



City of Killeen

Legislation Details (With Text)

File #: PH-17-055B **Version:** 1 **Name:** Zoning 17-26
Type: Ordinance/Public Hearing **Status:** Passed
File created: 11/20/2017 **In control:** City Council
On agenda: 12/12/2017 **Final action:** 12/12/2017

Title: HOLD a public hearing and consider an ordinance requested by Payton E. Duncan, (Case #Z17-26) to rezone approximately 46.196 acres from "A" (Agricultural District) to "R-1" (Single-Family Residential District), 7.487 acres from "UD" (University District) to "UD" (University District) with a Conditional Use Permit (CUP) for "R-1" (Single-Family Residential) housing and 0.543 acre from "CD" (Cemetery District) to "CD (Cemetery District) with a Conditional Use Permit (CUP) for "R-1" (Single-Family Residential) housing for a total of approximately 54.226 acres out of the W. H. Cole Survey, Abstract No. 200. The property is locally known as 405 Tower Hill Lane, Killeen, Texas.

Sponsors: Development Services

Indexes:

Code sections:

Attachments: 1. Exhibits, 2. Staff Report, 3. Minutes, 4. Ordinance, 5. Responses, 6. Presentation

Date	Ver.	Action By	Action	Result
12/12/2017	1	City Council	Approved	Pass
12/5/2017	1	City Council Workshop		

HOLD a public hearing and consider an ordinance requested by Payton E. Duncan, (**Case #Z17-26**) to rezone approximately 46.196 acres from "A" (Agricultural District) to "R-1" (Single-Family Residential District), 7.487 acres from "UD" (University District) to "UD" (University District) with a Conditional Use Permit (CUP) for "R-1" (Single-Family Residential) housing and 0.543 acre from "CD" (Cemetery District) to "CD (Cemetery District) with a Conditional Use Permit (CUP) for "R-1" (Single-Family Residential) housing for a total of approximately 54.226 acres out of the W. H. Cole Survey, Abstract No. 200. The property is locally known as 405 Tower Hill Lane, Killeen, Texas.

DATE: **December 5, 2017**

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

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

SUBJECT: ZONING CASE #Z17-26 "A" (Agricultural District) to "R-1" (Single-Family Residential District) and "UD" (University District) to "UD" (University District) with a Conditional Use Permit (CUP) for "R-1" (Single-Family Residential) housing and "CD" (Cemetery District) to "CD (Cemetery District) housing with a Conditional Use Permit (CUP) for "R-1"

BACKGROUND AND FINDINGS:

This request is submitted by Payton E. Duncan to rezone 46.196 acres from "A" (Agricultural District) to "R-

1" (Single-Family Residential District), 7.487 acres from "UD" (University District) to "UD" (University District) with a Conditional Use Permit (CUP) for "R-1" (Single-Family Residential) housing and 0.543 acre from "CD" (Cemetery District) to "CD" (Cemetery District) with a Conditional Use Permit (CUP) for "R-1" (Single-Family Residential) housing for a total of approximately 54.226 acres out of the W. H. Cole Survey, Abstract No. 200. The property is locally known as 405 Tower Hill Lane, Killeen, Texas.

"R-1" District Descriptions

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

University District Descriptions:

The University District regulations apply to all property located in the current or future corporate city limits for a depth of one thousand five hundred (1,500) feet at the following locations: north of the State Highway 201 right-of-way for a distance of approximately sixty-six hundred (6,600) feet west of the intersection of State Highway 201 and State Highway 195; west and east of the State Highway 195 right-of-way for a distance of approximately one thousand five hundred (1,500) feet north of the intersection of State Highway 195 and State Highway 201; and, east of the State Highway 195 right-of-way for a distance of approximately seventy-six hundred (7,600) feet south of the intersection of State Highway 195 and State Highway 201, the first nine hundred and fifty (950) feet of depth within this segment of the district, as measured from State Highway 195, designated for commercial use. The remaining five hundred and fifty (550) feet of depth of this segment shall be designated for mixed-use development or residential use via a conditional use permit.

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

Conditional Use Permit:

The City Council, by an affirmative majority vote, may by ordinance grant a Conditional Use Permit as provided in Sec. 31-456 of this chapter for any residential or business land use for a specific parcel in the overlay district and may impose appropriate conditions and safeguards to assure that these land uses are compatible with and appropriate for locations adjacent to the Veterans Cemetery. Conditional Use Permits granted shall be considered permanent, provided the property owner remains in continuous compliance with any conditions or safeguards imposed.

Cemetery District Descriptions:

The Cemetery District regulations apply to all property located in the current or future corporate city limits for a depth of one thousand five hundred (1,500) feet at the following locations: east of the State Highway 195 right-of-way for a distance of approximately forty-nine hundred (4,900) feet north of the intersection of State Highway 195 and Chaparral Road; and, east of the State Highway 195 right-of-way for a distance of approximately one thousand five hundred (1,500) feet south of the intersection of State Highway 195 and Chaparral Road. The first nine hundred fifty (950) feet of depth within the district, as measured from State Highway 195, designated for commercial use. The remaining five hundred fifty (550) feet of depth of this segment shall be designated for mixed-use development or residential use via a conditional use permit.

