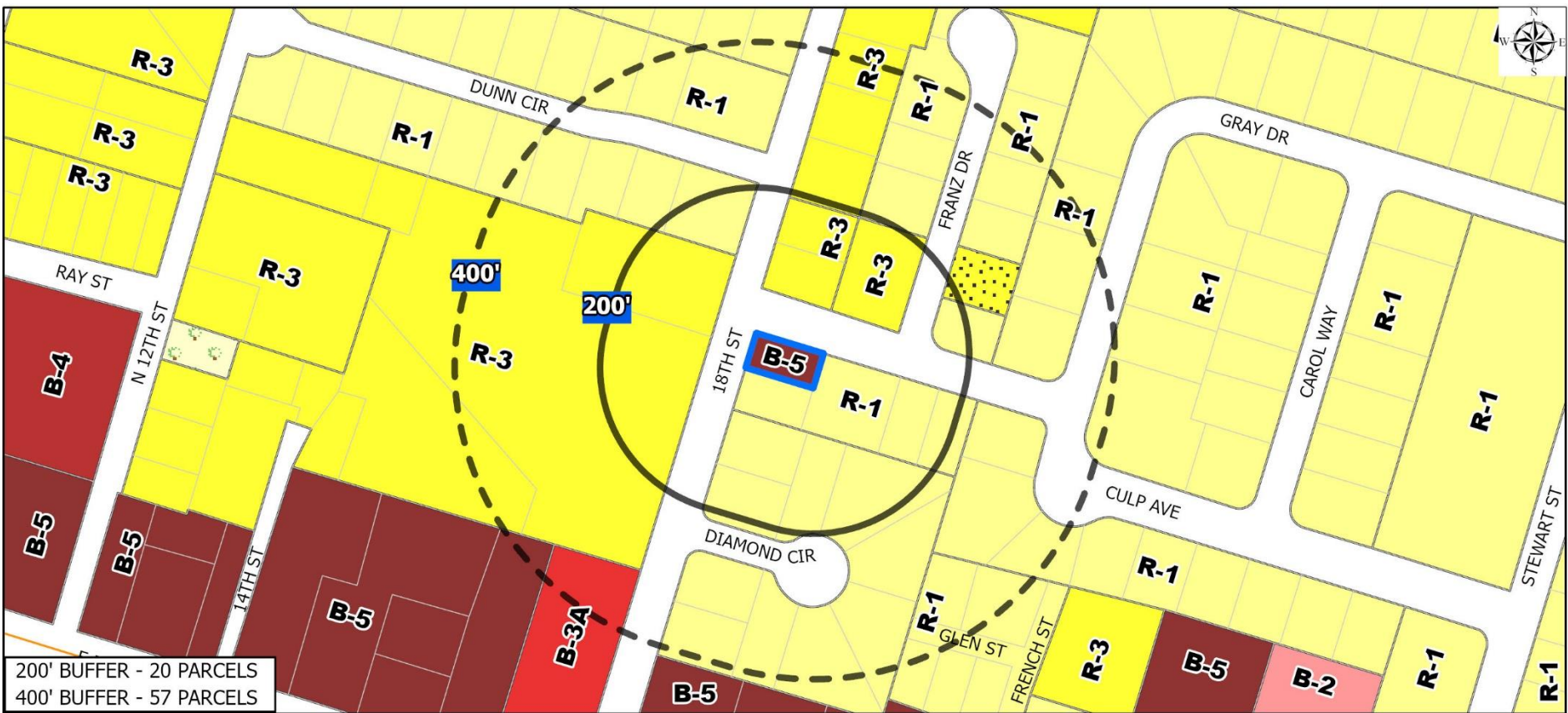
5

- This request is consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan.
- This property is designated as ‘General Residential (GR) on the Future Land Use Map (FLUM) of the Comprehensive Plan.
- If approved, the applicant intends to develop a single-family home on the property.

Case #Z22-14 – “B-5” to “R-1”

6

- The ‘General Residential’ (GR) designation encourages the following development types:
 - ▣ Detached residential dwellings as a primary focus.
 - ▣ 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



Case #Z22-14 – “B-5” to “R-1”

8

- The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Case #Z22-14 – “B-5” to “R-1”

9

View of the subject property looking east:



Case #Z22-14 – “B-5” to “R-1”

10

Surrounding property to the north (across Culp Ave):



Case #Z22-14 – “B-5” to “R-1”

11

Surrounding property to the south:



Case #Z22-14 – “B-5” to “R-1”

12

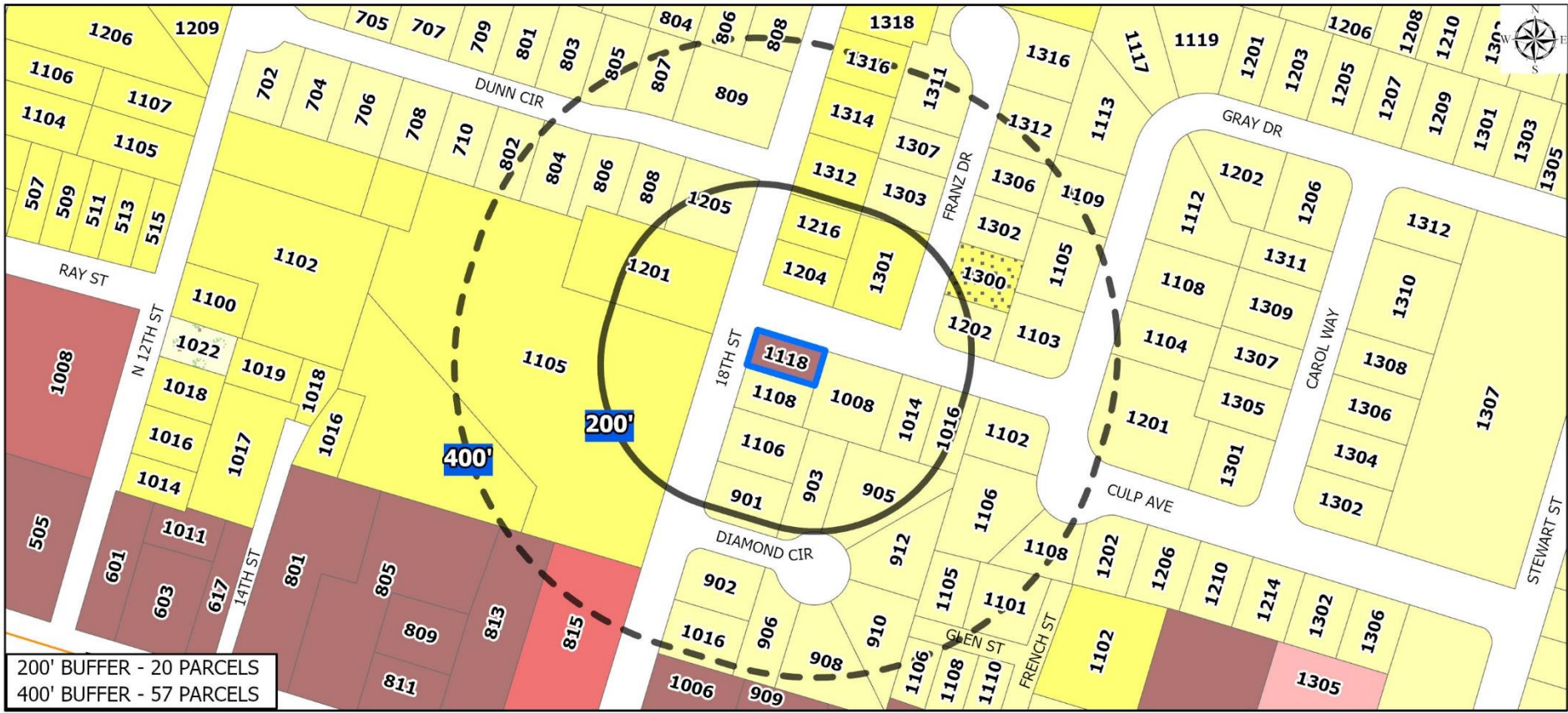
Surrounding property to the east:



Public Notification

13

- Staff notified fifty-seven (57) surrounding property owners regarding this request.
- Of those notified, thirty-seven (37) properties are located outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and seventeen (17) property owners reside outside of Killeen.
- To date, staff has received no written responses regarding this request.



Zoning Case 2022-14 B-5 TO R-1

Legend

Current Zoning	B-4	R-2
B-2	B-5	R-3
B-3A	R-1	RMH

Alternatives

15

- ❑ The City Council has three (3) alternatives. The Council may:
 - ▣ Disapprove the applicant's zoning request;
 - ▣ Approve a more restrictive zoning district than requested by the applicant; or
 - ▣ Approve the applicant's zoning request as presented.

Staff Findings

16

- The subject property is surrounded on all four sides by property that is zoned for residential use. Therefore, staff finds the applicant's request consistent with the surrounding land uses and prevailing community character.

Staff Recommendation

17

- Staff recommends approval of the applicant's request to rezone the property from "B-5" (Business District) to "R-1" (Single-Family Residential District) as presented.

Commission Recommendation

18

- ❑ At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.



City of Killeen

Legislation Details

File #:	PH-22-025	Version:	1	Name:	Zoning 22-15
Type:	Ordinance/Public Hearing		Status:	Public Hearings	
File created:	2/9/2022		In control:	City Council	
On agenda:	4/12/2022		Final action:		
Title:	HOLD a public hearing and consider an ordinance requested by Michael Linnemann (Case #Z22-15) to rezone approximately 0.3375 acres out of the Simmons 2nd Subdivision, Block 1, Lot 38, from “R-1” (Single-Family Residential District) to “R-2” (Two-Family Residential District). The property is addressed as 3909 Turner Avenue, Killeen, Texas.				
Sponsors:	Development Services				
Indexes:					
Code sections:					
Attachments:	Staff Report Maps Site Photos Minutes Ordinance Considerations Responses Presentation				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 5, 2022

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: ZONING CASE #Z22-15: "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO "R-2" (TWO-FAMILY RESIDENTIAL DISTRICT)

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Michael Linnemann

Current Zoning: "R-1" (Single-Family Residential District)

Requested Zoning: "R-2" (Two-Family Residential District)

Future Land Use Designation: 'Residential Mix' (R-MIX)

Summary of Request:

Michael Linnemann submitted a request to rezone approximately 0.3375 acres out of the Simmons 2nd Subdivision, Block 1, Lot 38, from "R-1" (Single-Family Residential District) to "R-2" (Two-Family Residential District). If approved, the applicant intends to develop a duplex on the property.

Zoning/Plat Case History:

The parcel is currently zoned "R-1" (Single-Family Residential District). Staff is unable to determine the exact date of the zoning. The property was platted as Simmons 2nd, Block 1, Lot 38 on January 10, 1949.

Character of the Area:

	Current Land Use	Zoning District	Future Land Use
North	AA Lane Neighborhood Park	R-1 (Single-Family Residential District)	Parks-Recreation (P-R)
East	Vacant	R-1 (Single-Family Residential District)	Residential-Mix (R-MIX)
South	Vacant	R-1 (Single-Family Residential District)	Residential-Mix (R-MIX)

West	Single-family home	R-1 (Single-Family Residential District)	Residential-Mix (R-MIX)
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Future Land Use Map Analysis:

This property is designated as 'Residential Mix' (R-MIX) on the Future Land Use Map (FLUM) of the Comprehensive Plan.

The 'Residential Mix' (R-MIX) designation includes areas that were allowed to develop in the past with various housing types and densities intermixed, both on the same block and across streets, often with minimal screening and/or buffering between differing residential intensities. These are auto-oriented areas and should address compatibility and screening/buffering, where possible, as redevelopment occurs.

The 'Residential Mix' (R-MIX) designation encourages the following development types:

- Mix of residential types and densities;
- Public/institutional; and
- Parks and public spaces.

The request is consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan.

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

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

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from Turner Avenue, which is classified as a 60' wide local street on the City of Killeen Thoroughfare Plan.

Environmental Assessment:

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Public Notification:

Staff notified fifty-five (55) surrounding property owners regarding this request. Of those property owners notified, forty-two (42) reside outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and twelve (12) reside outside the city limits of Killeen.

