

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 R-3 (MULTIFAMILY RESIDENTIAL DISTRICT) TO A PLANNED UNIT DEVELOPMENT (PUD) WITH R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) AND B-3 (LOCAL BUSINESS DISTRICT) USES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, National Bank submits this request for an amendment of the zoning ordinance of the City of Killeen by changing the classification of approximately 40.87 acres, being part of the Lakeview Park Subdivision, from R-3 (Multifamily Residential District) to a Planned Unit Development (PUD) with R-1 (Single-Family Residential District) and B-3 (Local Business District) uses, said request having been duly presented and recommended for approval of 35.78 acres of SF-2 zoning with the following deviations: 20' front yard setback; 5,750 square feet minimum lot size; 115' minimum lot depth; and 5.09 acres of B-3 zoning (see attached exhibit 1.) by the Planning and Zoning Commission of the City of Killeen on the 6th day of October 2014, 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 October 2014, 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 R-3 (Multifamily Residential District) to a Planned Unit Development (PUD) with 35.78 acres of SF-2 zoning with the following deviations: 20' front yard setback; 5,750 square feet minimum lot size; 115' minimum lot depth; and 5.09 acres of B-3 zoning, being part of the Lakeview Park Subdivision. The property is located at the southwest corner of Rancier Avenue and Roy Reynolds Drive, 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 October 2014, 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:

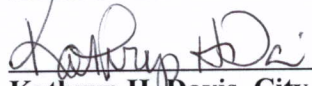

Scott Cosper, MAYOR

ATTEST:


Dianna Barker, CITY SECRETARY



APPROVED AS TO FORM


Kathryn H. Davis, City Attorney

Case #14-27

Ord. #14-__



City of Killeen
Zoning Change Application

CASE #: 27
214-247-888

Name(s) of Property Owner (s): NATIONAL BANK

Address: PO BOX 779

City: GATESVILLE State: TX Zip: 76528

Home Phone: () Business Phone: (254) 223-0013 Cell Phone:

Name of Applicant:

(if different than Property Owner)

Address:

City: State: Zip:

Home Phone: () Business Phone: () Cell Phone:

Address/ Location of Property to be Rezoned: SOUTHWEST CORNER FM 439/ROY REYNOLDS

Has the Property been Platted? Y / N PART OF LAKEVIEW PARK SUBDIVISION
Lot(s) Block(s) Subdivision

Legal Description: SEE ATTACHED
Metes and Bounds Description

Is there a simultaneous plat of this property? LAKEVIEW PARK SUBDIVISION REPLAT (FUTURE)
(Plat Name)

Type of Ownership: Sole Ownership Partnership X Corporation Other

Recorded Copy of Warranty Deed: Is copy of the deed attached? YES / NO

Present Zoning(s): R3 Present Use: VACANT

Proposed Zoning(s): PUD (R1/B3) Proposed Use: SINGLE FAMILY RESIDENTIAL / COMMERCIAL

APPOINTMENT OF AGENT

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: KILLEEN ENGINEERING & SURVEYING, LTD.

Mailing Address: 2901 E. STAN SCHLUETER LOOP

City: KILLEEN State: TX Zip: 76542

Home Phone: () Business Phone: (254) 526-3981 Cell Phone:

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

be the point of contact between myself and the City; make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me.

I understand that the City will deal only with a fully authorized agent. At any time it should appear that my agent has less than full authority to act, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application, are part of an official proceeding of City government and, that the City will rely upon statements made by my agent. Therefore, I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter. If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to "I", "my," or "me" is a reference to the entity.

Signature of Agent Michelle E. Lee Title OFFICE MANAGER - KES

Printed/Typed Name of Agent MICHELLE E. LEE Date 8-8-14

Signature of Property Owner Gene Worthington Title NATIONAL BANK / Pros

Printed/Typed Name of Property Owner GENE WORTHINGTON Date 8-12-14

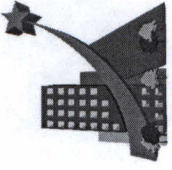
Signature of Property Owner Title

Printed/Typed Name of Property Owner Date

Signature of Property Owner Title

Printed/Typed Name of Property Owner Date

* Applications must be signed by the individual applicant, each partner of a partnership, or by an authorized officer of a corporation or association.



