



# City of Killeen

## Legislation Details (With Text)

**File #:** PH-18-022B    **Version:** 1    **Name:** Zoning 18-15  
**Type:** Ordinance/Public Hearing    **Status:** Passed  
**File created:** 8/6/2018    **In control:** City Council  
**On agenda:** 8/28/2018    **Final action:** 8/28/2018

**Title:** HOLD a public hearing and consider an ordinance requested by Brandy Kelley on behalf of JoAnn Kelley (Case #Z18-15) to rezone approximately 87 acres out of the M.T. Martin Survey Abstract No. 963 from "A" (Agricultural District) to "R-1" (Single-Family Residential District), and from "UD" (University District) to "UD" with a "CUP" (Conditional Use Permit). The property is locally known as 410 Tower Hill Lane and 9600 South Fort Hood Street, and is generally located on the east side of S.H. 195, north of the intersection with Tower Hill Lane in Killeen, Texas.

**Sponsors:** Development Services

**Indexes:**

**Code sections:**

**Attachments:** 1. Staff Report, 2. Map, 3. Minutes, 4. Ordinance, 5. Responses, 6. Pharr v Tippitt Considerations, 7. Presentation

Date	Ver.	Action By	Action	Result
8/28/2018	1	City Council	Approved	Pass
8/21/2018	1	City Council Workshop		

**HOLD** a public hearing and consider an ordinance requested by Brandy Kelley on behalf of JoAnn Kelley (**Case #Z18-15**) to rezone approximately 87 acres out of the M.T. Martin Survey Abstract No. 963 from "A" (Agricultural District) to "R-1" (Single-Family Residential District), and from "UD" (University District) to "UD" with a "CUP" (Conditional Use Permit). The property is locally known as 410 Tower Hill Lane and 9600 South Fort Hood Street, and is generally located on the east side of S.H. 195, north of the intersection with Tower Hill Lane in Killeen, Texas.

**DATE:** August 21, 2018

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

**FROM:** Dr. Ray Shanaa, AICP, Exec. Dir. of Planning and Development Services

**SUBJECT: ZONING CASE #Z18-15 "A" (Agricultural District) and "UD" (University District) to "R-1" (Single-Family Residential District) and "UD" (University District) with a "CUP" (Conditional Use Permit) for Single-Family Residential Use**

**Background and Findings:**

This request is submitted by Brandy Kelley on behalf of JoAnn Kelley to rezone approximately 87 acres out of the M.T. Martin Survey, Abstract No. 963, from "A" (Agricultural District) to "R-1" (Single-Family Residential District), and from "UD" (University District) to "UD" with a "CUP" (Conditional Use Permit) for single-family residential use. The property is locally known as 410 Tower Hill Lane and 9600 South Fort Hood Street, and is

generally located on the east side of S.H. 195, north of the intersection with Tower Hill Lane, in Killeen Texas.

Sec. 31-439 of the Killeen Code of Ordinances states that the first nine hundred and fifty (950) feet of depth within the University District, as measured from State Highway 195, shall be designated for commercial use, and that the remaining five hundred and fifty (550) feet of depth of shall be designated for mixed-use development, or residential use via a conditional use permit." In accordance with this section, the applicant is requesting a Conditional Use Permit within the "UD" (University District) to allow for single-family residential use for the portion of the subject area that is between 950 feet and 1,500 feet east of State Highway 195. For the portion of the subject area that is 1,500 feet or more from State Highway 195, the applicant is requesting a change from "A" (Agricultural District) to "R-1" (Residential Single-Family).

Property Specifics:

Applicant / Property Owner: Brandy Kelley / JoAnn Kelley

Property Location: 410 Tower Hill Lane and 9600 Tower Hill Lane, Killeen, Texas

Legal Description: Approximately 87 acres out of the M.T. Martin Survey Abstract No. 963

Zoning/ Plat Case History: There have been no recent zoning change requests for this property.

**District Descriptions:**

"A" (Agricultural District) Description:

A building or premise in a district "A" Agricultural District shall be used only for the following purposes:

- (1) Stables, commercial or private.
- (2) Agricultural uses to include animal production, crop production, horticulture, and support housing.
- (3) Home occupations as permitted in district "R-1" single-family residential district.
- (4) Agricultural single-family residential in accordance with division 3 of this article.
- (5) Accessory buildings customarily incident to the uses in this section.