As of the date of this report, staff has received seven (7) written responses regarding this request: four (4) in support and three (3) in opposition.

Staff Findings:

Staff is of the determination that the request is consistent with the FLUM designation of the Comprehensive Plan, which encourages a mix of residential types and densities. The request will provide additional housing options within the neighborhood. Staff finds that the applicant's request is compatible with the adjacent surrounding uses and prevailing community character. The character of the area is predominantly residential. There are existing four-plexes located approximately seventy (70) feet to the west of the subject property.

THE ALTERNATIVES CONSIDERED:

The City Council has two (2) alternatives. The Council may:

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

Which alternative is recommended? Why?

Staff recommends approval of the applicant's request to rezone the property from "R-1" (Single-Family Residential District) to "R-2" (Two-Family Residential District).

Staff is of the determination that the request is consistent with the FLUM designation of the Comprehensive Plan, which encourages a mix of residential types and densities. The request will provide additional housing options within the neighborhood. Staff finds that the applicant's request is compatible with the adjacent surrounding uses and prevailing community character. The character of the area is predominantly residential. There are existing four-plexes located approximately seventy (70) feet to the west of the subject property.

CONFORMITY TO CITY POLICY:

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

FINANCIAL IMPACT:

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

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

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

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

This is not applicable.

RECOMMENDATION:

At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 6 to 2 with Commissioners Sabree and Gukeisen in opposition.

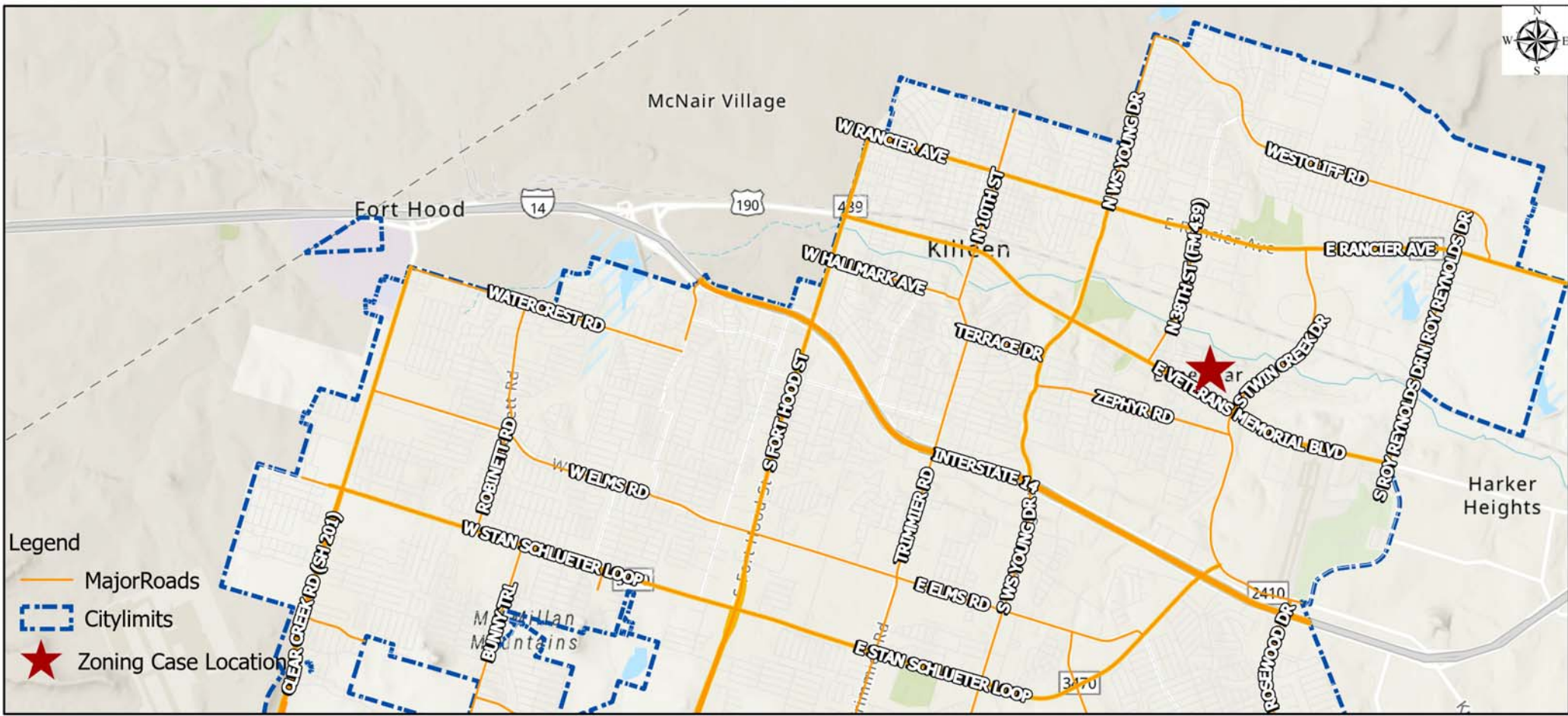
The Commissioners in opposition stated that the property should remain "R-1" (Single-Family Residential District).

DEPARTMENTAL CLEARANCES:

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

ATTACHED SUPPORTING DOCUMENTS:

Maps
Site Photos
Minutes
Ordinances
Considerations
Responses



Attachment #4

Location Map

Council District: 1

Subject Property Legal Description: SIMMONS 2ND, BLOCK 001, LOT 0038

Zoning Case 2022-15

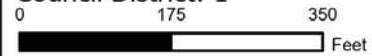
R-1 to R-2





Attachment #3

Council District: 1



Subject Property Legal Description: SIMMONS 2ND, BLOCK 001, LOT 0038

Zoning Case 2022-15

R-1 to R-2

Legend

 Citylimits

 Zoning Case Location

SITE PHOTOS

Case #Z22-15: "R-1" to "R-2"



View of the subject property looking north:



View of the surrounding property to the west:



SITE PHOTOS

Case #Z22-15: "R-1" to "R-2"



View of the surrounding property to the east:



View of the surrounding property to the south (across Turner Ave):



MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 07, 2022

CASE # Z22-15
“R-1” to “R-2”

HOLD a public hearing and consider a request submitted by Michael Linnemann (Case #Z22-15) to rezone approximately 0.3375 acres out of the Simmons 2nd Subdivision, from “R-1” (Single-Family Residential District) to “R-2” (Two-Family Residential District). The property addressed as 3909 Turner Avenue, Killeen, Texas.

Ms. Larsen briefed the Commission regarding the applicant’s request. She stated that staff recommends approval of the applicant’s request as presented.

The agent, Mr. Michael Linnemann of 2205 Sunrise Drive, Belton, Texas, was present to represent the case.

Chairman Latham opened the public hearing.

Ms. Wanda Dowell, 315 54th Street, spoke in opposition to the request. She expressed concerns regarding the impact of the proposed duplex on crime in the neighborhood.

Ms. Barbara Ellis, 321 54th Street, spoke in opposition to the request. She also expressed concern regarding the impact of the proposed duplex on crime in the area.

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

Commissioner Alvarez made a motion to approve the request as presented. Commissioner Ploeckelmann seconded, and the motion passed by a vote of 6 to 2 with Commissioners Sabree and Gukeisen in opposition. Those Commissioners in opposition stated that they believed the property should remain “R-1” (Single-Family Residential District).

ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 0.3375 ACRES OUT OF THE SIMMONS 2ND SUBDIVISION, BLOCK 1, LOT 38, FROM “R-1” (SINGLE-FAMILY RESIDENTIAL 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, Michael Linnemann 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 0.3375 acres out of the Simmons 2nd Subdivision, Block 1, Lot 38, from “R-1” (Single-Family Residential District) to “R-2” (Two-Family Residential District), said request having been duly recommended for approval of “R-2” (Two-Family Residential District) by the Planning and Zoning Commission of the City of Killeen on the 7th day of March 2022, 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 12th day of April 2022, at the City Hall, City of Killeen;

WHEREAS, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the majority opinion that the applicant’s zoning request should be approved as recommended by the Planning and Zoning Commission;

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

SECTION I. That the zoning classification of approximately 0.3375 acres out of the Simmons 2nd Subdivision, Block 1, Lot 38, be changed from “R-1” (Single-Family Residential District) to “R-2” (Two-Family Residential District), said request having been duly

recommended for approval of “R-2” (Two-Family Residential District), for the property locally addressed as 3909 Turner Avenue, 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 12th day of April 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, City Attorney

Case #22-15

Ord. #22-____

CUT HERE	
YOUR NAME: <u>NICKIE HALE</u>	PHONE NUMBER: <u>254-258-5824</u>
CURRENT ADDRESS:	
ADDRESS OF PROPERTY OWNED: <u>405 34th St. Killeen TX 76543</u>	
COMMENTS:	
<u>Oppose</u>	
SIGNATURE: <u>Nickie Hale</u>	
REQUEST: "R-1" to "R-2" SPO #Z22-15/ <u>24,27</u>	

CUT HERE	
YOUR NAME: <u>Wanda Dowell</u>	PHONE NUMBER: <u>254-690-3886</u>
CURRENT ADDRESS:	
ADDRESS OF PROPERTY OWNED: <u>315-54th Killeen TX 76543</u>	
COMMENTS:	
<u>Strongly Oppose</u>	
SIGNATURE: <u>Wanda Dowell</u>	
REQUEST: "R-1" to "R-2" SPO #Z22-15/ <u>48</u>	


CUT HERE	
YOUR NAME: <u>Barbara Ellis</u>	PHONE NUMBER:
CURRENT ADDRESS: <u>321-south 34th st.</u>	
ADDRESS OF PROPERTY OWNED: <u>same</u>	
COMMENTS:	
<u>Strongly oppose</u>	
SIGNATURE: <u>Barbara Ellis</u>	
REQUEST: "R-1" to "R-2" SPO #Z22-15/ <u>116</u>	

CUT HERE

YOUR NAME: <u>Mario Villalpando</u>	PHONE NUMBER: <u>254/220 7700</u>
CURRENT ADDRESS: <u>3617 Pandos Way</u>	
ADDRESS OF PROPERTY OWNED: <u>507 53rd St.</u>	
COMMENTS: <u>I support this request as current property I own</u>	
<u>is Zoned R3 + plan to utilize it as R3 Property</u>	
SIGNATURE: <u>ms Villalpando</u>	REQUEST: "R-1" to "R-2" SPO #Z22-15/ <u>07</u>


CUT HERE

YOUR NAME: <u>Mario Villalpando</u>	PHONE NUMBER: <u>254/220 7700</u>
CURRENT ADDRESS: <u>3617 Pandos Way</u>	
ADDRESS OF PROPERTY OWNED: <u>4005 Turner Ave.</u>	
COMMENTS: <u>I support this request</u>	
SIGNATURE: <u>ms Villalpando</u>	REQUEST: "R-1" to "R-2" SPO #Z22-15/ <u>20</u>

YOUR NAME: MARK Robert		PHONE NUMBER: 254-290-1821
CURRENT ADDRESS: 1705 So Harley Dr H. H. TX 76548		
ADDRESS OF PROPERTY OWNED: 4101 Turner		
COMMENTS:		
I Support this Request		
SIGNATURE: 		REQUEST: "R-1" to "R-2" SPO #Z22-15/04,22,30

P.O. BOX 1329, KILLEEN, TEXAS 76540-1329, 254-501-7631, FAX 254-501-7628
WWW.KILLEENTEXAS.GOV

---CUT HERE---

YOUR NAME:	Vijay Mehta	PHONE NUMBER:	254-774-8247
CURRENT ADDRESS:	805 Paint brush Ln Temple TX 76502		
ADDRESS OF PROPERTY OWNED:	503 S 52nd St Killeen Tx		
COMMENTS:	<u>We Approved</u>		
SIGNATURE:		REQUEST: "R-1" to "R-2"	SPO #Z22-15/ 25



CASE #Z22-15: “R-1” TO “R-2”

PH-22-025

April 5, 2022

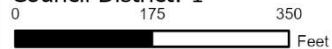
Case #Z22-15: “R-1” to “R-2”

- ❑ **HOLD** a public hearing and consider on ordinance requested by Michael Linnemann (**Case #Z22-15**) to rezone approximately 0.3375 acres out of the Simmons 2nd Subdivision, Block 1, Lot 38, from “R-1” (Single-Family Residential District) to “R-2” (Two-Family Residential District).
- ❑ The property addressed as 3909 Turner Avenue, Killeen, Texas.