PLANNING AND DEVELOPMENT SERVICES

ZONING CASE:
Z14-27

ZONING FROM:
R-3 to PUD (R-1/B-3)





PROPERTY OWNER:
National Bank

APPLICANT:
National Bank

ADDRESS TO BE REZONED:
Southwest corner of FM439/Roy Reynolds

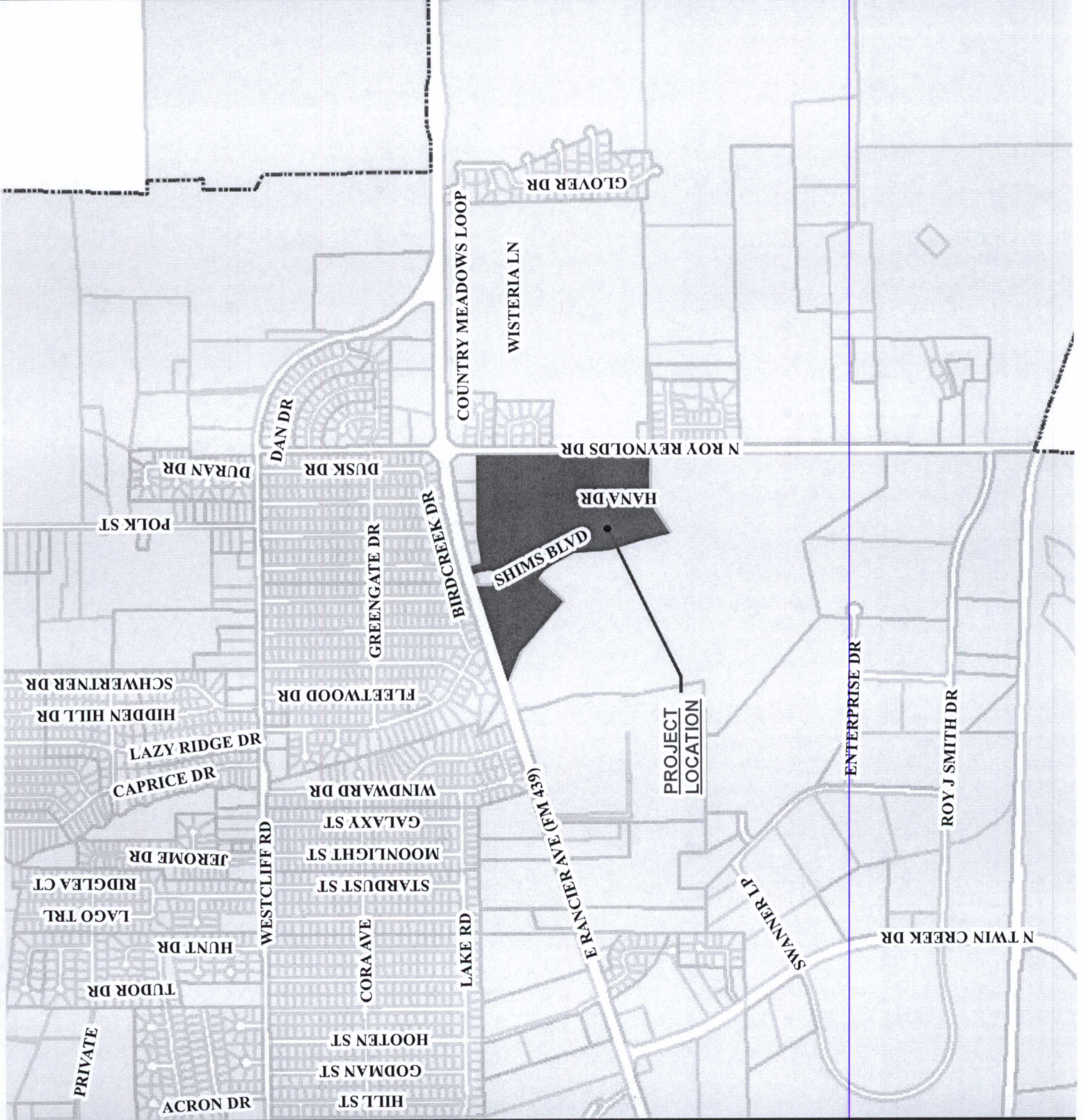
LEGAL DESCRIPTION:
Lakeview Park Subdivision

LEGEND

-  Zoning Case
-  Subdivision
-  Parcel
-  City Limits



Date: 8/20/2014



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.

CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

**ZONING CASE #Z14-27 "R-3" TO PLANNED
UNIT DEVELOPMENT (PUD) WITH "R-1"
(SINGLE-FAMILY RESIDENTIAL DISTRICT)
AND "B-3" (LOCAL BUSINESS DISTRICT)**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

National Bank submits this request to rezone 40.87 acres, being part of the Lakeview Park Subdivision, from "R-3" (Multifamily Residential District) to Planned Unit Development (PUD) with "R-1" (Single-Family Residential District) and "B-3" (Local Business District) uses. The property is located at the southwest corner of Rancier Avenue and Roy Reynolds Drive. The applicant is proposing 35.78 acres of residential zoning and 5.09 acres of "B-3" zoning.

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 building or premises in the district "B-3" Local Business District shall be used only for the following purposes:

- (1) Any use permitted in the "B-2" district.
- (2) Bank, savings and loan or other financial institution.
- (3) Day camp.
- (4) Hospital, home or center for the acute or chronic ill.
- (5) Mortuary or funeral chapel.
- (6) Appliance (household) sales and repair service.
- (7) Bakery or confectionery: engaged in preparation, baking, cooking and selling of products at retail on the premises, with six (6) or less employees.
- (8) Boat and accessory sales, rental and service.
- (9) Bowling alleys.
- (10) Cleaning or laundry (self-service).
- (11) Cleaning, pressing and dyeing: with six (6) or less employees.
- (12) Florist, garden shop, greenhouse or nursery office (retail): no growing of plants, shrubs or trees out-of-doors on premises; no outside display or storage unless behind the required front yard or the actual setback of the principal building, whichever is greater.
- (13) General food products, retail sales, such as supermarkets, butcher shops, dairy stores, seafood sales or health food sales.
- (14) Cafeteria or catering service.
- (15) Marine supplies, sales and service.
- (16) Office, general business.
- (17) Restaurant or café permitted to offer alcoholic beverages for sale operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, all of which are adopted hereby and made a part hereof for all purposes. No restaurant will be permitted to dispense any type of alcoholic beverage through any "drive-through" facility or window.
- (18) Tennis or swim club.
- (19) Small animal clinic or pet grooming shop.
- (20) Hotel or motel.
- (21) Job printing. Not more than seventeen (17) inches by twenty-five (25) inches page size.
- (22) Gasoline service station, auto laundry or car wash.
- (23) Auto parts sales, new, at retail.
- (24) A customarily incidental use: sale of beer and/or wine only for off-premises consumption only shall be considered a customarily incidental use in this district, but not in any residential district or any more restrictive business district.
- (25) Theaters of general release.

(26) Mini/self storage facilities - a building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares. No outside storage, sales, service, or repair activities, other than the rental of storage units shall be permitted on premises.

Sec. 31-306.1 Supplemental standards for restaurants engaged in the on-premises sale and consumption of alcohol.

(a) During any consecutive twelve-month period, a restaurant shall not obtain more than fifty (50) percent of its gross receipts from the on-premises sale of alcoholic beverages. In conjunction with renewal of TABC licensing, it shall be required to provide the most recent comptroller's certification of sales receipts to the planning and development services department prior to the city's approval of the permit renewal.

(b) Restaurants may not be within three hundred (300) feet of a church, public or private school or public or private hospital. The measurement of the distance between the place of business where alcoholic beverages are sold and the church, public or private school, or public or private hospital shall be as prescribed by the Texas Alcoholic Beverage Code § 109.33, as amended.

Property Specifics

Applicant/Property Owner: National Bank

Property Location: The property is located at the southwest corner of Rancier Avenue and Roy Reynolds Drive.

Legal Description: 40.87 acres, being part of the Lakeview Park Subdivision.

