



# City of Killeen

## Legislation Details (With Text)

**File #:** PH-16-022    **Version:** 1    **Name:** Zoning 16-09  
**Type:** Ordinance    **Status:** Passed  
**File created:** 6/16/2016    **In control:** City Council  
**On agenda:** 7/26/2016    **Final action:** 7/26/2016

**Title:** Consider an ordinance requested by the Donald Earl Nellis and Lenner Hair Nellis Revocable Living Trust to rezone 13.556 acres out of the R. Cunningham Survey, Abstract No. 199 from "R-1" (Single-Family Residential District) to Planned Unit Development (PUD) with "R-2" (Two-Family Residential District) and "R-3F" (Multifamily Residential District) uses for a Housing Tax Credit (HTC) eligible project named Hyde Estates. The property is located along the east right-of-way of Cunningham Road, approximately 600' south of its intersection with E. Stan Schlueter Loop (FM 3470). (Tabled from July 12, 2016 Regular City Council Meeting)

**Sponsors:** Development Services

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment to CCMO, 2. Council Memorandum, 3. Minutes, 4. Ordinance, 5. Exhibits, 6. Application, 7. Location map, 8. Buffer map, 9. Considerations, 10. Responses, 11. Opposition

Date	Ver.	Action By	Action	Result
7/26/2016	1	City Council	Approved	Pass
7/19/2016	1	City Council Workshop		
7/12/2016	1	City Council	Tabled	
7/5/2016	1	City Council Workshop		

Consider an ordinance requested by the Donald Earl Nellis and Lenner Hair Nellis Revocable Living Trust to rezone 13.556 acres out of the R. Cunningham Survey, Abstract No. 199 from "R-1" (Single-Family Residential District) to Planned Unit Development (PUD) with "R-2" (Two-Family Residential District) and "R-3F" (Multifamily Residential District) uses for a Housing Tax Credit (HTC) eligible project named *Hyde Estates*. The property is located along the east right-of-way of Cunningham Road, approximately 600' south of its intersection with E. Stan Schlueter Loop (FM 3470). **(Tabled from July 12, 2016 Regular City Council Meeting)**

### AGENDA ITEM

### ZONING CASE #Z16-09 "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO PUD (PLANNED UNIT DEVELOPMENT) WITH "R-2" (TWO FAMILY RESIDENTIAL DISTRICT) AND "R-3F" (MULTIFAMILY RESIDENTIAL DISTRICT) USES

### ORIGINATING DEPARTMENT

### PLANNING & DEVELOPMENT SERVICES

Quintero Engineering submits this request on behalf of the Donald Earl Nellis and Lenner Hair Nellis Revocable

Living Trust to rezone 13.556 acres out of the R. Cunningham Survey, Abstract No. 199 from "R-1" (Single-Family Residential District) to Planned Unit Development (PUD) with "R-2" (Two-Family Residential District) and "R-3F" (Multifamily Residential District) uses for a Housing Tax Credit (HTC) eligible project named *Hyde Estates*. The developer for the project, Housing Solutions Alliance L.L.C. is proposing to construct a 76 dwelling unit project with 4 duplex buildings and 17 fourplex buildings. The development is proposing 17 one-bedroom units; 37 two-bedroom units; 16 three-bedroom units; 6 four-bedroom units; and one office building proposed for this development. This project was presented to the City Council on February 23, 2016 and received a resolution of Local Government Support and a Commitment of Development funding by a Local Political Subdivision (LPS Funding) for the project. The Texas Department of Housing and Community Affairs (TDHCA) is the State administering agency for the HTC.

**District Descriptions:**

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

- (1) Any use permitted in district "R-1"
- (2) Two-family dwellings

**A building or premises in a "R-3F" Multifamily Residential District shall be used only for the following purposes:**

- (a) Uses. A building or premises in an R-3F multifamily residential district shall be used only for the following purposes:
  - (1) All uses allowed in section 31-186
  - (2) Multifamily structures containing three (3) or four (4) separate dwelling units
  - (3) Institutions of a religious, educational, charitable or philanthropic nature, but not a penal or mental institution
  - (4) Licensed group or community home housing five (5) or fewer persons
  - (5) Accessory buildings and uses, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a business
- (b) When a planned unit development required, rezoning applications under this division shall be subject to the requirements of 31-256.9 of Division 8B of this article, if applicable.