A building or premises in the "CD" Cemetery District shall be used only for the following purposes:

(a) Building on premises in "CD" district shall be used only for the following purposes:

(1) Offices of practitioners of the recognized professions, as herein defined:

a. Professional building. Any structure used solely for the housing of professional offices of recognized professions

b. Professions, recognized. Members of a recognized profession include those persons and customary staff normally considered as professional and shall be deemed to include doctors, dentists, lawyers, architects, certified public accountants, registered engineers, and related professions

(2) Uses customarily incidental to the primary use, as hereinafter provided, subject to the special conditions contained in section 31-276(3)

a. Physical therapy clinic

b. Chemical or X-ray laboratory

c. Dispensing optician

d. Dental laboratory

(3) Buildings may be used for one or more of the uses prescribed in section (2) only under the following conditions:

a. Public access to such incidental uses shall be from the interior of the building.

b. No parking space shall occupy any part of the required front yard, except as provided in article V, division 3.

c. Sign standards for this district shall apply to both primary and incidental uses.

d. No building in this district shall be constructed or altered to produce a storefront, show, window or display window, and there shall be no merchandise visible from the exterior of the building.

e. No outside storage shall be permitted in this district.

(4) Office, general business

(5) An on-premises residential use or living quarters may be included in one structure in a commercial land use district when the main use of the structure is commercial, provided both uses are in compliance with appropriate building codes and the proprietor or an employee of the commercial activity is a resident in the living quarters.

(6) Business day care

(7) Bakery shop (retail sales only)

(8) Barbershop, beauty shop to include permanent cosmetics (licensed per Texas Health and Safety Code, chapter 146 amended)

(9) Construction field office and yard: on the job site; for duration of construction only

(10) Mortuary or funeral chapel

(11) Drugstore or pharmacy

(12) Florist (retail) retail sales of flowers and small plants. No flowers or plant raising or outside display or storage

(13) Cafeteria or catering service

(14) Restaurant or café (dine in service)

(15) Tennis, swim club, health club, or gym

(16) Hotel or motel

- (17) Art gallery, bookstore, or library
- (18) Mixed-use development, being located nine hundred and fifty (950) feet to fifteen hundred (1,500) feet east of the east right-of-way of State Highway 195, 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
- (b) Any conflict between this district and the districts incorporated herein, or the regulations provided by the other districts, shall be resolved so that the most stringent provision shall control

Conditional Use Permit.

The City Council by an affirmative majority vote may by ordinance grant a Conditional Use Permit as provided in section 31-456 of this chapter for any residential or business land use for a specific parcel in the overlay district and may impose appropriate conditions and safeguards to assure that these land uses are compatible with and appropriate for locations adjacent to the Veterans Cemetery. Conditional Use Permits granted shall be considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed.

Property Specifics:

Applicant / Property Owner: Payton E. Duncan

Property Location: The subject property is located at 405 Tower Hill Lane, Killeen, Texas

Legal Description: Approximately 54.226 acres out of the W. H. Cole Survey, Abstract No. 200

Zoning/ Plat Case History:

- There is no recent zoning activity for this property.
- The subject property is not platted.

Character of the Area:

Existing Land Use(s) on the Property: The property contains a home and an outbuilding.

Historic Properties: None

Infrastructure and Community Facilities:

Water, Sewer and Drainage Services

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer and drainage utility services will need to be extended at the time of development.

Transportation:

Existing conditions: The property is accessed via Tower Hill Lane, which is a private road and Danielle Drive, a local street within Splawn Ranch Phase Five.

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:

Topography/Regulated Floodplain/Floodway/Creek: This tract is not within any FEMA regulatory Special Flood Hazard Area (SFHA), and there are no known wetlands on or adjacent to the parcel.

Land Use Analysis:

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

Plan Recommendation: The 'Estate' designation encourages the following development types:

- Detached residential dwellings as the primary focus with larger lots (typically one acre minimum)
- Public/ institutional
- Parks and public spaces

Consistency: This zoning request is not consistent with the Comprehensive Plan, but the Planning and Zoning Commission recommend (5 to 2 vote) for a FLUM amendment to 'General Residential'.

Public Notification:

Staff notified eighty-six (86) surrounding property owners regarding this request; no protests have been received.

THE ALTERNATIVES CONSIDERED:

Which alternative is recommended?

Staff is not recommending any alternative.

Why?

The applicant would like to pursue the zoning request as submitted.

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:

By a vote of 5 to 2 (with Commissioners Cooper and Harkin in opposition), the Commission recommended approval of "R-1" of zoning for the 40.026 acres illustrated in blue on the attached map, as well as the "A-R1" (Agricultural Single-Family Residential District) zoning for approximately 6.17 acres of land (see green area of attached map) .

Additionally, the Commission recommended approval of a Conditional Use Permit (CUP) (for single family residential use, only) for any portion of any residential lot developed within the University and/or Cemetery Districts for this property. Specifically, the westernmost row of housing that is developed along the western property boundary (i.e. the area abutting Splawn Ranch Phase Five) shall be subject to the following conditions:

- An average lot size of 8,600 square feet, with a 70' average lot width (as measured from the 25' front building line)
- Same yard setbacks as in "R-1"
- Landscaping to match the current "SR-1"
- 90% stone, stucco, brick only on all floors/ stories and all four sides excluding gables, eaves, windows, doors, etc.

All other single-family housing (excluding the westernmost row of housing) developed within the "UD" and "CD" will satisfy the height and lot area requirements of the "R-1" zoning district.

The dissenting Commissioners expressed concerns over public safety, public infrastructure, density and ingress/egress to the site.

DEPARTMENTAL CLEARANCES:

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

ATTACHED SUPPORTING DOCUMENTS:

1. Exhibits
2. Minutes
3. Ordinance
4. Responses