Zoning/Plat Case History:

The property was rezoned from "R-MP" (Mobile Home and Travel Trailer Park District) to "R-3" (Multifamily Residential District) on December 20, 2005 per Ordinance No. 05-123.

The subject property is platted as Lakeview Park Subdivision, which was filed for record on May 16, 2006 in Cabinet D, Slide 116-AA, Plat Records, Bell County, Texas.

Character of the Area

Existing Land Uses(s) on the Property: The property is currently vacant. There is a mixture of existing commercial uses and residential uses in the vicinity.

Figure 1. Aerial 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 and sewer infrastructure is available and adequate. The developer is required to extend public utilities to the property in accordance with the plan of service validated with the approved subdivision. The public water main that serves the property will provide adequate domestic and fire flows.

Transportation:

Existing conditions: The property has direct ingress/egress to Rancier Avenue, a state-system thoroughfare, which is classified as a 110' feet arterial on the City's adopted Thoroughfare Plan. The project site also has direct ingress/egress to Roy Reynolds Drive, which is classified as a 90' minor arterial on the City's adopted Thoroughfare Plan.

Proposed Improvements: The project concept plan contemplates three points of ingress/egress through a series of 60' right-of-ways.

Projected Traffic Generation: Significant upon build out.

Environmental Assessment

Topography: The elevation ranges from 796 feet to 818 feet above sea level.

Regulated Floodplain/Floodway/Creek: Approximately 0.32 acres of the approximate 40.87 acres in this zoning case are located within a FEMA regulatory Special Flood Hazard Area (SFHA). City regulations require the establishment of a creek buffer zone that will span a distance of 25' beyond the top of each bank. However, this parcel is not affected by that requirement. Currently sheet flow runoff on this development enters a creek along the western subdivision boundary, and from there it enters Caprice Ditch. Caprice Ditch flows into the Bell County Water Control and Improvement District No. 6's flood impoundment site No. 7 and from there into Nolan Creek. Nolan Creek is currently listed on the TCEQ's 2010 303(d) water quality list for impairment due to bacteria and concerns for near non-attainment for nutrients. The previously plat level drainage design was incorporated into the previous hydraulics and hydrology study for this watershed. As a result, detention was not originally proposed for this parcel. The submitted concept drainage plan meets the City's conceptual requirements. However, drainage easements and any deviation from the previously plat analysis will be reevaluated during the re-plat process for the proposed PUD.

Land Use Analysis

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

Plan Recommendation: The 'General Residential' designation of the Comprehensive Plan is a medium intensity category and contemplates the following: detached residential dwellings the primary focus; attached housing types subject to compatibility and open space standards (e.g., duplexes, townhomes, patio homes); planned developments, potentially with a mix of housing types and varying densities, subject to compatibility and open space standards; public/institutional; and parks and public spaces.

Consistency: The zoning request is consistent with the current FLUM of the Comprehensive Plan.

Public Notification

The staff notified thirty-five (35) surrounding property owners regarding this request. Staff has received no responses.

Recommendation

The Planning and Zoning Commission recommended approval (7 to 1 vote, with Commissioner Dillard in opposition) of 35.78 acres of "SF-2" (Single-Family Residential District) zoning and 5.09 acres of "B-3" zoning with a PUD overlay with the following underlined deviations below:

"SF-2" Standards

Height: 35 feet or 2 1/2 stories

Lot size: 5,750 square feet (this is an increase from the code-required 5,000 square feet minimum).

Lot width: 50 feet interior; 60 feet with side street frontage.

Lot depth: 115 feet (this is an increase from the code-required 100 feet minimum)

Setbacks: 20 feet front yard (this is a decrease from the code-required 25 feet front yard); 5 feet side yard; 20 feet rear yard.

Landscaping: Fully sodded with a minimum of one (1) six (6) foot tall canopy tree with two-inch caliper, and eight (8) three (3) gallon shrubs planted in the front yard.

Architectural design: Same exterior architectural elevation may not be used within any grouping of five homes. Homes must have a minimum of 50% brick, stucco or stone veneer for exterior walls excluding doors, windows and gables.