A planned unit development (PUD) is a land use design incorporating the concepts of density and common open space. Common open space shall include, but is not limited to, community amenities such as parks, gardens, pedestrian trails, recreation areas, and usable undisturbed, natural areas. The PUD designation serves as an "overlay zoning and development classification." In this capacity, the designation permits specific negotiated development regulations to be applied to the base land use zoning district(s) in which the property is located. When a parcel of land receives a PUD designation, the entire parcel must be assigned one or more standard zoning district classifications. However, the added PUD overlay classification enables the developer of the site to request that specific land use development regulations be applied to his development site. Such specific land use and development regulations shall not take effect until they are reviewed, public hearings are held and approval is obtained from both the Planning and Zoning Commission and the City Council. The PUD classification is an overlay designation to provide the flexibility to permit development projects which may include multiple land uses. This classification serves the following purposes:

- (a) Establish a procedure for the development of a parcel of land under unified control to reduce or eliminate the inflexibility that might otherwise result from strict application of land use standards and procedures designed primarily for individual lots.

- (b) Ensure structured review and approval procedures are applied to unique development projects that intended to take advantage of common open space and promote pedestrian circulation.
- (c) Allow developers greater freedom to be innovative in selecting the means to provide access, light, open space, and amenities.
- (d) Provide flexibility from the strict application of existing development regulations and land use standards and allow developers the opportunity to take advantage of special site characteristics and location.

The regulatory provisions of this classification are intended to achieve the above purposes while maintaining the spirit of the current City of Killeen Development Regulations, as amended. As such, these provisions represent the governing body's minimum quality of life standard and no variance or exception shall be granted thereto.

### **Property Specifics**

**Applicant/Property Owner:** The Donald Earl Nellis and Lenner Hair Nellis Revocable Living Trust

**Property Location:** The property is located along the east right-of-way of Cunningham Road, approximately 600' south of its intersection with E. Stan Schlueter Loop (FM 3470).

**Legal Description:** 13.556 acres out of the R. Cunningham Survey, Abstract No. 199, Killeen, Texas

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

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

### **Character of the Area**

**Existing Land Use(s) on the Property:** The project area is currently undeveloped. Oak Valley Subdivision Phases II and IV are located south and east of the subject site.

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

See attachment.

### **Figure 2. Water and Wastewater Map**

See attachment.

**Historic Properties:** None

### **Infrastructure and Community Facilities**

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

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: The existing potable water main that would serve the property is a 16-inch diameter transmission main running parallel to the lot frontage within the right-of-way of Cunningham Road. Upon approval of a future development permit application, the developer would be required to extend public water mains across the property to provide adequate domestic and fire flows in accordance with the

City of Killeen Code of Ordinances and other applicable development criteria. A permit applicant is solely responsible for and shall perform and submit the results of all required testing of the public water mains to confirm adequate flow and pressure exists to support any Code-mandated fire protection measures.

Various scenarios are available for retail potable water supply to a multifamily development:

- A master meter (with backflow/crossflow isolation) set at a tap on a public water main, with a multi-service-unit-equivalent yard line with or without (owner-side) sub-metering
- A looped dedicated public water main (the means of water distribution required per the City's adopted Infrastructure Development & Design Standards Manual) internal to the complex with one or more service connections or
- An individual service connections from an abutting public water main to individual buildings and, in some cases, individual units

Please note that transmission of potable water to individual "customers" through a private potable water transmission system that does not conform with 30 TAC 290 and Killeen Code of Ordinances Chapter 30 rules would result in regulation of the supplier as a retail water purveyor by the TCEQ. Public sanitary sewer utility service is immediately available to the property. An existing 12-inch diameter gravity sanitary sewer interceptor that serves the entire contributing wastewater drainage basin crosses the full extent of the eastern portion of the subject tract. Upon approval of a future development permit application, the developer would be required to extend a public sanitary sewer main to provide adequate collection capacity in accordance with City of Killeen Code of Ordinances and other applicable development criteria.

