

ORDINANCE NO. 12-056

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 HOD (HISTORIC OVERLAY DISTRICT) TO HOD WITH CUP (CONDITIONAL USE PERMIT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, TagChi Enterprises, L.L.C. 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 8, Block 14, Original Town of Killeen from HOD (Historic Overlay District) to HOD with CUP (Conditional Use Permit), said request having been duly presented and recommended for approval limited to the footprint of the existing building and patio area, by the Planning and Zoning Commission of the City of Killeen on the 13th day of August 2012, 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 28th day of August 2012, 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 request should be approved;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

Section I. That the zoning classification of the following described tract be changed from HOD (Historic Overlay District) to HOD with CUP (Conditional Use Permit) to allow the on-site sale and consumption of beer, wine and mixed beverages, being limited to the footprint of the existing building and patio area, for Lot 8, Block 14, Original Town of Killeen, and being

locally known as 220 E. Avenue D, 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 That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.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 28th day of August 2012, 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:


Daniel A. Corbin, MAYOR

ATTEST:

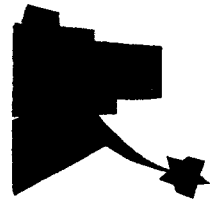
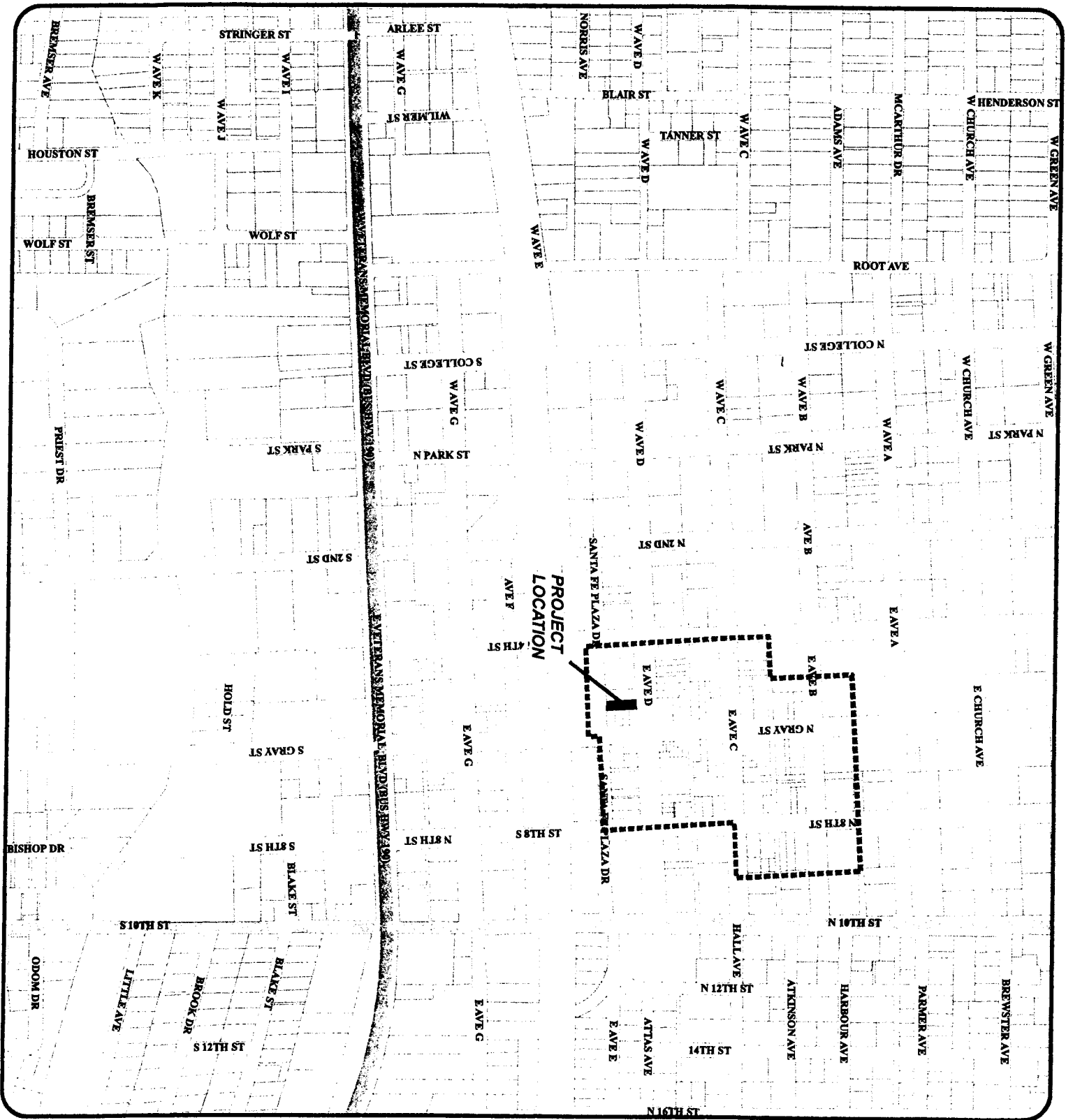

