

ORDINANCE 18-013

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM PLANNED UNIT DEVELOPMENT (PUD) WITH “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT) USES TO PLANNED UNIT DEVELOPMENT (PUD) WITH “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT) USES TO AMEND SIDE AND REAR YARD SETBACKS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Gary W. Purser Jr. on behalf of RSBP Developers, 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 Lot 1, Block 10, Lot 1, Block 11 and Lot 2, Block 13, Bunny Trail Estates, Phase One and Lots 3-19, Block 10, Lots 24-34, Block 11 and Lots 3-18, Block 13, Bunny Trail Estates Phase Two from Planned Unit Development (PUD) with “R-1” (Single-family Residential District) uses to Planned Unit Development (PUD) with “R-1” (Single-family Residential District) uses with the following standards:

- side yards shall be a minimum width of seven (7) feet, exclusive of those side yards located adjacent to public rights-of-way, which shall remain at fifteen (15) feet;
- rear yards shall have a depth of not less than twenty-five (25) feet as measured from the rear property line;
- there shall be a minimum of 3-sides masonry to be located on the front and side exteriors of all housing units; this will match the existing PUD masonry requirements of the other home sites within this subdivision; and
- each lot shall be fully sodded; said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City

of Killeen on the 7th day of May 2018, 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 22nd day of May 2018, 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 zoning request should be approved with those standards 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 Lot 1, Block 10, Lot 1, Block 11 and Lot 2, Block 13, Bunny Trail Estates, Phase One and Lots 3-19, Block 10, Lots 24-34, Block 11 and Lots 3-18, Block 13, Bunny Trail Estates Phase Two from Planned Unit Development (PUD) with “R-1” (Single-family Residential District) uses to Planned Unit Development (PUD) with “R-1” (Single-family Residential District). The properties are addressed as 3704 Jack Barnes Avenue; 3207 Brunswick Drive; 3704, 3705, 3706, 3707, 3708, 3709, 3710 and 3711 Brunswick Drive; 3800, 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811 and 3900 Brunswick Drive; 3901, 3903, 3905, 3907, 3909, 3911 and 4001 Brunswick Drive; 3703, 3705, 3707, 3709, 3711, 3801, 3803, 3805, 3807, 3809, 3811, 3901, 3903, 3905, 3907, 3909, 3911 Anvil Range Road, Killeen, Texas.

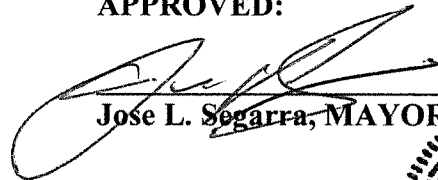
SECTION II. That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

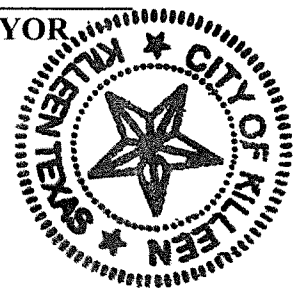
SECTION III. That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

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 22nd day of May 2018, 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:

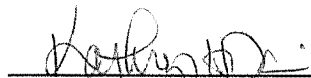

Jose L. Segarra, MAYOR



ATTEST:


CITY SECRETARY (Interim)
Diane Morrow

APPROVED AS TO FORM


Kathryn H. Davis, City Attorney

Case #18-06
Ord. #18-__

CITY COUNCIL MEMORANDUM FOR ORDINANCE

DATE: May 15, 2018
TO: Ronald L. Olson
FROM: Ray Shanaa, AICP, Exec. Dir. of Planning and Development Svcs.
SUBJECT: ZONING CASE #Z18-06: PUD with "R-1" (SINGLE FAMILY RESIDENTIAL DISTRICT) to PUD WITH "R-1" (SINGLE FAMILY RESIDENTIAL DISTRICT)

BACKGROUND AND FINDINGS:

This request, submitted by Gary W. Purser Jr. on behalf of RSBP Developers, Inc. to Lot 1, Block 10, Lot 1, Block 11 and Lot 2, Block 13, Bunny Trail Estates, Phase One and Lots 3-19, Block 10, Lots 24-34, Block 11, and Lots 3-18, Block 13, Bunny Trail Estates Phase Two from Planned Unit Development (PUD) with "R-1" (Single-family Residential District) uses to Planned Unit Development (PUD) with "R-1" (Single-family Residential District) uses to change the side yard setback from 9 feet to 7 feet, and the rear yard setback from 17 feet to 25 feet.