"R-1" (Residential-Single Family District) Description:

A building or premise in a district "R-1" Single-family Residential District shall be used only for the following purposes:

- (1) One-family dwellings.
- (2) Churches or other places of worship.
- (3) Colleges, universities or other institutions of higher learning.
- (4) Country clubs or golf courses, but not including miniature golf courses, driving ranges or similar forms of commercial amusement.
- (5) Farms, nurseries or truck gardens, limited to the proportion and cultivation of plants, provided no retail or wholesale business is conducted on the premises, and provided further that no poultry or livestock other than normal household pets shall be housed within one hundred (100) feet of any property line.
- (6) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
- (7) Public buildings, including libraries, museums, police and fire stations.
- (8) Real estate sales offices during the development of residential subdivisions but not to exceed two (2) years. Display residential houses with sales offices, provided that if such display houses are not moved within a period of one (1) year, specific permission must be obtained from the city council for such display houses to remain on their locations.

- (9) Schools, public elementary or high.
- (10) Schools, private with curriculum equivalent to that of a public elementary or high school.
- (11) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
- (12) Water supply reservoirs, pumping plants and towers.
- (13) Accessory buildings and uses, incident to the uses in this section and located on the same lot therewith, not involving the conduct of a retail building.
- (14) A subdivision entry sign, when such sign is located on a lot that abuts a subdivision boundary and fronts on a street entering the subdivision.
- (15) Cemetery.

"UD" (University District) Description:

A building or premises in the University District shall only be used for uses permitted in the "B-2" district, subject to the provisions of this division, and for the following purposes:

- (1) Bank, savings and loan or other financial institution excluding credit access businesses as defined by the Texas Finance Code.
- (2) Hospital, home or center for the acute or chronic ill, or assisted living facility.
- (3) Household appliance sales and repair service, no outside storage.
- (4) Retail bakery or confectionery: engaged in preparation, baking, cooking, selling and delivery of products.
- (5) Business day care.
- (6) Bowling alleys.
- (7) Cleaning or laundry (self-service).
- (8) Cleaning or laundry, (pick-up station).
- (9) Florist, garden shop, greenhouse or nursery office (retail): no growing of plants, shrubs or trees out-of-doors on premises; no outside display or storage unless behind the required front yard or the actual setback of the principal building, whichever is greater.
- (10) General food products, retail sales, such as supermarkets, butcher shops, dairy stores, seafood sales or health food sales.
- (11) Cafeteria or catering service.
- (12) Office, general business.
- (13) Restaurant or café (with drive-thru or dine in service).
- (14) Tennis, swim club, health club or gym.
- (15) Small animal clinic or pet grooming shop.
- (16) Hotel or motel.
- (17) Job printing.
- (18) Gasoline service station, auto laundry, car wash, or oil / lube service station.
- (19) Retail sales of new auto parts: no outside storage.
- (20) A customarily incidental use: sale of beer and/or wine for off-premises consumption only shall be considered a customarily incident use in this district.
- (21) Theaters of general release.
- (22) A restaurant permitted to offer alcoholic beverages for sale operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, and in accordance with chapter 31, division 16, restaurant and alcohol sales district, as amended.
- (23) Package stores operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, and in accordance with chapter 31, division 12A, district B-3A, local business and alcohol sales district, as amended.
- (24) Mixed-use development, being located nine hundred fifty (950) feet to one thousand five hundred (1,500) feet east of the east right-of-way of State Highway 195, and for a distance of approximately seventy-six hundred (7,600) feet south of the intersection of State Highway 195 and State Highway

201, for the commercial and residential use of a building, set of buildings, or neighborhood, where the first floor is designed, constructed and used for commercial use only while allowing access to residential uses.

(25) Art gallery, book store or library.

Surrounding Land Uses:

Direction	Zoning District	Land Use
North	"R-1" and "UD" w/ CUP	Vacant
South	"A", "A-R1", and "UD" w/ CUP	Vacant
East	"A" and "A-R1"	Low Density Residential
West	"UD" and "UD" w/ CUP	Vacant

Existing Land Use(s) on the Property: The property is undeveloped.