Attachment #3

Council District: 1



Subject Property Legal Description: SIMMONS 2ND, BLOCK 001, LOT 0038

Zoning Case 2022-15

R-1 to R-2

Legend

 Citylimits

 Zoning Case Location

Case #Z22-15: “R-1” to “R-2”

5

- This property is designated as ‘Residential Mix’ (R-MIX) on the Future Land Use Map (FLUM) of the Comprehensive Plan.
- The request is consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan.
- If approved, the applicant intends to develop a duplex on the property.

Case #Z22-15: “R-1” to “R-2”

6

- The ‘Residential Mix’ (R-MIX) designation includes areas that were allowed to develop in the past with various housing types and densities intermixed, both on the same block and across streets, often with minimal screening and/or buffering between differing residential intensities. These are auto-oriented areas and should address compatibility and screening/buffering, where possible, as redevelopment occurs.

Case #Z22-15: “R-1” to “R-2”

7

- The ‘Residential Mix’ (R-MIX) designation encourages the following development types:
 - ▣ Mix of residential types and densities;
 - ▣ Public/institutional; and
 - ▣ Parks and public spaces.



Case #Z22-15: “R-1” to “R-2”

9

- The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Case #Z22-15: “R-1” to “R-2”

10

View of the subject property looking north (from Turner Ave):



Case #Z22-15: “R-1” to “R-2”

11

Surrounding property to the west:



Case #Z22-15: “R-1” to “R-2”

12

Surrounding property to the east:



Case #Z22-15: “R-1” to “R-2”

13

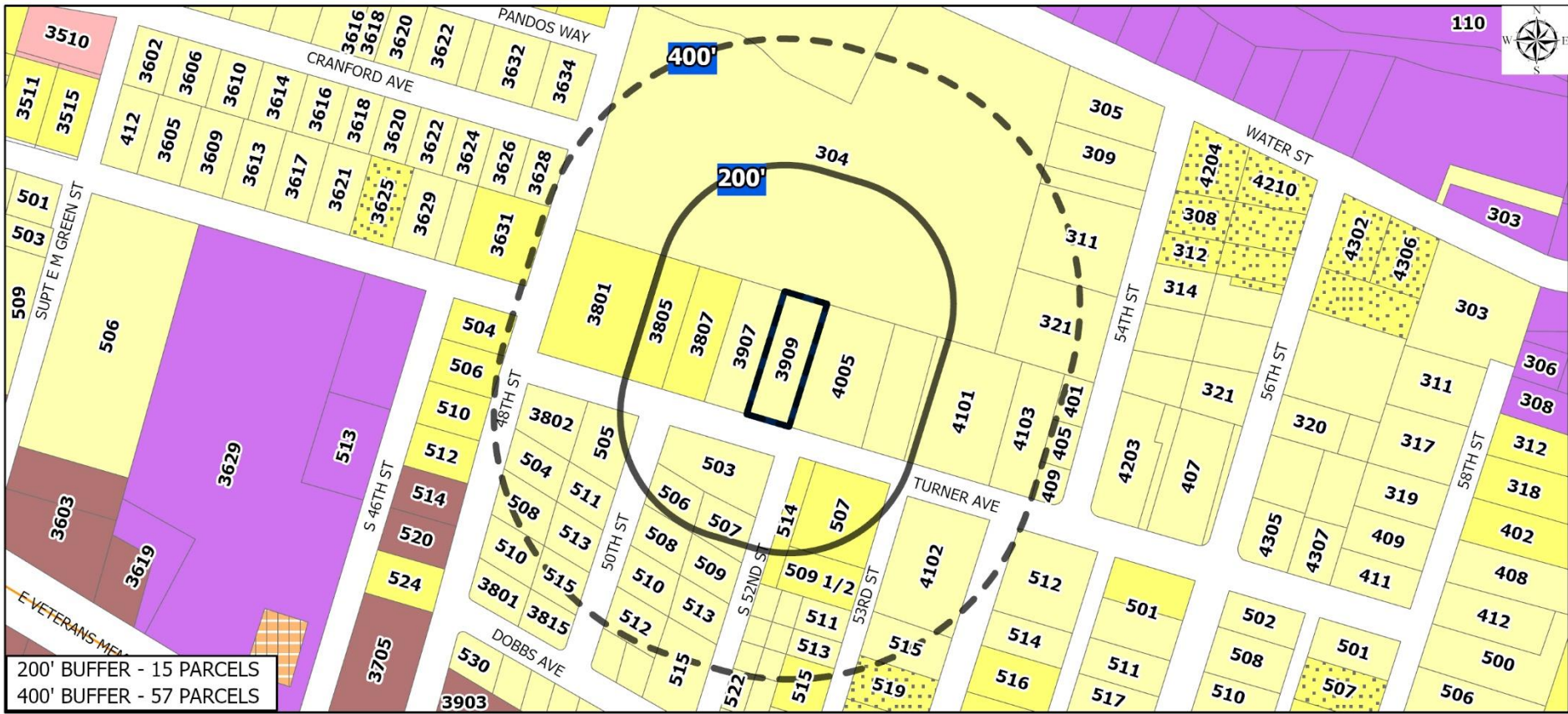
Surrounding property to the south (across Turner Ave):



Public Notification

14

- Staff notified fifty-five (55) surrounding property owners regarding this request.
- Of those notified, forty-two (42) properties are located outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and twelve (12) property owners reside outside of Killeen.
- To date, staff has received four (4) written responses in support of this request, and three (3) written responses in opposition.



Attachment #1
Council District: 1

0 162.5 325
Feet

Subject Property Legal Description: SIMMONS 2ND, BLOCK 001, LOT 0038

Zoning Case 2022-15

R-1 to R-2

Legend

CurrentZoning

B-2
B-5

B-C-1

R-1

R-2

R-3

M-1

Alternatives

16

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

Staff Findings

17

- Staff finds that the request consistent with the FLUM designation of the Comprehensive Plan, which encourages a mix of residential types and densities. The request will provide additional housing options within the neighborhood.
- Staff finds that the applicant's request is compatible with the adjacent surrounding uses and prevailing community character. The character of the area is predominantly residential. There are existing four-plexes located approximately seventy (70) feet to the west of the subject property.

Staff Recommendation

18

- Staff recommends approval of the applicant's request to rezone the property from "R-1" (Single-Family Residential District) to "R-2" (Two-Family Residential District) as presented.

Commission Recommendation

19

- ❑ At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.



City of Killeen

Legislation Details

File #:	PH-22-026	Version:	1	Name:	Zoning 22-16
Type:	Ordinance/Public Hearing		Status:	Public Hearings	
File created:	2/9/2022		In control:	City Council	
On agenda:	4/12/2022		Final action:		
Title:	HOLD a public hearing and consider an ordinance requested by Joe Patterson on behalf of Michael Patterson (Case #Z22-16) to rezone approximately 3.2562 acres out of the Lakeview Park Phase One, Block 9, Lots 1A, 2A, 3 & 4 and Lakeview Park Subdivision Third Replat, Block 1, Lot 31B, from "B-3" (Local Business District) to "SF-2" (Single-Family Residential District). The properties are locally addressed as 5398, 5400, 5450, 5500, & 5550 Rancier Avenue, Killeen, Texas.				
Sponsors:	Development Services				
Indexes:					
Code sections:					
Attachments:	Staff Report Maps Site Photos Minutes Ordinance Considerations Presentation				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 5, 2022

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: ZONING CASE #Z22-16: "B-3" (LOCAL BUSINESS DISTRICT) TO "SF-2" SINGLE-FAMILY RESIDENTIAL DISTRICT)

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Michael Patterson

Agent: Joe Patterson

Current Zoning: "B-3" (Local Business District)

Requested Zoning: "SF-2" (Single-Family Residential District)

Future Land Use Designation: 'General Residential' (GR)

Summary of Request:

Joe Patterson, on behalf of Michael Patterson, submitted a request to rezone approximately 3.2562 acres out of the Lakeview Park Phase One, Block 9, Lots 1A, 2A, 3 & 4 and Lakeview Park Subdivision Third Replat, Block 1, Lot 31B, from "B-3" (Local Business District) to "SF-2" (Single-Family Residential District). If approved, the applicant intends to develop buildable residential lots.

Zoning/Plat Case History:

The subject property was rezoned from R-MP (Mobile Home and Travel Trailer Park District) to R-3 (Multifamily Residential District) on December 20, 2005 via Ordinance No. 05-123. Then, the subject property was rezoned via Ordinance No. 08-23 from "R-3" (Multifamily Residential District) to "B-3" (Local Business District) on April 23, 2008. The subject property was platted as Lakeview Park Phase One, Block 9, Lots 1A, 2A, 3, and 4 on September 16, 2010 and Lakeview Park Subdivision Third Replat, Block 1, Lot 31B on July 8, 2015.

Character of the Area:

	Current Land Use	Zoning District	Future Land Use
North	Single-family homes	R-1 (Single-Family Residential District)	General Residential (GR)
East	Vacant	B-5 (Business District)	General Commercial (GC)

South	Single-family homes	PUD (Planned Unit Development w/ SF-2 (Single-Family Residential District)	General Residential (GR)
West	Two-family homes	R-2 (Two-Family Residential District)	General Residential (GR)

Future Land Use Map Analysis:

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

'General Residential' (GR) characteristics encompass most existing residential areas within Killeen. The character of 'General Residential' (GR) areas is typically auto-oriented (especially where driveways and front-loading garages dominate the front yard and building facades of homes), which can be offset by "anti-monotony" architectural standards, landscaping, and limitations on "cookie cutter" subdivision layouts characterized by straight streets and uniform lot sizes and arrangement.

The 'General Residential' (GR) designation encourages the following development types:

- Detached residential dwellings as a primary focus.
- 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

This request is consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan.

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

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

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from Shims Blvd. or Gigante Dr., which are classified as a 60' wide Local Streets on the City of Killeen Thoroughfare Plan. The properties also have frontage along Rancier Ave. (FM 439), which is classified as a 120' wide Principal Arterial on the Thoroughfare Plan. Access to arterial streets from residential lots with alternative frontages is prohibited by the 1984 Thoroughfare Development Manual as well as by TxDOT in this case.

Environmental Assessment:

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Public Notification:

Staff notified one-hundred and twenty-seven (127) surrounding property owners regarding this request. Of those notified, sixty-two (62) properties were located outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and twenty-eight (28) reside outside of Killeen. As of the date of this staff report, no response regarding the request has been received.

Staff Findings:

Staff finds the applicant's request consistent with the surrounding property uses and compatible with the existing land uses and prevailing community character. The character of the area is predominantly residential with existing single-family homes zoned "SF-2" (Single-Family Residential District) nearby. Further, staff finds that it is unlikely that this property would be developed for commercial use. There is ample undeveloped commercial property on the east side of N. Roy Reynolds for future commercial development.

THE ALTERNATIVES CONSIDERED:

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

- Disapprove the applicant's zoning request;
- Approve a more restrictive zoning district than requested by the applicant; or
- Approve the applicant's zoning request as presented.

Which alternative is recommended? Why?

Staff recommends approval of the applicant's request to rezone the property from "B-3" (Local Business District) to "SF-2" (Single-Family Residential District) as presented.

Staff finds the applicant's request consistent with the surrounding property uses and compatible with the existing land uses and prevailing community character. The character of the area is predominantly residential with existing single-family homes zoned "SF-2" (Single-Family Residential District) nearby. Further, staff finds that it is unlikely that this property would be developed for commercial use. There is ample undeveloped commercial property on the east side of N. Roy Reynolds for future commercial development.

CONFORMITY TO CITY POLICY:

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

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

This zoning request does not involve the expenditure of city funds. However, subsequent development and dedication of public infrastructure will involve the expenditure of maintenance funds over the life cycle of future development.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

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

This is not applicable.