District Descriptions:

A building or premises in a "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. Such sign:
 - a. Shall not have a sign face which exceeds a total of twenty-four (24) square feet; and
 - b. Shall not exceed six (6) feet in height; and
 - c. Shall not be located in a side or rear yard which is adjacent to any other lot designated for residential use; and
 - d. Shall advertise only the name of the subdivision.
- (15) Cemetery.

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 held and approved by 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; and
- (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: RSBP Developers, Inc.

Property Location: The properties are addressed as 3704 Jack Barnes Avenue; 3207 Brunswick Drive; 3704, 3705, 3706, 3707, 3708, 3709, 3710 and 3711 Brunswick Drive; 3800, 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811 and 3900 Brunswick Drive; 3901, 3903,

3905, 3907, 3909, 3911 and 4001 Brunswick Drive; 3703, 3705, 3707, 3709, 3711, 3801, 3803, 3805, 3807, 3809, 3811, 3901, 3903, 3905, 3907, 3909, 3911 Anvil Range Road, Killeen, Texas.

Legal Description: Lot 1, Block 10, Lot 1, Block 11 and Lot 2, Block 13, Bunny Trail Estates, Phase One and Lots 3-19, Block 10, Lots 24-34, Block 11 and Lots 3-18, Block 13, Bunny Trail Estates Phase Two

Zoning/ Plat Case History:

- The property was rezoned from "R-1" (Single Family Residential District) to a Planned Unit Development to allow nine (9) feet side yards and seventeen (17) feet rear yards on January 12, 2016, per Ordinance #16-05.
- The subject property is platted as Bunny Trail Estates, Phase One, which was filed for record on January 23, 2012 in Cabinet D, Slide 384-A/B, Plat Records, Bell County, Texas and Bunny Trail Estates, Phase Two which was filed for record on February 8, 2013 in Cabinet D, Slide 384-A, Plat Records, Bell County, Texas.

Character of the Area:

Existing Land Use(s) on the Property: The subject properties are currently vacant residential lots.

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 currently available to the properties.

Transportation:

Existing Conditions: Brunswick Drive, Endicott Drive, Ozark Drive and Anvil Range Road are all 60' local streets that abut the subject properties.

Proposed Improvements: No roadway improvements are being proposed.

Projected Traffic Generation: A single family home generates ten (10) total daily trips, however no change in traffic generation is expected [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: These lots are not within a FEMA regulatory Special Flood Hazard Area (SFHA).

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; and auto-oriented character that can be offset with architectural standards, landscaping and limited uniform subdivision designs and neighborhood-scale commercial emerging over time for well-suited areas.

Consistency: The zoning request is consistent with the Comprehensive Plan's Future Land Use Map (FLUM).

Public Notification:

Staff notified one hundred and sixty six (166) surrounding property owners that own land within 200 feet of the subject properties regarding this request and received one opposition from Ms. Christie Horejsi, the owner of 3808 Endicott Drive.

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:

The Planning and Zoning Commission recommended approval of the applicant's request by a vote of 5 to 0 with Ben Purser abstaining. The PUD will allow "R-1" (Single-Family Residential District) zoning with the following standards:

- Side yards shall be a minimum width of seven (7) feet, exclusive of those side yards located adjacent to public rights-of-way, which shall remain at fifteen (15) feet.
- Rear yard shall have a depth of not less than twenty-five (25) feet as measured from the rear property line.
- There shall be a minimum of 3-sides masonry to be located on the front and side exteriors of all housing units; this will match the existing PUD masonry requirements of the other home sites within this subdivision.
- Each lot shall be fully sodded.

DEPARTMENTAL CLEARANCES:

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

ATTACHED SUPPORTING DOCUMENTS:

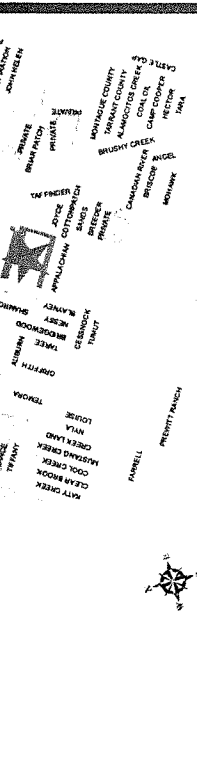
Maps
Minutes
Response
Ordinance
Pharr v. Tippitt Considerations



Zoning Case Notification Plan
Case Z-2018-06
 Council District: 4
 Zoning from PUD W/R-1 TO PUD W/R-1
 1 inch = 250 feet
 Subject Property Legal Description: BUNNY TRAIL ESTATES PHASE ONE