The "SF-2" zoning district has façade and landscaping standards that the City Council put into place specifically to enhance the aesthetics and home values associated with 'garden home' projects with smaller yards. Killeen Code of Ordinances Section 31-195 requires a PUD for any "SF-2" project comprising 25 acres or more. Therefore, it is clear that the City's intent is to promote thoughtful standards when dealing with denser development types. It has been expected that in the review of PUDs in the past, that large open space areas be set aside for recreation and other amenities, however in this situation, what is being offered is already an improvement over what could be here. The viability of a home owner's association, which is necessary and required, to maintain the common open space/ recreation area is very doubtful. Therefore there will be no one to maintain the land and the City may be responsible for the maintenance and upkeep of these afore-mentioned areas. Staff is of the determination that this project is a unique in-fill development opportunity, and the requested deviation is more than mitigated by the increase in lot depth, overall lot size, required landscaping and architectural requirements.

Attachment to CCMO 14-27

Figure 1. Aerial Map



PLANNING AND ZONING COMMISSION MEETING
OCTOBER 06, 2014

CASE #Z14-27
R-3 TO PUD

HOLD a public hearing and consider a request by National Bank to rezone approximately 40.87 acres, part of Lakeview Park Subdivision, from R-3 (Multifamily Residential District) to a Planned Unit Development (PUD) for R-1 (Single-Family Residential District) and B-3 (Local Business District) use. The property is located at the southwest corner of the intersection of E. Rancier Avenue and Roy Reynolds Drive, Killeen, Texas.

Chairman Frederick requested staff comments.

Executive Director, Dr. Shanaa, stated that this request had been previously heard by the Planning & Zoning Commission and some modifications were made since. The property is located at the southwest corner of Rancier Avenue (FM 439) and Roy Reynolds Drive. The applicant is proposing 35.78 acres of residential zoning and 5.09 acres of B-3 zoning.

The staff notified 35 (thirty five) surrounding property owners regarding this request. No responses have been received.

Staff recommends approval of the PUD zoning which includes 35.78 acres of "SF-2" (Single-Family Residential District) zoning and 5.09 acres of "B-3" zoning with the following underlined deviations below:

"SF-2" Standards

Height: 35 feet or 2 1/2 stories

Lot size: **5,750 square feet** (this is an increase from the Code-required 5,000 square feet minimum)

Lot width: 50 feet interior; 60 feet with side street frontage

Lot depth: **115 feet** (this is an increase from the Code-required 100 feet minimum)

Setbacks: **20 feet front yard** (this is a decrease from the Code-required 25 feet front yard); 5 feet side yard; 20 feet rear yard

Landscaping: Fully sodded with a minimum of one (1) six (6) foot tall canopy tree with two-inch caliper, and eight (8) three (3) gallon shrubs planted in the front yard.

Architectural design: Same exterior architectural elevation may not be used within any grouping of five homes. Homes must have a minimum of 50% brick, stucco or stone veneer for exterior walls excluding doors, windows and gables.

The "SF-2" zoning district has façade and landscaping standards that the City Council put into place specifically to enhance the aesthetics and home values associated with 'garden home' projects with smaller yards. Killeen Code of Ordinances Section 31-195 requires a PUD for any "SF-2" project comprising 25 acres or more. Therefore, it is clear that the City's intent is to promote thoughtful standards when dealing with denser development types. It has been expected that in the review of PUDs in the past, that large open space areas be set aside

for recreation and other amenities, however in this situation, what is being offered is already an improvement over what could be here. The viability of a home owner's association which is necessary and required to maintain the common open space/ recreation area is very doubtful. Therefore there will be no one to maintain the land and the City may be responsible for the maintenance and upkeep of these afore-mentioned areas. Staff is of the determination that this project is a unique in-fill development opportunity, and the requested deviation is more than mitigated by the increase in lot depth, overall lot size, required landscaping and architectural requirements.

Mr. Gary Purser, Jr., 6503 Wells Fargo, Killen, Texas, was present to represent this request. Mr. Purser stated that the only request is for the 20 ft. front yard setback.

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

Vice Chair Dorroh motioned to recommend approval of the PUD zoning with the deviations mentioned above. Commissioner Butler seconded the motion. Commissioner Dillard voted in opposition. The motion passed 7-1.

Chairman Frederick stated that this will be forwarded to City Council on October 28, 2014 with a recommendation to approve.