It shall be noted that Public Works personnel have performed only a basic assessment of publicly-dedicated water and sanitary sewer infrastructure that would serve this property. 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 redevelopment of the subject property, shall coordinate tie-in to all publicly dedicated infrastructure with the Public Works Department.

**Transportation:**

Existing conditions: The applicant is advised that ingress/egress to and from Cunningham Road will be disciplined through the policies of the City's Thoroughfare Development Manual when the property is developed. Cunningham Road, classified as a minor arterial (90 feet right-of-way) street by the City's adopted Thoroughfare Plan, is constructed as an urban section road functioning at its desired level of service. City Code requires that capacity analysis related to development is the responsibility of the developer. Accordingly, the developer may be required to conduct a traffic impact analysis to demonstrate that the transportation demand from the proposed development will not negatively impact (i.e., downgrade) the transportation level of service for Cunningham Road.

Proposed Improvements: No proposed improvements are contemplated as part of this zoning request.

Projected Traffic Generation: Significant upon build out

**Environmental Assessment**

**Topography:** The property ranges in elevation from 838 feet to 868 feet in elevation.

**Regulated Floodplain/Floodway/Creek:** This parcel is located within a FEMA regulatory Special Flood Hazard Area (SFHA) Zone X. This area has an unmapped creek that connects the upstream pond to the downstream FEMA identified creek. The north part of the parcel is a known high ground water and flood

prone area. A creek buffer zone and/or a riparian buffer zone will need to be established for this development.

### **Land Use Analysis**

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

**Plan Recommendation:** The 'General Residential' character encourages detached residential dwellings as the primary focus, attached housing types subject to compatibility and open space standards (e.g. duplexes), planned developments with a mix of housing types subject to compatibility and open space standards, public/institutional, parks, and other public spaces. The characteristics of this designation include:

- Predominantly "R-1" zoning district with less openness and separation between dwellings compared to Suburban Residential areas
- Auto-oriented character that can be offset with architectural standards, landscaping, and limited uniform subdivision designs
- Neighborhood-scale commercial emerging over time for well-suited areas

**Consistency:** The zoning request is consistent with the intent of the Comprehensive Plan.

### **Public Notification**

The staff notified fifty-seven (57) surrounding property owners regarding this request. Staff received a protest from Ramon K. Sarmiento, the owner of 3613 Crosscut Loop, Killeen, Texas. Additionally, Kyle Wheatley, the owner of 5118 Spring Drive, Killeen, spoke in opposition to the request. Leroy W. Nellis, the owner of 4600 Cunningham Road, submitted a response in support of the project.

### **Recommendation**

The Planning & Zoning Commission recommended approval of the applicant's PUD zoning request by a vote of 4 to 2 with Vice Chair Dorroh and Commissioner Harkin in opposition. The Planning and Zoning Commission recommends the following conditions as part of the approval:

- the applicant shall adhere to the submitted site plan, architectural elevations and floorplans;
- the applicant shall match or exceed the façade standards as prescribed by the Texas Department of Housing and Community Affairs 2016 Qualified Allocation Plan (QAP); the QAP requires greater than 30 percent stucco or masonry (includes stone, cultured stone, and brick but excludes cementitious siding) on all building exteriors; the percentage calculation may exclude exterior glass entirely;
- the applicant shall provide a minimum of four different color variations within the project;
- all buildings shall be one-story with the exception of those buildings containing 4-bedroom units;
- the applicant shall satisfy all landscaping and screening requirements set in Killeen Code of Ordinances Sections 31-255.5 and 31-255.7. Specifically, the requirements amount to 68 trees, 204 shrubs and screening around the north, east and south project boundaries;
- the applicant shall provide two play areas, each to include universal designed, ADA compliant equipment, as illustrated on the site plan;
- the applicant shall provide an interior sidewalk plan subject to City Council review and approval;
- the applicant shall meet all Hill Country transit (HOP) guidelines and specifications for the bus stop shelter illustrated on the site plan; and
- the applicant shall satisfy City Code for trash receptacles.