RECOMMENDATION:

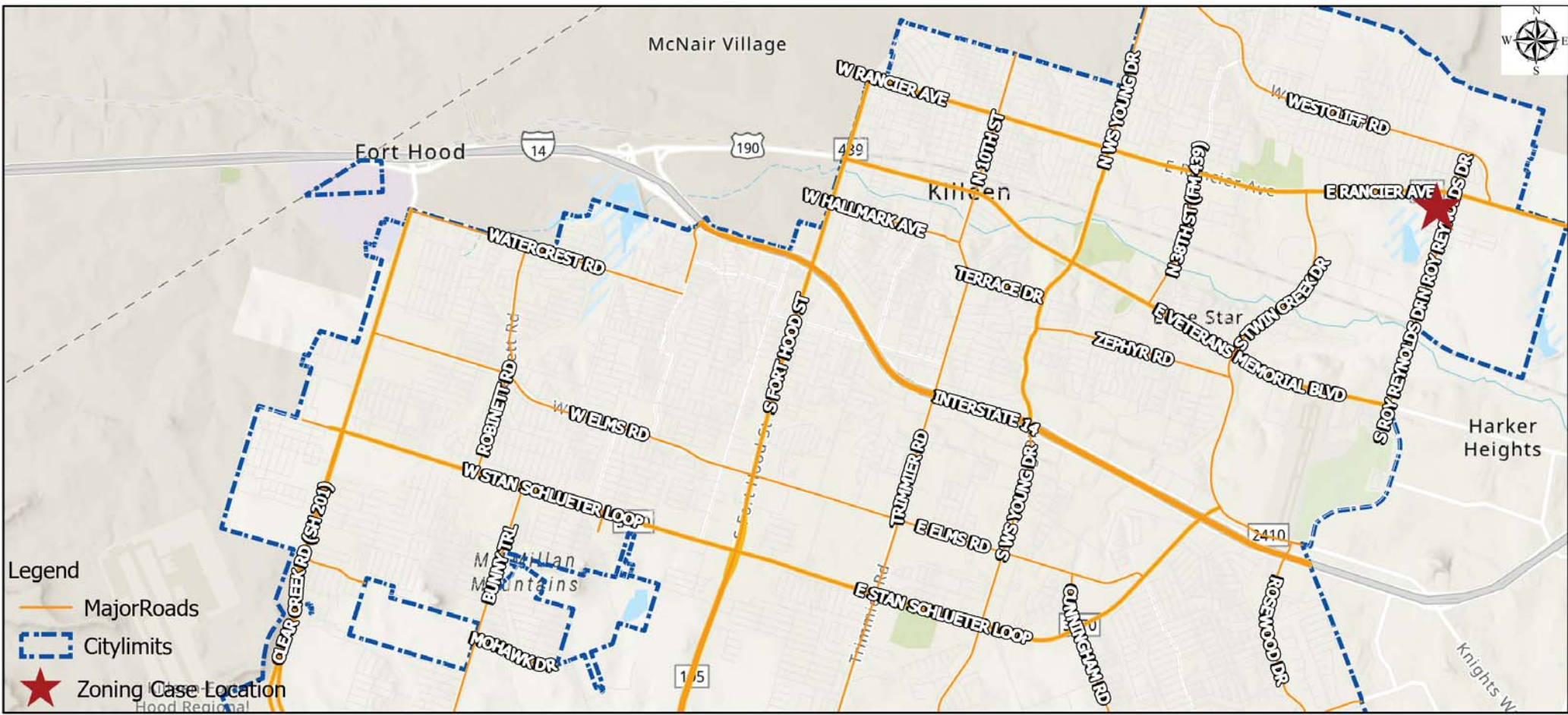
At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.

DEPARTMENTAL CLEARANCES:

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

ATTACHED SUPPORTING DOCUMENTS:

Maps
Site Photos
Minutes
Ordinance
Considerations



Attachment #2

Location Map

Council District: 1

Subject Property Legal Description: LAKEVIEW PARK PHASE ONE, BLOCK 009, LOT 001A,002A, 0003, AND 0004, AND LAKEVIEW PARK SUBDIVISION THIRD REPLAT, BLOCK 001, LOT 031B, 0.563AC

Zoning Case 2022-16

B-3 TO SF-2

0 1 2 Miles



Attachment #3

Council District: 1

0 150 300 Feet

Subject Property Legal Description: LAKEVIEW PARK PHASE ONE, BLOCK 009, LOT 001A,002A, 0003, AND 0004, AND LAKEVIEW PARK SUBDIVISION THIRD REPLAT, BLOCK 001, LOT 031B, 0.563AC

Zoning Case 2022-16

B-3 TO SF-2

Legend

 Citylimits

 Zoning Case 2022



Zoning Case 2022-16

B-3 TO SF-2

Legend	CurrentZoning	
		R-1
		R-2
		R-3
		RMH
		B-3
		B-5
		PUD

SITE PHOTOS

Case #Z22-16: "B-3" to "SF-2"



View of the subject property looking south:



View of the subject property looking east:



SITE PHOTOS

Case #Z22-16: "B-3" to "SF-2"



View of the surrounding property to the east:



View of the surrounding property to the south:



MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 07, 2022

CASE # Z22-16
“B-3” to “SF-2”

HOLD a public hearing and consider a request submitted by Joe Patterson on behalf of Michael Patterson (**Case #Z22-16**) to rezone approximately 3.2562 acres out of the Lakeview Park Phase One, Block 9, Lots 1A, 2A, 3, and 4; and Block 1, Lots 30, and 31A, from “B-3” (Local Business District) to “SF-2” (Single-Family Residential District). The properties are locally addressed as 5398, 5400, 5450, 5500, and 5550 Rancier Avenue, Killeen, Texas.

Ms. Larsen briefed the Commission regarding the applicant’s request. She stated that staff recommends approval of the applicants request as presented.

The agent, Mr. Joe Patterson of 213 Ash Drive, Gatesville, Texas, was present to represent the case.

Chairman Latham opened the public hearing.

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

Commissioner Adams made a motion to approve the request as presented. Commissioner Sabree seconded, and the motion passed by a vote of 8 to 0.

ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 3.2562 ACRES OUT OF THE LAKEVIEW PARK PHASE ONE, BLOCK 9, LOTS 1A, 2A, 3, & 4 AND LAKEVIEW PARK SUBDIVISION THIRD REPLAT, BLOCK 1, LOT 31B, FROM “B-3” (LOCAL BUSINESS DISTRICT) TO “SF-2” (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Joe Patterson, on behalf of Michael Patterson, 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 3.2562 acres out of the Lakeview Park Phase One, Block 9, Lots 1A, 2A, 3, & 4 and Lakeview Park Subdivision Third Replat, Block 1, Lot 31B, from “B-3” (Local Business District) to “SF-2” (Single-Family Residential District), said request having been duly recommended for approval of “SF-2” (Single-Family Residential District) by the Planning and Zoning Commission of the City of Killeen on the 7th day of March 2022, 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 12th day of April 2022, at the City Hall, City of Killeen;

WHEREAS, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the majority opinion that the applicant’s zoning request should be approved as recommended by the Planning and Zoning Commission;

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

SECTION I. That the zoning classification of approximately 3.2562 acres out of the Lakeview Park Phase One, Block 9, Lots 1A, 2A, 3, & 4 and Lakeview Park Subdivision Third Replat, Block 1, Lot 31B, be changed from “B-3” (Local Business District) to “SF-2” (Single-

Family Residential District), said request having been duly recommended for approval of “SF-2” (Single-Family Residential District), for the property locally addressed as 5398, 5400, 5450, 5500, & 5550 Rancier Avenue, 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 12th day of April 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, City Attorney

Case #22-16

Ord. #22-____



CASE #Z22-15: “B-3” TO “SF-2”

PH-22-026

April 5, 2022

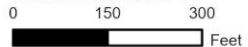
Case #Z22-16 – “B-3” to “SF-2”

- ❑ **HOLD** a public hearing and consider an ordinance requested by Joe Patterson on behalf of Michael Patterson (**Case #Z22-16**) to rezone approximately 3.2562 acres out of the Lakeview Park Phase One, Block 9, Lots 1A, 2A, 3 & 4 and Lakeview Park Subdivision Third Replat, Block 1, Lot 31B, from “B-3” (Local Business District) to “SF-2” (Single-Family Residential District).
- ❑ The properties are locally addressed as 5398, 5400, 5450, 5500, & 5550 Rancier Avenue, Killeen, Texas



Attachment #3

Council District: 1



Subject Property Legal Description: LAKEVIEW PARK PHASE ONE, BLOCK 009, LOT 001A,002A, 0003, AND 0004, AND LAKEVIEW PARK SUBDIVISION THIRD REPLAT, BLOCK 001, LOT 031B, 0.563AC

Zoning Case 2022-16

B-3 TO SF-2

Legend

 Citylimits

 Zoning Case 2022

Case #Z22-16 – “B-3” to “SF-2”

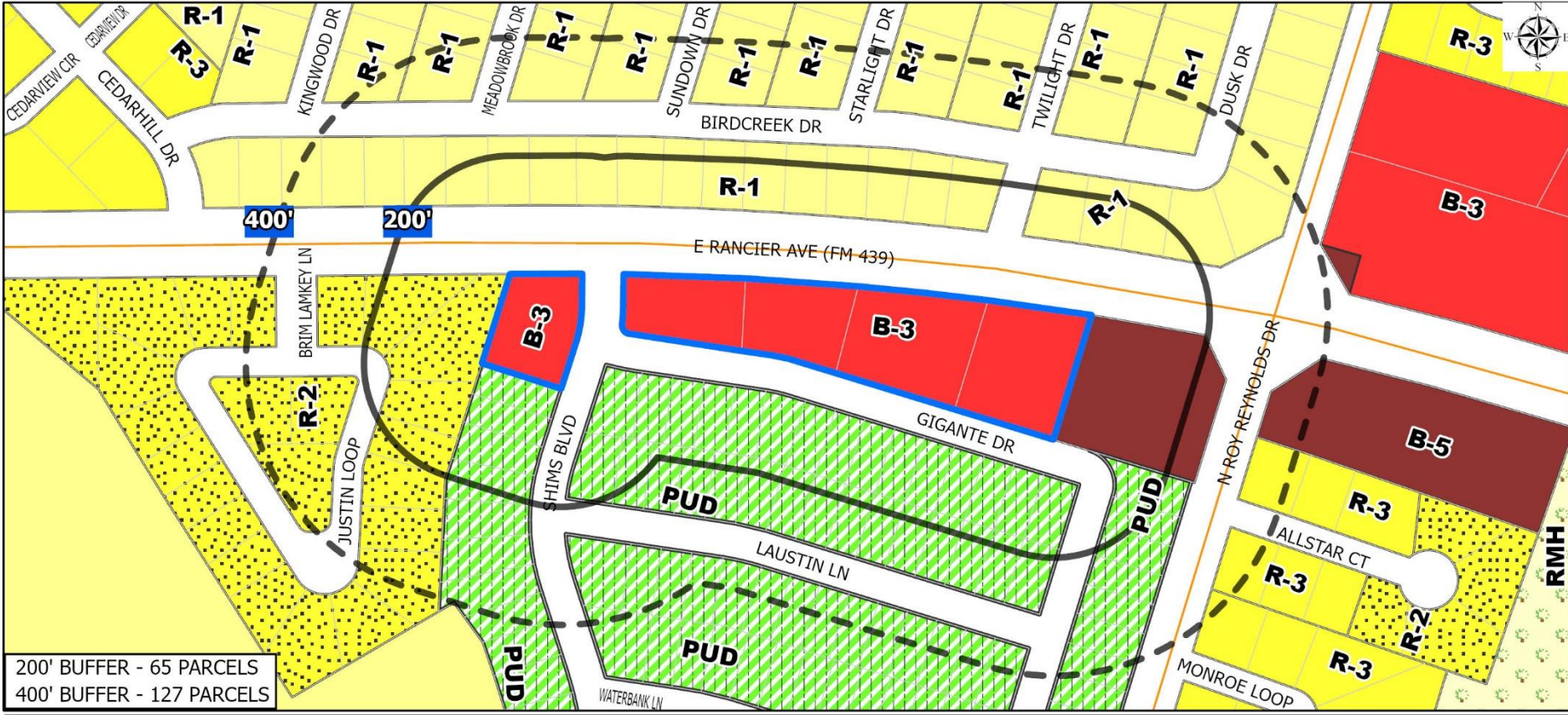
5

- If approved, the applicant intends to develop single-family residential lots on the property.
- This request is consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan.
- This property is designated as ‘General Residential (GR) on the Future Land Use Map (FLUM) of the Comprehensive Plan.