Legend
 [Outline] Parcel
 [Shaded Area] Z18_06 200' BUFFER
 [Dotted Area] City Limits

City Limits
 Z18_06 200' BUFFER
 Parcel



**MINUTES
PLANNING AND ZONING COMMISSION MEETING
MAY 07, 2018**

**CASE #Z18-06
“PUD” with “R-1” to “PUD” with “R-1”**

HOLD a public hearing and consider a request submitted by Gary W. Purser Jr. on behalf of RSBP Developers, Inc. to rezone Lot 1, Block 10, Lot 1, Block 11 and Lot 2, Block 13, Bunny Trail Estates, Phase One and Lots 3-19, Block 10, Lots 24-34, Block 11 and Lots 3-18, Block 13, Bunny Trail Estates Phase Two from Planned Unit Development (PUD) with “R-1” (Single-family Residential District) uses to Planned Unit Development (PUD) with “R-1” (Single-family Residential District) uses to decrease the required side yard setback from 9 feet to 7 feet and increase the required rear yard setback from 17 feet to 25 feet. The properties are addressed as 3704 Jack Barnes Avenue; 3207 Brunswick Drive; 3704, 3705, 3706, 3707, 3708, 3709, 3710, and 3711 Brunswick Drive; 3800, 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, and 4001 Brunswick Drive; 3703, 3705, 3707, 3709, 3711, 3801, 3803, 3805, 3807, 3809, 3811, 3901, 3903, 3905, 3907, 3909, 3911 Anvil Range Road, Killeen, Texas.

Vice Chairman Purser stepped away due to a potential conflict of interest.

Chairman Peters requested staff comments.

City Planner, Tony McIlwain, stated that the subject property was originally zoned for a “PUD” (Planned Unit Development) with “R-1” (Single-family Residential District). Mr. McIlwain stated that the original zoning allowed for the setbacks to change from a side-yard setback of 7’ feet to 9’ feet and a rear-yard setback to decrease from 25’ feet to 17’ feet. This allowed for building of homes with a bonus room where interest was shown for homes with a bonus room. Mr. McIlwain stated that the rezoning request will allow for the setbacks of the side-yard to return to 7’ feet from 9’ feet, and the rear-yard setback to return to 25’ feet from 17’ feet. Mr. McIlwain stated that these properties are designated ‘Residential’ on the Future Land Use Map.

City Planner, Tony McIlwain, also stated that staff notified one hundred sixty-six (166) surrounding property owners regarding this request. Mr. McIlwain stated that staff has fielded numerous calls and clarified that the rezoning request does not change or affect the setbacks of current property owners in the area. As of the date of this staff report, one opposition was received by Christie Horejsi, the owner of 3808 Endicott Drive.

Staff recommended approval of the applicants “PUD” with “R-1” zoning request, with the following standards: side-yards shall be a minimum width of 7’ feet, exclusive of those side-yards located adjacent to public rights-of-way which shall remain at 15’ feet; rear-yards shall have a depth of not less than 25’ feet measured from the rear property line; there shall be a minimum of three sides masonry to be located on the front side exteriors of all housing units in order to match existing PUD requirements for the existing homes in the subdivision; each

housing unit shall be fully sodded in effort to match existing homes in the subdivision.

Mr. Gary Purser Jr., 6503 Wells Fargo Drive, Killeen, Texas, was present to represent this request.

Chairman Peters opened the public hearing. With no one requesting to speak, the public hearing was closed.

Commissioner Latham motioned to recommend approval of the request for "PUD" with "R-1" zoning with the recommended standards. Commissioner Dorroh seconded the motion. The motion passed by a vote of 5 to 0

Chairman Peters stated that that the request will be forwarded to City Council with a recommendation to approve.

YOUR NAME:	Christie Horejsi	PHONE NUMBER:	845-282-0369
CURRENT ADDRESS:	3808 Endicott Drive Killeen, TX 76549		
ADDRESS OF PROPERTY OWNED:	3808 Endicott Drive Killeen, TX 76549		
COMMENTS:	"PUD" w/"R"-1" to "PUD" w/"R"-1" to change setbacks		
	opposition		
	RECEIVED		
	MAY 07 2019		
	PLANNING		
P.O. BOX 1329 KILLEEN TEXAS 76540-1329 254 501 7630 254 501 7628 FAX WWW.CIKILLEEN.TX.US SPO #Z18-06/ 122			
SIGNATURE:	Christie Horejsi		

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 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.