Paula A. Miller, CITY SECRETARY



APPROVED AS TO FORM


Kathryn H. Davis, City Attorney

Case #12-24
Ord # 12-



**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

#Z12-24

ZONING FROM:

HODTO HOD W/CUP

PROPERTY OWNER:

CHIUN CHI

Legend
 Historical Overlay Districts
 Production: GISADMMN ZoningCases2012
 City Links
 Production: GISADMMN Parcel

DATE: 07/25/2012



CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

**ZONING CASE #Z12-24
HISTORIC OVERLAY DISTRICT (HOD)
TO HOD WITH CONDITIONAL USE
PERMIT (CUP) FOR A WINE BAR**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

This request is to rezone part of Lot 8, Block 14, Original Town of Killeen, from HOD (Historic Overlay District) to HOD with a CUP (Conditional Use Permit) to allow for use as a wine bar.

HOD District Descriptions:

The historic overlay district (HOD) is intended to establish and provide for the protection, preservation, and enhancement of buildings, structures, sites and areas of architectural, historical, archaeological, or cultural importance or value. The HOD is envisioned as a tool to help stabilize and improve property values; to encourage neighborhood conservation; to foster civic pride and past accomplishments; to protect and enhance city attractions for tourists and residents; to strengthen the economy; and to promote the use of historical and cultural landmarks for the general welfare of the community. Additionally, the historic overlay district is intended to help promote the development of a downtown consistent with the community objectives identified in the downtown action agenda.

The following standards or requirements shall apply to the historic overlay district:

A. Any regulations for the HOD shall apply to all properties or structures wholly contained within that district, and to those portions of any property within the district.

B. Because the HOD is an overlay district, the regulations for the underlying zoning district shall remain in effect, except as otherwise provided in the zoning ordinance.

C. In case of any conflict between the regulations applicable in the underlying zoning district, and the regulations of the HOD, the regulations of the HOD will take precedence, even where the applicable regulation may not be a higher standard.

D. The findings adopted by the city council for a historic overlay district shall define the scope of the city's interest in protecting the historic resources in the district and shall provide the guidelines to be used by the heritage preservation officer or heritage preservation board, along

with any applicable design guidelines in considering whether to grant or deny an order of design compliance.

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 business land use or any use identified in the **“full list”** of the Killeen downtown action agenda for a specific parcel in the district and may impose appropriate conditions and safe guards to assure that these land uses are compatible with the character of the district setting and buildings. 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: TagChi Enterprises, L.L.C.

Property Location: The property is located at the southwest intersection of E. Avenue D and S. Gray Street, and is locally known as 220 E. Avenue D, Killeen, Texas.

Legal Description: Lot 8, Block 14, Original Town of Killeen

Zoning/ Plat Case History:

There is no recent zoning or platting activity for this property.

Character of the Area:

Existing Land Use(s) on the Property: Vacant building within Killeen’s downtown.