Case #Z22-16 – “B-3” to “SF-2”

6

- The ‘General Residential’ (GR) designation encourages the following development types:
 - ▣ Detached residential dwellings as a primary focus.
 - ▣ 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



Attachment #4

Zoning Map

Council District: 1

Subject Property Legal Description: LAKEVIEW PARK PHASE ONE, BLOCK 009, LOT 001A,002A, 0003, AND 0004, AND LAKEVIEW PARK SUBDIVISION THIRD REPLAT, BLOCK 001, LOT 031B, 0.563AC

Zoning Case 2022-16

B-3 TO SF-2



Case #Z22-16 – “B-3” to “SF-2”

8

- The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Case #Z22-16 – “B-3” to “SF-2”

9

View of the subject property looking south:



Case #Z22-16 – “B-3” to “SF-2”

10

View of the subject property looking east:



Case #Z22-16 – “B-3” to “SF-2”

11

Surrounding property to the east:



Case #Z22-16 – “B-3” to “SF-2”

12

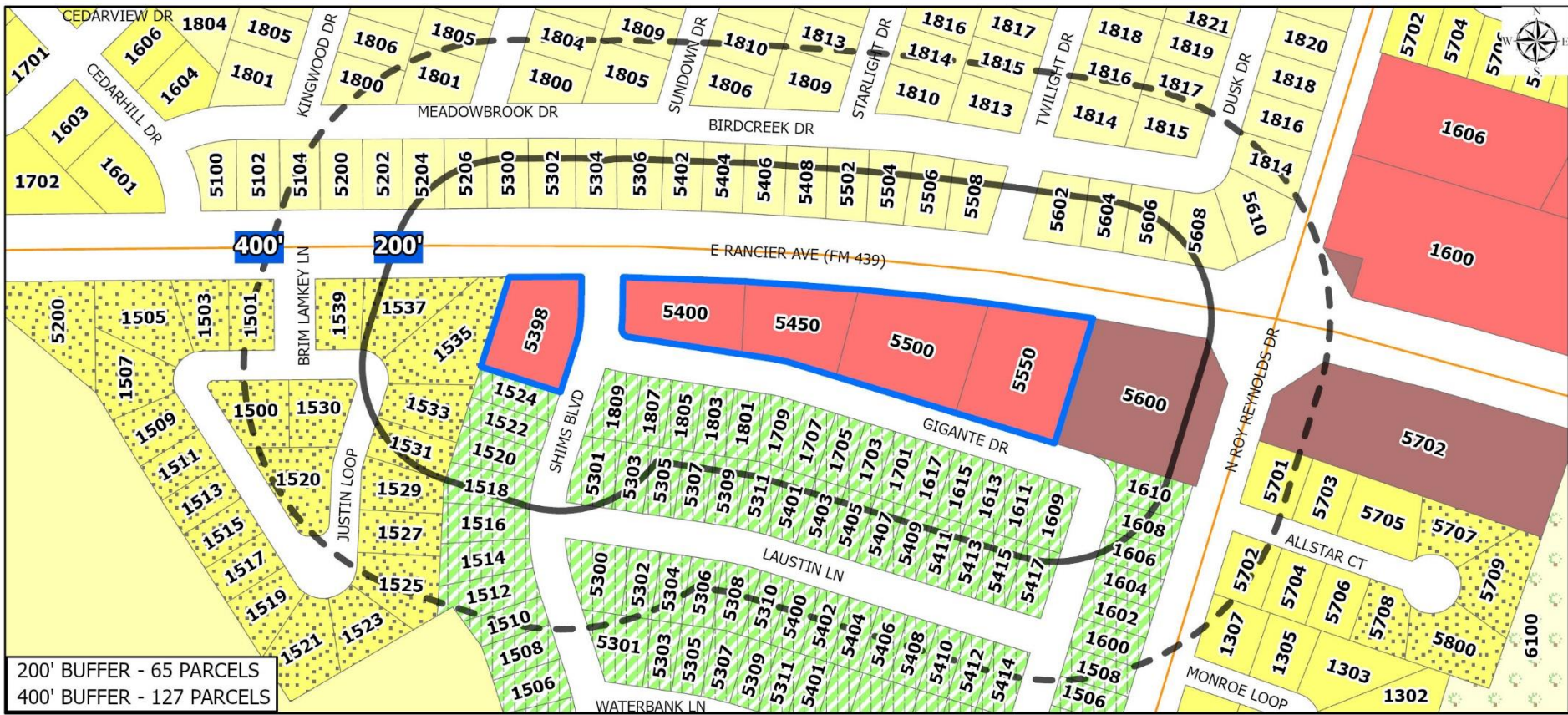
Surrounding property to the south:



Public Notification

13

- Staff notified one-hundred and twenty-seven (127) surrounding property owners regarding this request.
- Of those notified, sixty-two (62) properties are located outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and twenty-eight (28) property owners reside outside of Killeen.
- To date, staff has received no written responses regarding this request.



Alternatives

15

- ❑ The City Council has three (3) alternatives. The Council may:
 - ❑ Disapprove the applicant's zoning request;
 - ❑ Approve a more restrictive zoning district than requested by the applicant; or
 - ❑ Approve the applicant's zoning request as presented.

Staff Findings

- Staff finds the applicant's request consistent with the surrounding property uses and compatible with the existing land uses and prevailing community character. The character of the area is a predominantly residential with existing single-family homes zoned "SF-2" (Single-Family Residential District) nearby. Further, staff finds that it is unlikely that this property would be developed for commercial use. There is ample undeveloped commercial property on the east side of N. Roy Reynolds for future commercial development.

Staff Recommendation

17

- Staff recommends approval of the applicant's request to rezone the property from "B-3" (Local Business District) to "SF-2" (Single-Family Residential District) as presented.

Commission Recommendation

18

- ❑ At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.



City of Killeen

Legislation Details

File #:	PH-22-027	Version:	1	Name:	FLUM-22-11
Type:	Ordinance/Public Hearing		Status:	Public Hearings	
File created:	2/9/2022		In control:	City Council	
On agenda:	4/12/2022		Final action:		
Title:	HOLD a public hearing and consider an ordinance requested by Andrea Metz on behalf of Six Westheimer Retail, LTD (Case #FLUM22-11) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'General Commercial' (GC) designation to a 'Multi-Family Residential' (MFR) designation for a total of approximately 9.62 acres out of the A. Dickson Survey Abstract No. 262, the Killeen Industrial Foundation, Block 1, Lot 18, the Northside Theater Subdivision, Block 1, Lot 10, and the KIXS Addition, Block 1, Lot 1. The property is locally addressed as 3001 Atkinson Avenue, Killeen, Texas.				
Sponsors:	Development Services				
Indexes:					
Code sections:					
Attachments:	Staff Report Maps Minutes Ordinance Presentation				

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



STAFF REPORT

DATE: April 5, 2022
TO: Kent Cagle, City Manager
FROM: Edwin Revell, Executive Director of Development Services
SUBJECT: FLUM CASE # 22-11: 'GENERAL COMMERCIAL' (GC) TO 'MULTI-FAMILY RESIDENTIAL' (MFR)

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Six Westheimer Retail, LTD

Agent: Andrea Metz

Current FLUM Designation: 'General Commercial' (GC)

Requested FLUM Designation: 'Multi-Family Residential (MFR)

Current Zoning: "B-5" (Business District)

Requested Zoning: Planned Unit Development (PUD) w/ "R-3A" (Multifamily Apartment Residential District)

Summary of Request:

Andrea Metz, on behalf of Six Westheimer Retail, LTD, has submitted a request to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'General Commercial' (GC) designation to a 'Multi-Family Residential' (MFR) designation of approximately 9.62 acres out of the A. Dickson Survey Abstract No. 262, the Killeen Industrial Foundation, Block 1, Lot 18, the Northside Theater Subdivision, Block 1, Lot 10, and the KIXS Addition, Block 1, Lot 1. If approved, the applicant intends to develop multifamily apartments on the property.

Zoning/Plat Case History:

The subject property was rezoned from "M-1" (Manufacturing District) to "B-5" (Business District) on August 26, 2014 via Ordinance No. 14-062. The subject property was platted as part of the Killeen Industrial Foundation Block 1, Lot 18, Northside Theater Subdivision, Block 1, Lot 1, and KIXS Addition, Block 1, Lot 1.

Character of the Area:

	Current Land Use	Zoning District	Future Land Use
North	Vacant	B-5 (Business District)	General Commercial (GC)
East	Vacant & multifamily residential properties	B-5 (Business District)	General Commercial (GC)
South	Multifamily residential & commercial properties	B-5 (Business District) & M-1 (Manufacturing District)	General Commercial (GC) & Industrial (I)
West	Vacant & commercial properties	B-5 (Business District) & M-1 (Manufacturing District)	General Commercial (GC) & Industrial (I)

Future Land Use Map Analysis:

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

The 'General Commercial' (GC) designation is typically auto-oriented in character, which can be offset by enhanced building design, landscaping, reduced site coverage, and well-designed signage.

The 'General Commercial' (GC) designation encourages the following development types:

- Wide range of commercial retail and service uses, at varying scales and intensities;
- Office (both large and/or multi-story buildings and small-scale office uses);
- Public/institutional; and
- Parks and public spaces.

If approved, the 'Multi-Family Residential' (MFR) designation is typically auto-oriented but can be softened by perimeter and on-site landscaping, minimum spacing between buildings, site coverage limits, and on-site recreation or open space criteria.

The 'Multi-Family Residential' (MFR) designation encourages the following development types:

- Multi-unit attached residential in concentrated developments (5 or more units per building), whether for rent (apartments) or ownership (condominiums); or
- Parks and public spaces;

The applicant submitted a concurrent request to rezone the property from "B-5" (Business District) to PUD (Planned Unit Development) w/ "R-3A" (Multifamily Apartment Residential District).

Water, Sewer and Drainage Services:

Provider: City of Killeen
Within Service Area: Yes

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

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from Atkinson Ave which is classified as a 60' wide Local Street on the City of Killeen adopted Thoroughfare Plan.

Environmental Assessment:

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). The property is crossed by Riverine habitat associated with the Atkinson Ditch as identified on the National Wetlands Inventory.

Public Notification:

Staff notified twenty-five (25) surrounding property owners regarding this request. Of those property owners notified, twelve (12) reside outside of Killeen.

Staff Findings:

The current zoning of the subject property is "B-5" (Business District). The surrounding area includes commercial and residential uses. There is existing multifamily housing to the east and southeast of the property. There are existing commercial uses to the east and south, in addition to vacant properties to the east and north.

THE ALTERNATIVES CONSIDERED:

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

- Disapprove the applicant's FLUM amendment request;
- Approve a more restrictive FLUM designation; or
- Approve the applicant's FLUM amendment request.

Which alternative is recommended? Why?

Staff recommends approval of the applicant's FLUM amendment request as presented.

Staff finds that the request is consistent with the existing land uses surrounding the property and compatible with prevailing community character. The character of the surrounding area is a mix of multifamily residential and commercial uses.

CONFORMITY TO CITY POLICY:

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

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

The proposed FLUM amendment does not involve the expenditure of City funds. However, subsequent development and dedication of public infrastructure will involve the expenditure of maintenance funds over the life cycle of future development.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

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

This is not applicable.

