

ORDINANCE NO. 11-011

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, Chiun Chun and Stacia and Jim Taggart have 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 by the Planning and Zoning Commission of the City of Killeen on the 24th day of January 2011, 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 6:00 P.M., on the 22nd day of February 2011, 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 for Lot 8, Block 14, Original Town of Killeen, being locally known as 224 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 That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.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 22nd day of February 2011, 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:



Timothy L. Hancock, MAYOR

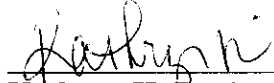
ATTEST:



Paula A. Miller, CITY SECRETARY



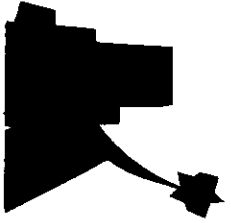
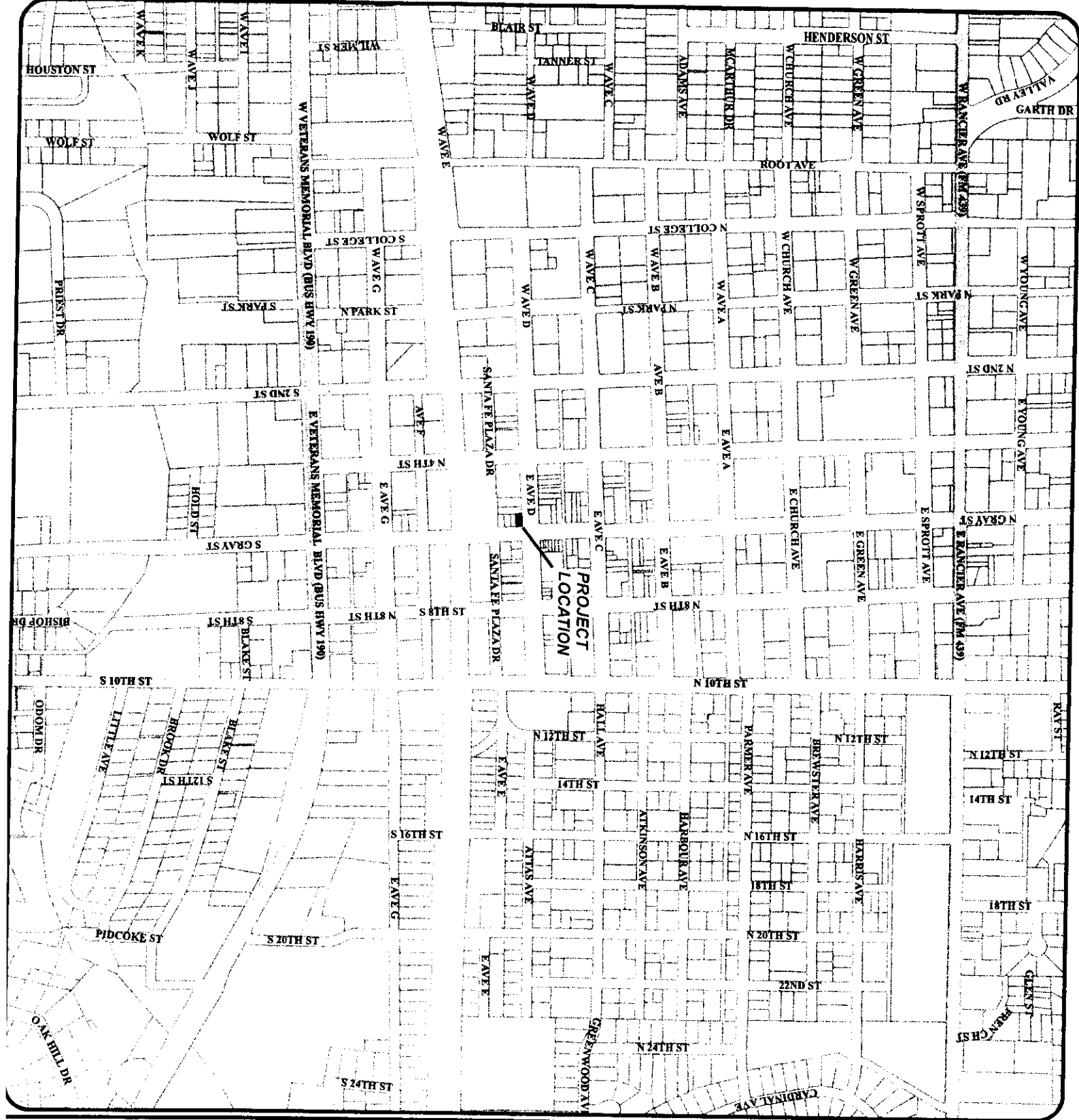
APPROVED AS TO FORM