Figure 1. Zoning Map

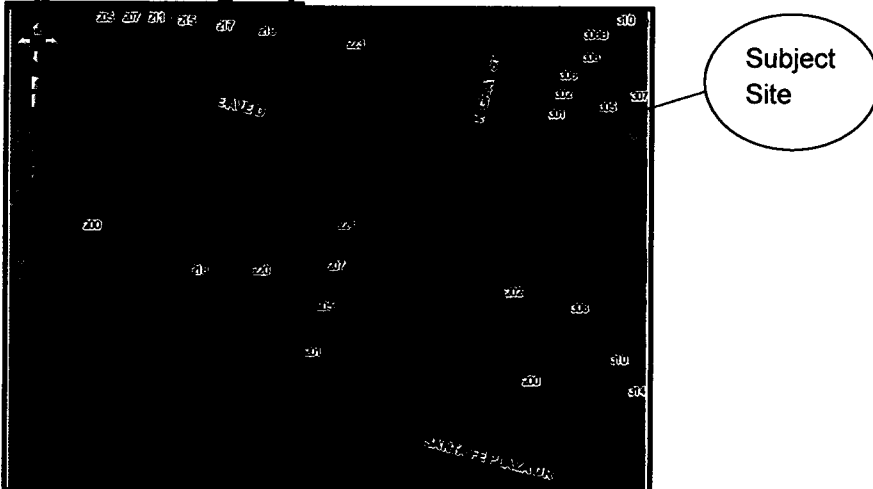


Figure 2. Aerial Map



Historic Properties: This is a historically contributing structure as identified in the *2008 Historic Resources Survey*.

Infrastructure and Community Utilities

Emergency Response:

Fire Protection District: City of Killeen, Central Fire District

Fire Response Zone: C-2

Miles from Fire Station: Approximately 1 mile from the Central Fire Station, which is located at 201 N. 28th Street, Killeen, Texas.

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water infrastructure is available with adequate size and pressure. Sewer infrastructure is immediately accessible to the subject property.

Transportation:

Existing conditions: E. Avenue D and Gray Street are classified as 60' local streets on the City's Thoroughfare Plan.

Proposed Improvements: None

Projected Traffic Generation: No new impact.

Environmental Assessment

Topography: The property is flat.

Regulated Floodplain/Floodway/Creek: The proposed development is not within any FEMA special flood hazard area (SFHA).

Land Use Analysis

Land Use Plan: The property is designated as 'Urban' on the future land use map (FLUM) of the Comprehensive Plan.

Plan Recommendation: The Comprehensive Plan calls for mixed uses, attached residential, detached residential on small lots, live/ work units, commercial, retail, and entertainment uses.

Consistency: The request is consistent with the Comprehensive Plan.

Public Notification

The staff notified twenty (20) surrounding property owners within a 200' notification boundary regarding this request. Staff has received no protests.

Recommendation

The Planning and Zoning Commission recommended approval of the applicant's conditional use permit request limited to the building's footprint and rear patio.

The Texas Alcohol and Beverage Commission (TABC) code provides that a city may:
"...enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within:

- (1) 300 feet of a church, public or private school, or public hospital;
 - (2) 1,000 feet of a public school, if the commissioners court or the governing body receives a request from the board of trustees of a school district under Section 38.007."
- (Sec. 109.33. SALES NEAR SCHOOL, CHURCH, OR HOSPITAL).

The city has chosen to enact the "300 feet" requirement for several zoning districts where on - premise sales and consumption is allowed. The city has not enacted this 300' requirement within the HOD. The Historic Overlay District does not negate the underlying uses allowed in the B-5 zoning district, and it allows for pubs and taverns as identified in the full list of the Downtown Action Agenda adopted by City Council in February 2007 (Resolution 07-023R). No additional restrictions have been enacted that would impose a 300 foot buffer in the Historic Overlay District, therefore pubs and taverns, approved for a conditional use permit, may site anywhere in the Historic Overlay District.