RECOMMENDATION:

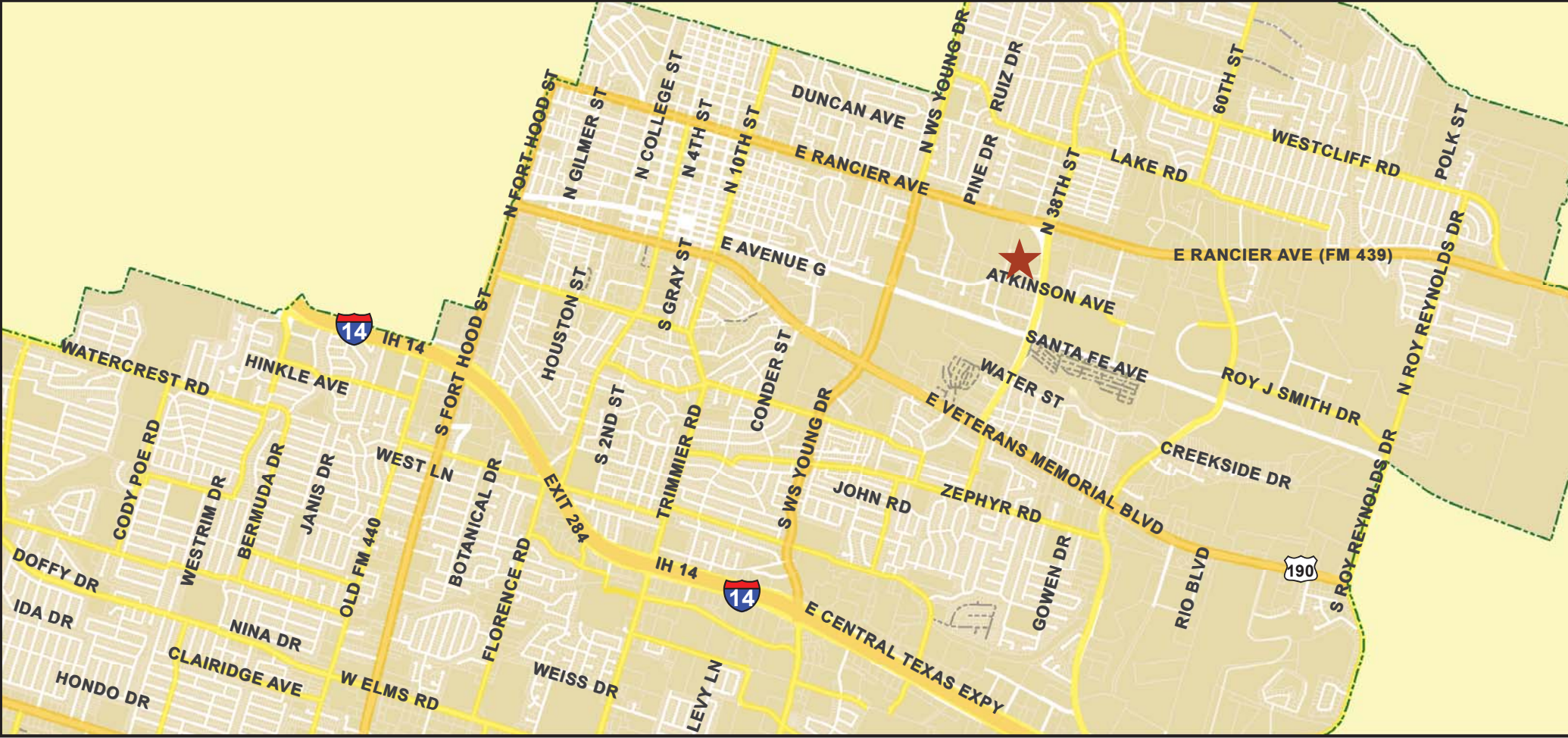
At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.

DEPARTMENTAL CLEARANCES:

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

ATTACHED SUPPORTING DOCUMENTS:

Maps
Minutes
Ordinance



LOCATION MAP

Case: FLUM AMENDMENT 2022-11

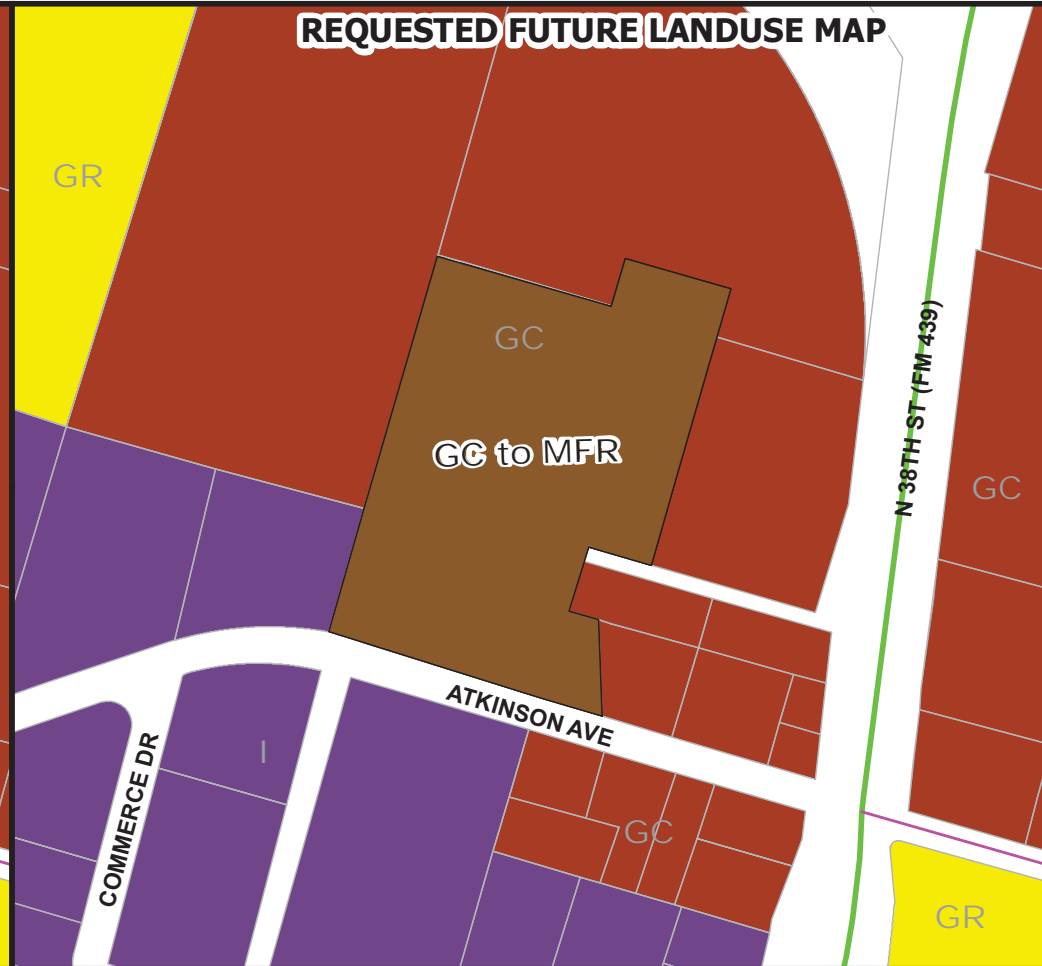
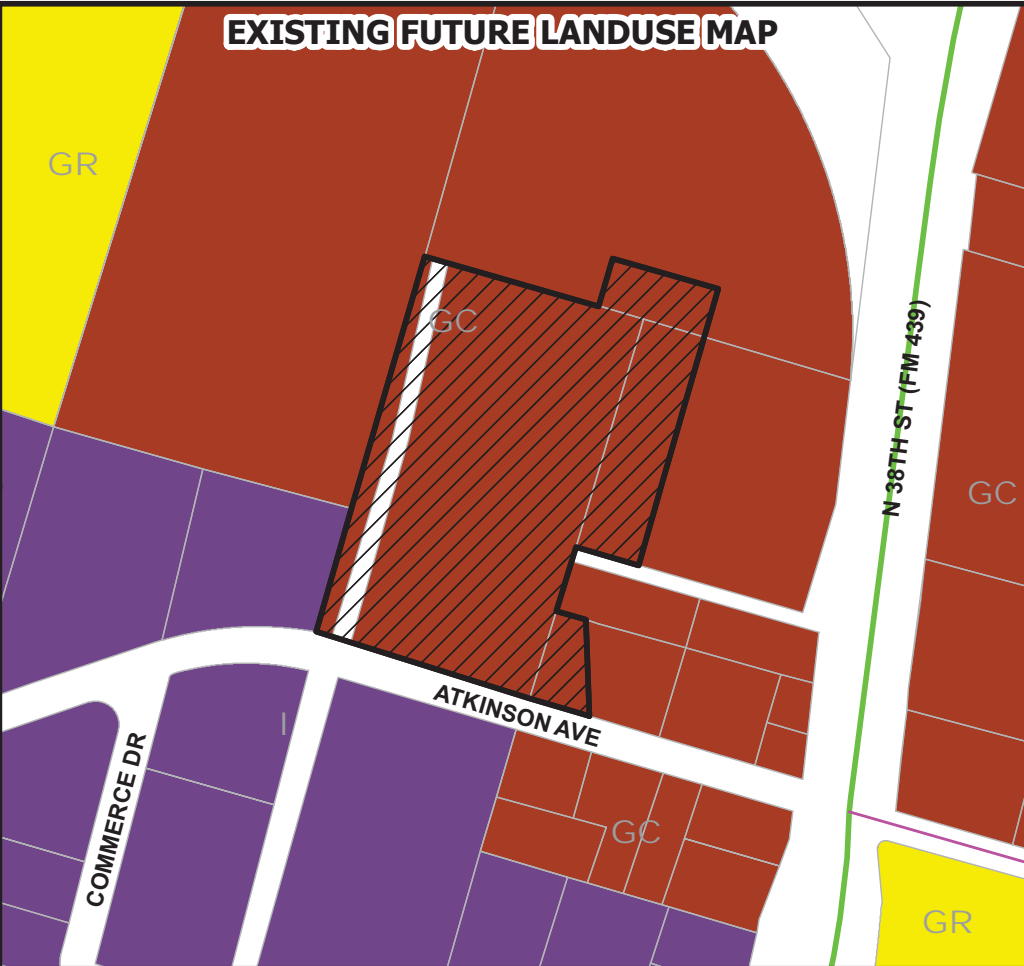
Council District: 1
FROM GC TO MFR
Subject Property Legal Description: A0266BC A DICKSON, PT OF 710-52-9-1 ACRES 0.455 AND KILLEEN INDUSTRIAL FOUNDATION, BLK 1, LOT 18, ACRES 7.467 AND PART OF KIXS ADDITION, BLK 1, LOT 1, ACRES 4.867 AND PART OF NORTHSIDE THEATER SUBDIVISION, BLK 1, LOT 1, ACRES 11.67



1 inch = 4,167 feet
Date: 2/10/2022

EXISTING FUTURE LANDUSE MAP

REQUESTED FUTURE LANDUSE MAP



FUTURE LAND USE MAP





Case: FLUM AMENDMENT 2022-11

Council District: 1

FROM GC TO MFR

Subject Property Legal Description: A0266BC A DICKSON, PT OF 710-52-9-1 ACRES 0.455 AND KILLEEN INDUSTRIAL FOUNDATION, BLK 1, LOT 18, ACRES 7.467 AND PART OF KIXS ADDITION, BLK 1, LOT 1, ACRES 4.867 AND PART OF NORTHSIDE THEATER SUBDIVISION, BLK 1, LOT 1, ACRES 11.67

Future Land Use Legend

-  FLUM Case Location
-  Industrial (I)
-  General Residential (GR)
-  General Commercial (GC)



1 inch = 417 feet

Date: 2/10/2022

MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 07, 2022

CASE # FLUM 22-11
'GC' to 'MFR'

HOLD a public hearing and consider a request submitted by Andrea Metz on behalf of Six Westheimer Retail, LTD (**Case #FLUM22-11**) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'General Commercial' (GC) designation to a 'Multi-Family Residential' (MFR) designation for approximately 9.62 acres out of the A. Dickson Survey Abstract No. 262, the Killeen Industrial Foundation, Block 1, Lot 18, and the Northside Theater Subdivision, Block 1, Lot 10. The property is addressed as 3001 Atkinson Avenue, Killeen, Texas.

Ms. Larsen briefed the Commission regarding the applicant's request. She stated that staff recommends approval of the request, as it is consistent with the character of the area.

The agent was not present to represent the case.

Chairman Latham opened the public hearing.

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

Commissioner Adams made a motion to table the request. The motion died for lack of a second.

Commissioner Alvarez made a motion to approve the request as presented. Commissioner Adams seconded, and the motion passed with by a vote of 7 to 1 with Commissioner Gukeisen in opposition. Commissioner Gukeisen stated that he believed the property should remain General Commercial.