Kathryn H. Davis, City Attorney

Case #10-47

Ord #



PLANNING AND DEVELOPMENT SERVICES

ZONING CASE:

#Z10-47

ZONING FROM:

HOD TO HOD W/CUP

LEGAL DESCRIPTION:

LOT 8, BLOCK 14 ORIGINAL TOWN KILLEEN

ADDRESS/LOCATION:

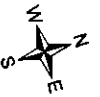
224 E AVE D KILLEEN, TX 76541

PROPERTY OWNER:

CHUN CHI, STACIA & JIM TAGGART

- Legend**
- 10-47 City Limits
 - Parcels
 - LAND USE
 - CODE
 - AVIATION
 - COMMERCIAL
 - FORT HOOD RESERVATION
 - HOSPITAL
 - INDUSTRIAL
 - INSTITUTIONAL
 - RESIDENTIAL
 - EXTREME TOPOGRAPHY
 - TEXAS VETERANS CEMETARY
 - PROPOSED UNIVERSITY CAMPUS
 - 10-29

DATE:
11/29/2010





**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:
#210-47

ZONING FROM:
HOD TO HOD W/CUP

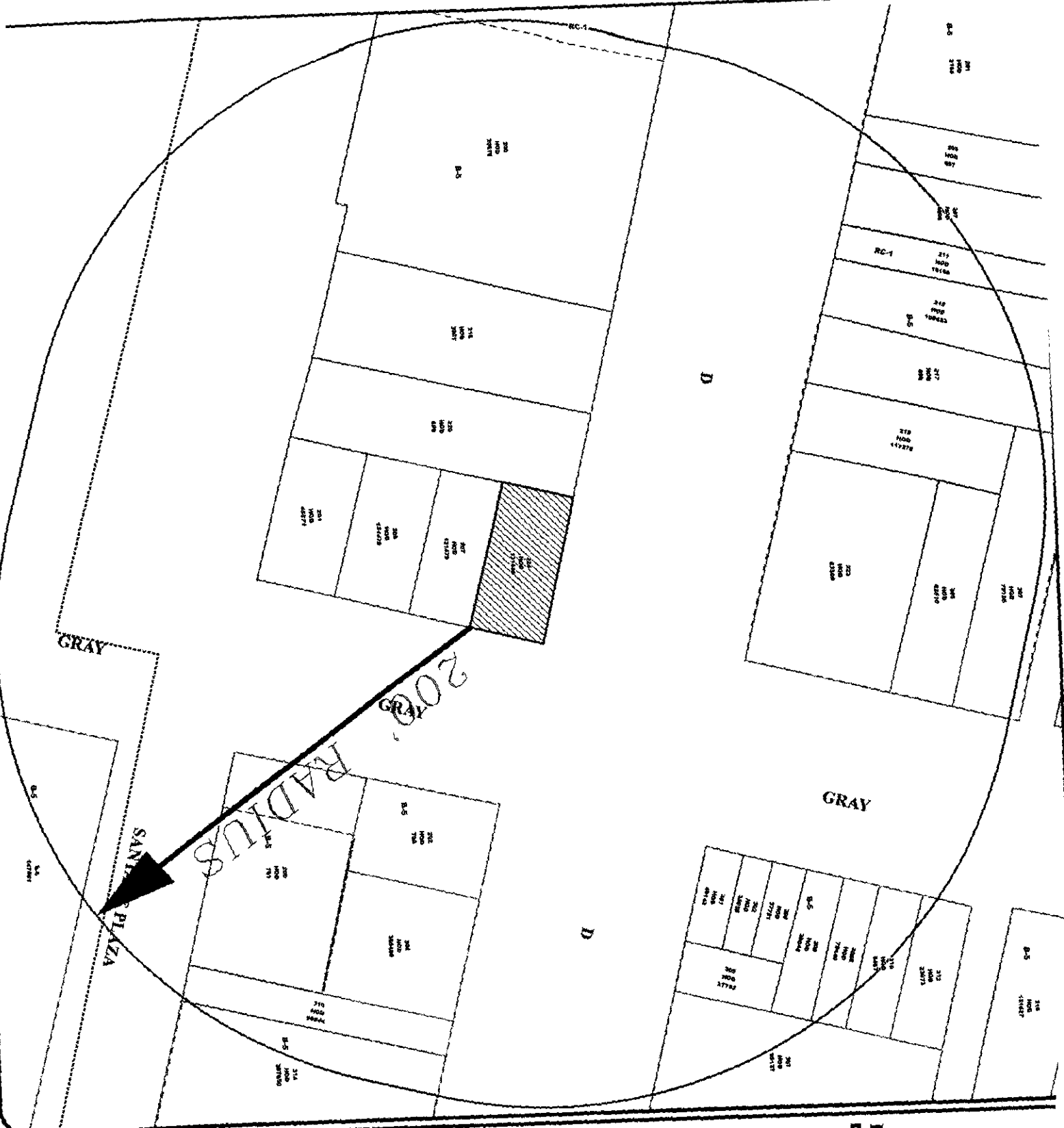
LEGAL DESCRIPTION:
LOT 8, BLOCK 14
ORIGINAL TOWN KILLEEN