Historic Properties: None

Community Infrastructure and Environmental Assessment:

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

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

Transportation:

Existing conditions: The property is located north of Tower Hill Lane, which is a private, unimproved street.

Proposed Improvements: None at this time.

Projected Traffic Generation: A typical single-family home will generate ten (10) vehicle trips per day [note- this data is sourced from the Institute of Transportation Engineer (ITE) Trip Generation Rates-9th Edition, provided through Spack Consulting].

Environmental Assessment:

There is a TP&L easement that bisects the eastern portion of this parcel and there are several utility and access easements shown on this parcel. Additionally, there is a large drainage easement on this parcel that is not currently illustrated on the exhibit. The only points of access onto this parcel are the private access drive from Biels Loop that crosses the TP&L easement. The second point of access is through a private road (Tower Hill Lane) which connects to S. Fort Hood Street.

This property does not lie within a FEMA regulatory Special Flood Hazard Area (SFHA). Currently sheet flow runoff exits this parcel and flows down the hill in all directions. From there the majority of the combined runoff flows west into an unnamed tributary to North Reece Creek. The runoff from the eastern portion of the hill flows southeast into Rock Creek. Both North Reece Creek and Rock Creek flow south into the Lampasas River prior to leaving the City. These water courses areas not currently listed on the TCEQ's 303(d) water quality list for impairment. The applicant is advised that the area being zoned is not currently platted. At the time of development the current drainage and infrastructure standards will be applicable to this site.

The property owner and his agents are cautioned that unknown or unforeseen site conditions may require

remedial action to provide safe and adequate water, sewer, or drainage service to the property. Further, City of Killeen development regulations require that capacity analyses related to development of the property are the sole responsibility of the owner. The owner or his agents, acting as the permit applicant for the subject property, shall coordinate tie in to all publicly dedicated infrastructure with the Public Works Department.

Land Use Analysis:

Future Land Use Map: This area is designated as 'SC' (Suburban Commercial), 'E' (Estate), 'SR' (Suburban Residential), and 'P-R' (Parks and Recreation) on the Future Land Use Map (FLUM) of the Comprehensive Plan.

Plan Recommendation:

- Suburban Commercial: Range of commercial retail and service uses, at varying scales and intensities depending on the site.
- Estate: Detached residential dwellings, public/institutional uses, and parks and public spaces.
- Suburban Residential: Detached residential dwellings, planned developments to provide for other housing types (e.g., townhouse, patio) in a Suburban character setting, public/institutional uses, and parks and public spaces.
- Parks and Recreation: Public parks and open space, public trails, public recreation areas

Consistency: The requested zoning change is not consistent with the FLUM. However, a FLUM amendment application has been submitted concurrently with this request.

Public Notification: Staff notified twenty-three (23) surrounding property owners regarding this request. As of the date of this report, staff has received three (3) letters in support and no letters in opposition to the request.

**THE ALTERNATIVES CONSIDERED:**

**Which alternative is recommended?** Staff's recommendation to the Planning and Zoning Commission was that the portion of the subject property that is encumbered by the hill remain zoned "A" (Agricultural District).

**Why?** Development of the existing hill would be extremely costly, and it is therefore unlikely that it will be developed as single-family (R-1) residential use. Staff recommended that top of the hill remain zoned "A" (Agricultural District) in order to preserve the land which will not be developed.

**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:**

The Planning and Zoning Commission recommended the following:

- That approximately 62 acres out of the subject property be changed from "A" (Agricultural District) to "R-1" (Residential-Single Family District).
- That approximately 16 acres, consisting of the top of the hill (see attached exhibit), remain as "A" (Agricultural District).
- That approximately 9 acres, consisting of the portion of the subject property that is between 950 feet and 1,500 feet from State Highway 195, be changed from "UD" (University District) to "UD" with a "CUP" (Conditional Use Permit) for single-family residential use.
- That all residential housing within the "CUP" (Conditional Use Permit) area shall meet the height and area requirements as detailed within Sections 31-187 through 188 of the Code of Ordinances, and that the applicant shall satisfy all architectural and landscaping requirements within the "UD" (University District).

**DEPARTMENTAL CLEARANCES:**

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

**ATTACHED SUPPORTING DOCUMENTS:**

Maps  
Minutes  
Ordinance  
Responses  
Pharr vs. Tippitt Considerations