ORDINANCE _____

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP TO CHANGE APPROXIMATELY 9.62 ACRES OUT OF THE A DICKSON SURVEY ABSTRACT NO. 262, THE KILLEEN INDUSTRIAL FOUNDATION, BLOCK 1, LOT 18, THE NORTHSIDE THEATER SUBDIVISION, BLOCK 1, LOT 10, AND THE KIXS ADDITION, BLOCK 1, LOT 1, FROM A 'GENERAL COMMERCIAL' (GC) TO 'MULTI-FAMILY RESIDENTIAL' (MFR) DESIGNATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

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

WHEREAS, the Planning and Zoning Commission has received a request from Mitchell & Associates, Inc., on behalf of Texas Land and Living, LLC, for a revision to the Future Land Use Map (FLUM) of the Comprehensive Plan to change the 'General Commercial' (GC) designation to a 'Multi-Family Residential' (MFR) designation, said property being legally described as being a total of approximately 9.62 acres out of the A. Dickson Survey Abstract No. 262, the Killeen Industrial Foundation, Block 1, Lot 18, the Northside Theater Subdivision, Block 1, Lot 10, and the KIXS Addition, Block 1, Lot 1; said revision having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 7th day of March 2022, 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 12th day of April, 2022, at the City Hall, City of Killeen;

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

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

SECTION I: That the future land use designation of a total of approximately 9.62 acres out of the A. Dickson Survey Abstract No. 262, the Killeen Industrial Foundation, Block 1, Lot 18, the Northside Theater Subdivision, Block 1, Lot 10, and the KIXS Addition, Block 1, Lot 1, be amended from a ‘General Commercial’ (GC) designation to a ‘Multi-Family Residential’ (MFR) designation.

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 12th day of April 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, City Attorney
Case #: FLUM 22-11
Ord#: 21-____



CASE #FLUM22-11: 'GC' TO 'MFR'

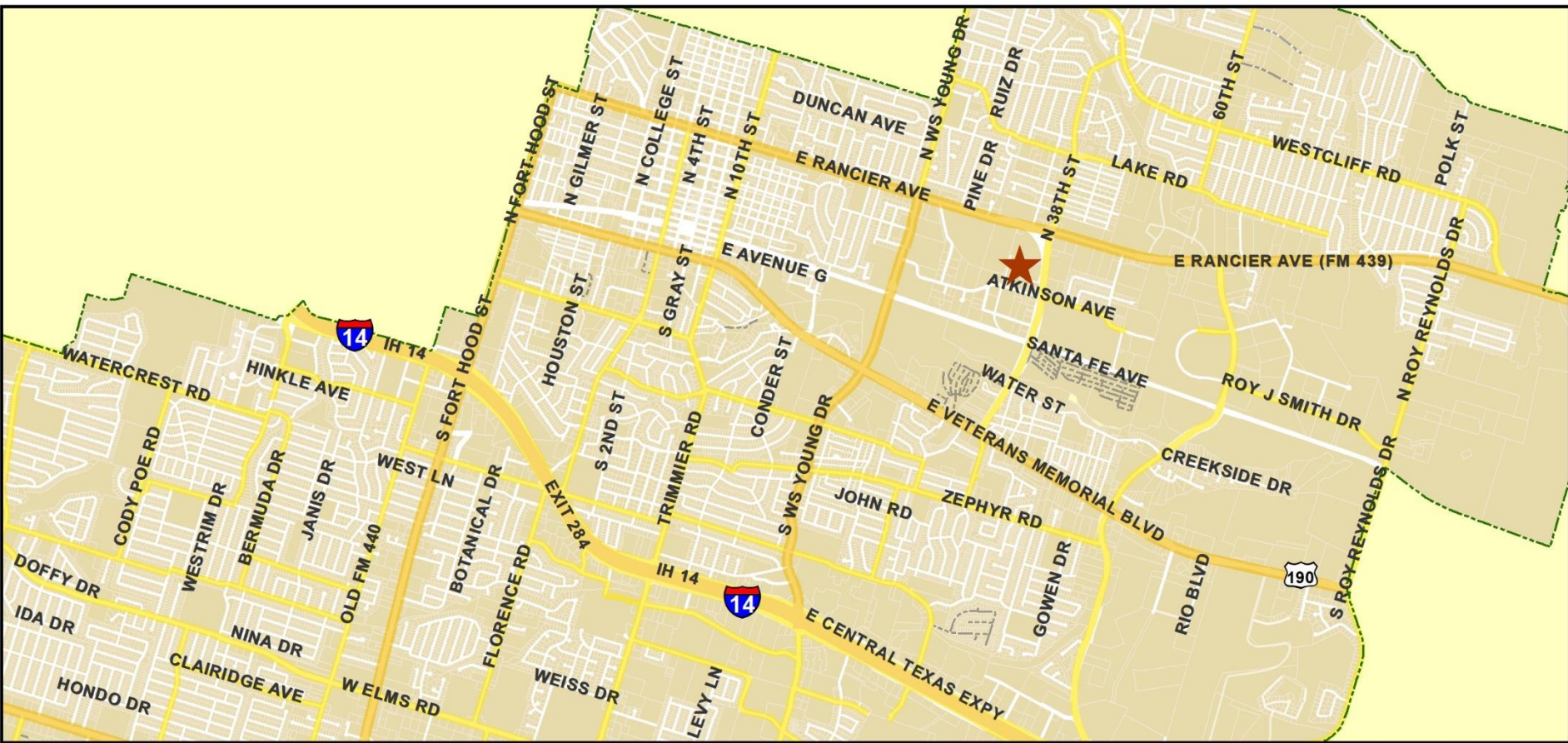
PH-22-027

April 5, 2022

Case #FLUM 22-11 – ‘GC’ to ‘MFR’

2

- ❑ **HOLD** a public hearing and consider an ordinance requested by Andrea Metz on behalf of Six Westheimer Retail, LTD (**Case #FLUM22-11**) to amend the Comprehensive Plan’s Future Land Use Map (FLUM) from a ‘General Commercial’ (GC) designation to a ‘Multi-Family Residential’ (MFR) designation for a total of approximately 9.62 acres out of the A. Dickson Survey Abstract No. 262, the Killeen Industrial Foundation, Block 1, Lot 18, and the Northside Theater Subdivision, Block 1, Lot 10.
- ❑ The property is addressed as 3001 Atkinson Avenue, Killeen, Texas.



LOCATION MAP

Case: FLUM AMENDMENT 2022-11

Council District: 1

FROM GC TO MFR

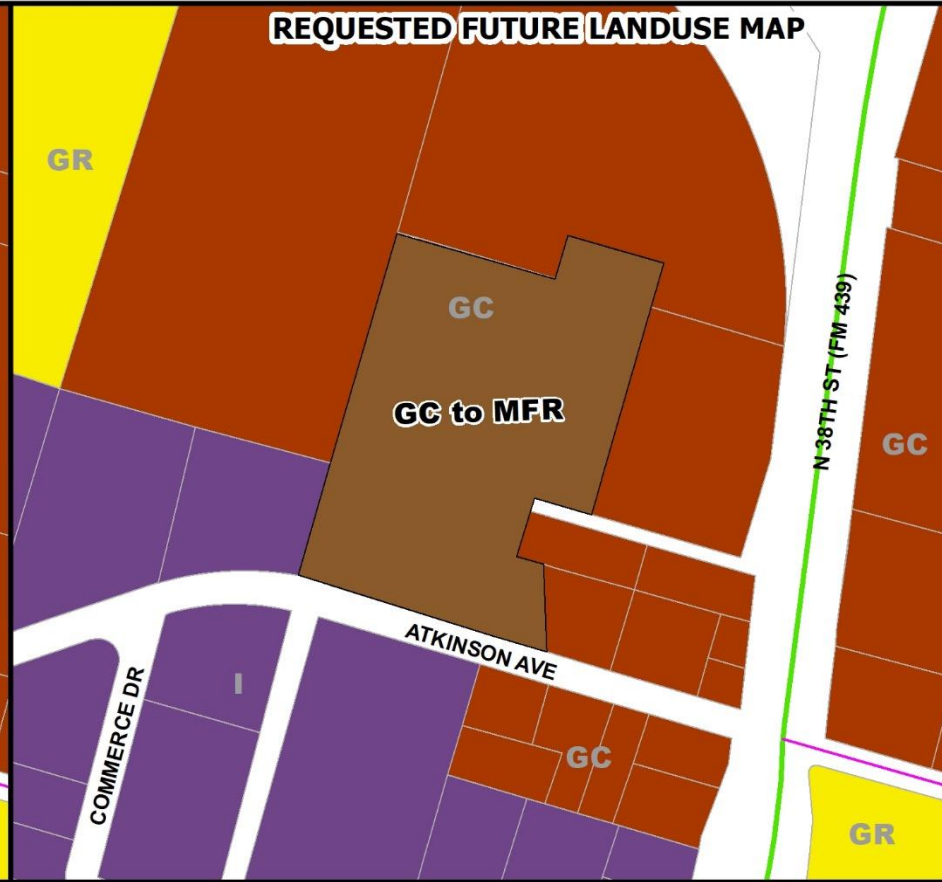
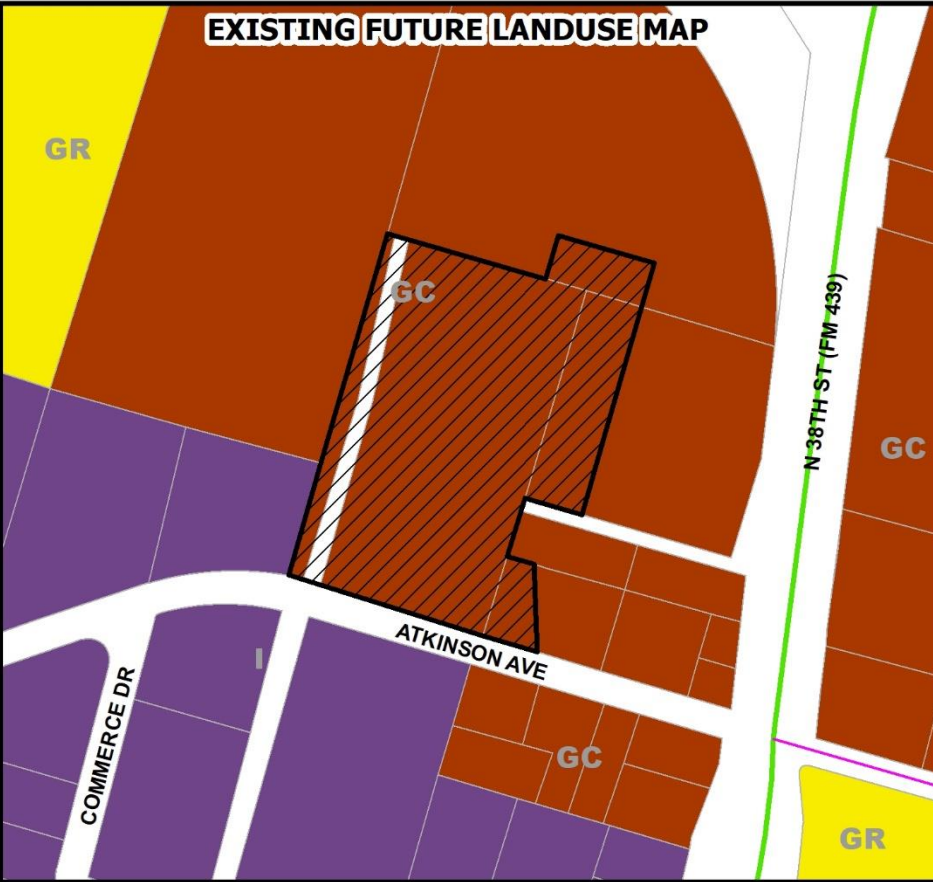
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1 inch = 4,167 feet
Date: 2/10/2022

EXISTING FUTURE LANDUSE MAP

REQUESTED FUTURE LANDUSE MAP



FUTURE LAND USE MAP





Case: FLUM AMENDMENT 2022-11

Council District: 1

FROM GC TO MFR

Subject Property Legal Description: A0266BC A DICKSON, PT OF 710-52-9-1 ACRES 0.455 AND KILLEEN INDUSTRIAL FOUNDATION, BLK 1, LOT 18, ACRES 7.467 AND PART OF KIXS ADDITION, BLK 1, LOT 1, ACRES 4.867 AND PART OF NORTHSIDE THEATER SUBDIVISION, BLK 1, LOT 1, ACRES 11.67

Future Land Use Legend

-  FLUM Case Location
-  Industrial (I)
-  General Residential (GR)
-  General Commercial (GC)



1 inch = 417 feet

Date: 2/10/2022

Case #FLUM 22-11 – ‘GC’ to ‘MFR’

5

- If approved, the applicant intends to develop multifamily apartments on the property.
- The applicant has submitted a concurrent request to rezone the property from “B-5” (Business District) to PUD (Planned Unit Development) w/ “R-3A” (Multifamily Apartment Residential District).