ADDRESS/LOCATION:
224 E AVE D
KILLEEN, TX 76541

PROPERTY OWNER:
CHIUN CHI, STACIA &
JIM TAGGART

- Legend**
- Buffer of 10-47
 - Zoning Overlay Districts
 - CURRENT ZONING
 - 2010 ZONING CASES
 - LAND USE**
 - CODE**
 - AMAVITION
 - COMMERCIAL
 - FORT HOOD RESERVATION
 - HOSPITAL
 - INDUSTRIAL
 - INSTITUTIONAL
 - RESIDENTIAL
 - EXTREME TOPOGRAPHY
 - TEXAS VETERANS CEMETERY
 - PROPOSED UNIVERSITY CAMPUS
 - Production GIS/AMKIN Parcel
 - City Limits

DATE:
12/27/2010



CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

**ZONING CASE #Z10-47
HOD (HISTORIC OVERLAY DISTRICT)
TO HOD W/CUP (CONDITIONAL USE
PERMIT)**

ORIGINATING DEPARTMENT

TM **PLANNING & DEVELOPMENT SERVICES**

Nature of the Request

This request is to rezone 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 pub.

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: Chiun Chun, Stacia and Jim Taggart

Property Location: The property is located at the southwest intersection of E. Avenue D and S. Gray Street, and is locally known as 224 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

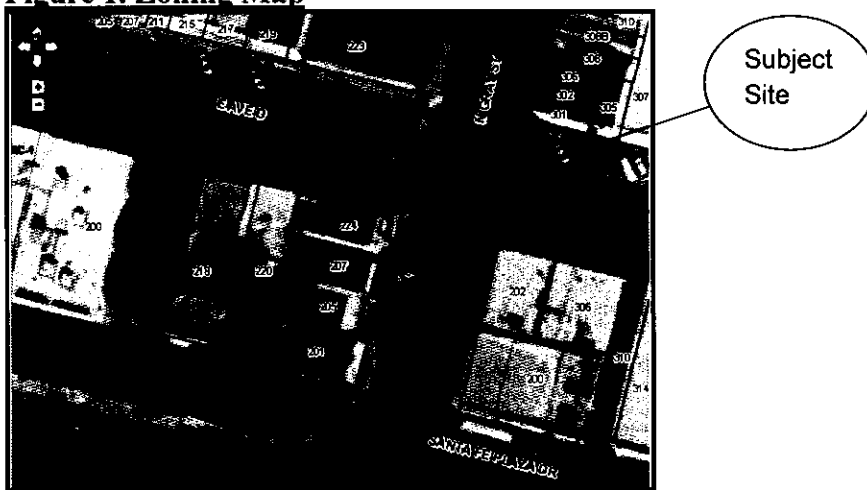


Figure 2. Aerial Map



Infrastructure and Community Facilities

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 four (24) surrounding property owners within a 200’ notification boundary regarding this request. As of January 19, 2001, staff has received one protest from Chong and Robert Shoemaker, owner of 301 E. Avenue D. They feel this pub will bring in drugs, prostitutes, and more crime.

Staff Recommendation

The Planning and Zoning Commission recommends approval of the applicant’s conditional use permit request.

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 imposed a 300 feet buffer in the Historic Overlay District, therefore pubs and taverns, approved for a conditional use permit, may site anywhere in the Historic Overlay District.