



# City of Killeen

## Legislation Text

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File #: PH-15-060, Version: 1

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**HOLD** a public hearing and consider an ordinance by Abdul Khan (Case #Z15-29) to rezone Lot 1, Block 1, Wassay Addition, from "CD" (Cemetery District) with a Conditional Use Permit (CUP) to "CD" (Cemetery District) with a Conditional Use Permit (CUP) for a retail store. The property is locally known as 10752 S. Fort Hood Street, Killeen, Texas. **(Requires a 3/4 majority vote for approval. Tabled from January 12, 2016 Regular City Council Meeting.)**

### AGENDA ITEM

### ZONING CASE #Z15-29 "CD" (CEMETERY DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP) TO "CD" (CEMETERY DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP)

### ORIGINATING DEPARTMENT

### PLANNING & DEVELOPMENT SERVICES

#### Nature of the Request

This request is submitted by Abdul Khan to rezone Lot 1, Block 1, Wassay Addition, from "CD" (Cemetery District) with a Conditional Use Permit (CUP) to "CD" (Cemetery District) with a Conditional Use Permit (CUP) to allow for a 9,100 square feet retail store. The property is locally known as 10752 S. Fort Hood Street, Killeen, Texas.

#### **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 around 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:** Abdul Khan

**Property Location:** The property is located at the intersection of S. H. 195 and Splawn Ranch Road and is addressed as 10752 S. Fort Hood Street, Killeen, Texas.

**Legal Description:** Lot 1, Block 1, Wassay Addition.

**Zoning/ Plat Case History:**

- This property was last rezoned on June 28, 2011 (per Ordinance No. 11-048) to allow for a 5,000 square feet convenience store and gas station.
- The property is platted as part of Lot 1, Block 1, Wassay Addition, which was filed for record on August 4, 2011 in Cabinet D, Slide 330-B, Plat records of Bell County, Texas.

**Character of the Area**

**Existing Land Use(s) on the Property:** Vacant parcel.

**Figure 1. Zoning Map**

See Attachment

**Historic Properties:** None

**Infrastructure and Community Facilities**

**Water, Sewer and Drainage Services**

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer and drainage utility services are available to the subject property. A gravity sanitary sewer extends just south of the platted subdivision (Wassay Addition) and ties into a public lift station.

**Transportation**

Existing conditions: The proposed subdivision abuts S. H. 195, which is classified as a 110' principal arterial on the City's Thoroughfare Plan. Splawn Ranch Drive is a 60' local street. Access to S. H. 195 is prohibited by a platted non-access easement along the entire western lot line. It shall be noted that access to S. H. 195 is controlled by the State and is disciplined through TxDOT's Access Management Policy. Based upon the location of existing public streets and private drive approaches, the regulatory speed of this section of S. H. 195 (70 mph) and the inherent topographic constraints along this corridor, a discrete driveway to S. H. 195 would not be granted if petitioned by the applicant. Such point of connection would create an unsafe traffic conflict that cannot be supported by AAHTO design standards. The tract has adequate and viable access to Splawn Ranch Drive with high visibility from S. H. 195. Future access to S. H. 195 could be supported through mutual access to a common improved existing drive south of the tract. It should be noted that staff has discussed a marginal access (backage road) concept with the Splawn Ranch Partnership to support coordinated mutual access to future development along the entire S. H. 195 frontage.

Proposed Improvements: None are being proposed at this time.

Projected Traffic Generation: Moderate.

**Environmental Assessment**

**Topography:** The property is relatively flat with an elevation rise of 896 feet to 912 feet. Unless replatted, the 1993 drainage requirements will apply to any new development on this site. Currently runoff on this development flows from the rear of the parcel into the S. H. 195 right-of-way prior to entering an unnamed tributary of North Reece Creek. The runoff then flows from North Reece Creek into Reece Creek and finally into the Lampasas River prior to leaving the City. None of these water bodies are listed on the TCEQ's 2012

303(d) water quality list for impairment.

**Regulated Floodplain/Floodway/Creek:** This property is not located within any FEMA regulatory Special Flood Hazard Area (SFHA).

### **Land Use Analysis**

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

**Plan Recommendation:** The 'Suburban Commercial' character allows for a range of commercial retail and service uses, at varying scales and intensities depending on the site. This includes the following development types:

- 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 suburban character setting
- Public/ institutional
- Parks and public spaces

**Consistency:** The proposal is consistent with the Comprehensive Plan.

### **Public Notification**

The staff notified three (3) surrounding property owners within a 200' notification boundary. Staff has received no protests.

### **Recommendation**

The Planning and Zoning Commission recommended CD with a Conditional Use Permit (CUP) to allow for a 9,100 square feet retail store, for Lot 1, Block 1, Wassay Addition, Killeen, Texas with the following conditions: 100% limestone façade on the north side of the building with 80% masonry requirement on the remaining three sides, with no metal siding to be visible. A three foot (3') vegetative hedge is to be installed on the north side and west side and other landscaping requirements as required by the Cemetery District by a unanimous vote.