Case #FLUM 22-11 – ‘GC’ to ‘MFR’

6

- This property is designated as ‘General Commercial’ (GC) on the Future Land Use Map (FLUM) of the Comprehensive Plan.
- The ‘General Commercial’ (GC) designation is typically auto-oriented in character, which can be offset by enhanced building design, landscaping, reduced site coverage, and well-designed signage.

Case #FLUM 22-11 – ‘GC’ to ‘MFR’

7

- The ‘General Commercial’ (GC) designation encourages the following development types:
 - ▣ Wide range of commercial retail and service uses, at varying scales and intensities;
 - ▣ Office (both large and/or multi-story buildings and small-scale office uses);
 - ▣ Public/institutional; and
 - ▣ Parks and public spaces.

Case #FLUM 22-11 – ‘GC’ to ‘MFR’

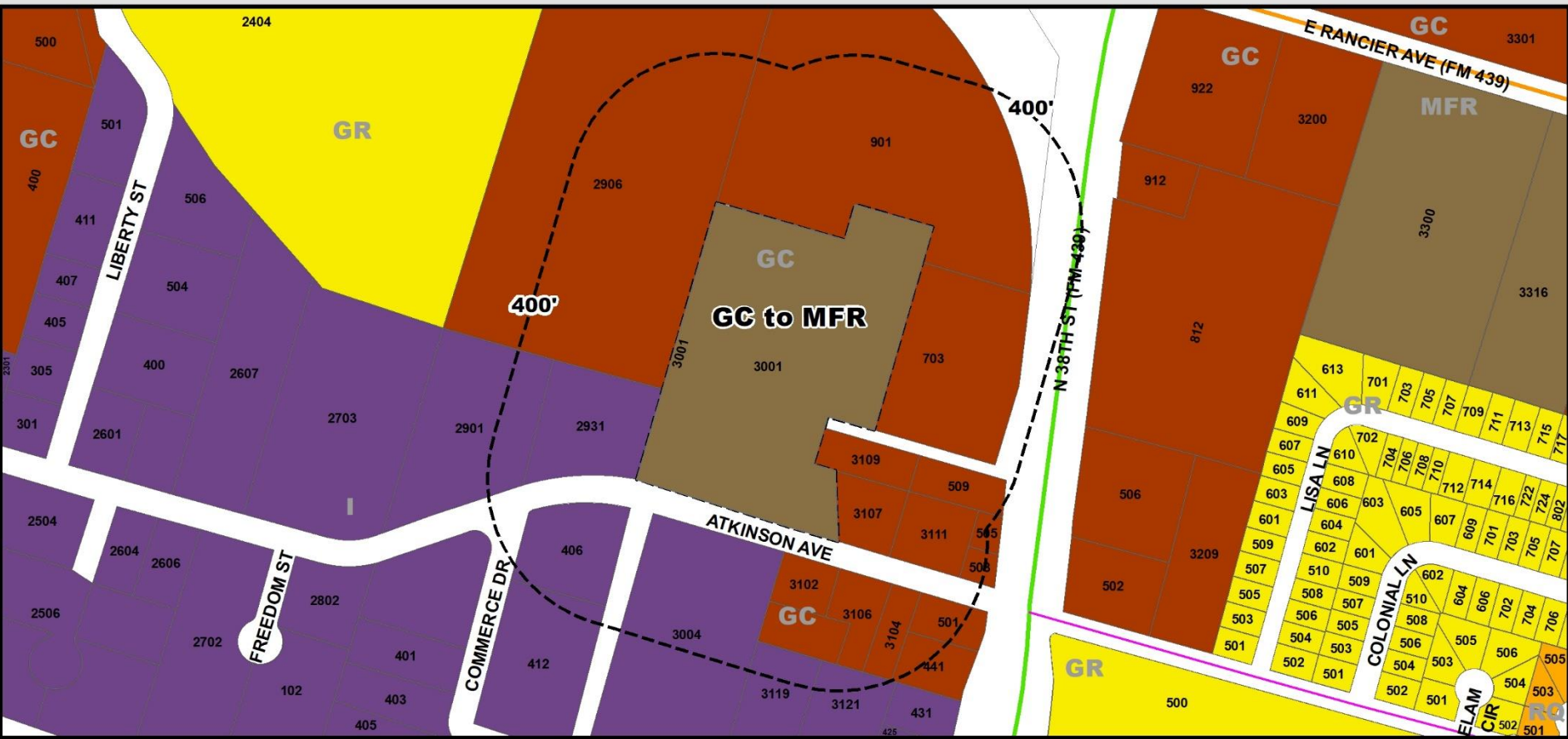
8

- If approved, the ‘Multi-Family Residential’ (MFR) designation is typically auto-oriented but can be softened by perimeter and on-site landscaping, minimum spacing between buildings, site coverage limits, and on-site recreation or open space criteria.
- The ‘Multi-Family Residential’ (MFR) designation encourages the following development types:
 - ▣ Multi-unit attached residential in concentrated developments (5 or more units per building), whether for rent (apartments) or ownership (condominiums); or
 - ▣ Parks and public spaces.

Case #FLUM 22-11 – ‘GC’ to ‘MFR’

9

- Staff mailed courtesy notices to twenty-five (25) surrounding property owners regarding this request.
- Of those property owners notified, twelve (12) property owners reside outside of Killeen.



NOTIFICATION MAP

Case: FLUM AMENDMENT 2022-11

Council District: 1

FROM GC TO MFR

Subject Property Legal Description: A0266BC A DICKSON, PT OF 710-52-9-1 ACRES 0.455 AND KILLEEN INDUSTRIAL FOUNDATION, BLK 1, LOT 18, ACRES 7.467 AND PART OF KIXS ADDITION, BLK 1, LOT 1, ACRES 4.867 AND PART OF NORTHSIDE THEATER SUBDIVISION, BLK 1, LOT 1, ACRES 11.67

Legend

Killen City Limits	Minor Arterial, Existing	Industrial (I)	General Commercial (GC)
Bell County Area	Principal Arterial, Existing	Four-Plex Residential (RG)	
Collector, Existing	Multi-Family Residential (MFR)	General Residential (GR)	

Date: 2/10/2022

Alternatives

- ❑ The City Council has three (3) alternatives. The Council may:
 - ▣ Disapprove the applicant's FLUM amendment request;
 - ▣ Approve a more restrictive FLUM designation than requested; or
 - ▣ Approve the applicant's FLUM amendment request as presented.

Staff Recommendation

12

- ❑ Staff recommends approval of the applicant's FLUM amendment request as presented.
- ❑ Staff finds that the request is consistent with the existing land uses surrounding the property and compatible with prevailing community character. The character of the surrounding area is a mix of multifamily residential and commercial uses.

Commission Recommendation

13

- ❑ At their regular meeting on March 7, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 8 to 0.



City of Killeen

Legislation Details

File #: RQ-22-013 **Version:** 1 **Name:** Future Agenda Item Request
Type: Future Agenda Requests **Status:** Future Agenda Items
File created: 3/7/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Briefing from TEX-21 (Transportation Excellence for the 21th Century)
Sponsors: City Council
Indexes:
Code sections:
Attachments: [Request](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



ATTACHMENT A

REQUEST TO PLACE ITEM ON THE AGENDA

(Per Section 1-20 of Governing Standards and Expectations)

Requestor(s): Mayor Pro Tem Debbie Nash-King, District 2

Date: 03/07/2022

Problem/Issue/Idea Name for Agenda:

I am requesting for Mr. David Dean to brief the council on TEX-2I.

Description of Problem/Issue/Idea:

The purpose of the request is for the council to be briefed on the transportation infrastructure and the
expansion of I-14, etc.

Requested Action:

Item to be placed on 4 April 2022 workshop agenda for consideration as a future agenda item for discussion.



City of Killeen

Legislation Details

File #: RQ-22-014 **Version:** 1 **Name:** Future Agenda Item Request
Type: Future Agenda Requests **Status:** Future Agenda Items
File created: 3/9/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Discharging Firearms in City Limits
Sponsors: City Council
Indexes:
Code sections:
Attachments: [Request](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		

ATTACHMENT A

REQUEST TO PLACE ITEM ON THE AGENDA (Per Section 1-20 of Governing Standards and Expectations)

Requestor(s): Mellisa Brown

Date: 3/9/22

Problem/Issue/Idea Name for Agenda: Discharging firearms in City limits

Description of Problem/Issue/Idea: Article 1, Division 2, Section 16-46 lists exception that allow firearms to be discharged in City limits. Exceptions include: A discharge in the city's extraterritorial jurisdiction or in an area annexed by the city after September 1, 1981, if the weapon discharged is: (1) A shotgun, air rifle or pistol, BB gun, or bow and arrow discharged: (a) On a tract of land of ten (10) acres or more and more than one hundred fifty (150) feet from a residence or occupied building located on another property; and (b) Discharged in a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

As the City has expanded, these properties are now surrounded by new development and there is increased danger to citizens. Our police are unable to do anything when guns are fired in these areas because of the current ordinance.

Requested Action: Review 16-46 and, if it is deemed appropriate, amend the exceptions regarding discharge of firearms inside City limits.



City of Killeen

Legislation Details

File #: RQ-22-015 **Version:** 1 **Name:** Future Agenda Item Request
Type: Future Agenda Requests **Status:** Future Agenda Items
File created: 3/15/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: KEDC Structure Review
Sponsors: City Council
Indexes:
Code sections:
Attachments: [Request](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		

ATTACHMENT A

REQUEST TO PLACE ITEM ON THE AGENDA (Per Section 1-20 of Governing Standards and Expectations)

Requestor(s): Mellisa Brown

Date: 3/15/22

Problem/Issue/Idea Name for Agenda: KEDC structure review

Description of Problem/Issue/Idea: Review the structure and oversight of KEDC and economic development for Killeen

Requested Action: review and discuss current KEDC process and make changes if deemed necessary and appropriate



City of Killeen

Legislation Details

File #: RQ-22-016 **Version:** 1 **Name:** Future Agenda Item Request
Type: Future Agenda Requests **Status:** Future Agenda Items
File created: 3/15/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Request Quarterly Update from KEDC
Sponsors: City Council
Indexes:
Code sections:
Attachments: [Request](#)

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



ATTACHMENT A

REQUEST TO PLACE ITEM ON THE AGENDA

(Per Section 1-20 of Governing Standards and Expectations)

Requestor(s): _____

Date: _____

Problem/Issue/Idea Name for Agenda:

Description of Problem/Issue/Idea:

Requested Action:



City of Killeen

Legislation Details

File #: DS-22-040 **Version:** 1 **Name:** Discuss Downtown Property Improvements
Type: Discussion Items **Status:** Discussion Items
File created: 3/22/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Discuss Downtown Property Improvements
Sponsors: City Council
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



City of Killeen

Legislation Details

File #: DS-22-041 **Version:** 1 **Name:** Discuss Potential Sale of Cemetery Property
Type: Discussion Items **Status:** Discussion Items
File created: 3/15/2022 **In control:** City Council
On agenda: 4/12/2022 **Final action:**
Title: Discuss Potential Sale of Cemetery Property for Economic Development Purposes
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
4/5/2022	1	City Council Workshop		



City of Killeen

Legislation Details

File #: DS-22-045 **Version:** 1 **Name:** Discuss Employee of Chief of Police
Type: Discussion Items **Status:** Discussion Items
File created: 4/8/2022 **In control:** City Council Workshop
On agenda: 4/12/2022 **Final action:**
Title: Discuss Employment of the Chief of Police
Sponsors: City Council
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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