

ORDINANCE NO. 13-034

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 B-5 (BUSINESS DISTRICT) TO B-5 (BUSINESS DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, KGI Wireless on behalf of Min Tae and Un Young Kim 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 a 50' by 50' area, being a portion of Lot 1, Block 8, Roberts Addition, Section 8, which is locally known as 2901 W. Elms Road, Killeen, Texas from B-5 (Business District) to B-5 with a conditional use permit (CUP) to allow for a 100' communication tower, said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 22nd day of April 2013 with the following conditions:

1. The proposed monopole will be constructed as a stealth tower.
2. Any construction within the area to be zoned for the tower shall be located outside of any fire lanes to protect public safety access.
3. Any additional construction on the property, located within or outside of the area to be zoned, that alters the drainage patterns or calculations will require the site to come into compliance with drainage standards in order to make the site suitable for development.

4. Prior to permitting, the applicant shall provide a dimensioned/scaled as-built survey to include the requested zoning area, existing and proposed structures, fences, private and public infrastructure, public easements, and fire lanes.

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 14th day of May 2013, 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 $\frac{3}{4}$ 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 B-5 (Business District) to B-5 with a conditional use permit (CUP) incorporating those prescribed conditions as recommended by the Planning and Zoning Commission, for a 50' by 50' area, to allow for a 100' communications tower, being part of Lot 1, Block 8, Roberts Addition, Section 8, which is locally known as 2901 W. Elms Road, Killeen, Texas, 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.

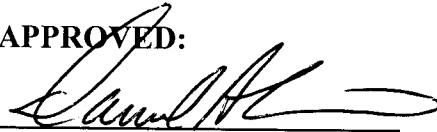
SECTION III. That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

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 14th day of May 2013, 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:

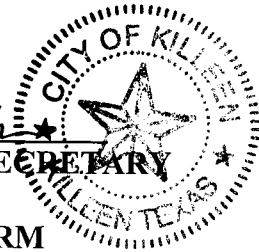


Daniel A. Corbin, MAYOR

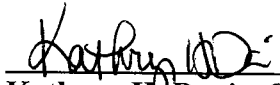
ATTEST:



Paula A. Miller, CITY SECRETARY



APPROVED AS TO FORM



Kathryn H. Davis, City Attorney

Case #13-09

Ord #13-__

CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

**ZONING Case #Z13-09
B-5 (Business District) to B-5 (Business
District) with a conditional use permit (CUP)**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

KGI Wireless on behalf of Min Tae and Un Young Kim is requesting to rezone a 50' by 50' portion of Lot 1, Block 8, Roberts Addition, Section 8, which is locally known as 2901 W. Elms Road, Killeen, Texas for a 100' tall monopole tower. The proposed location of the tower is 205' east of the west property line and 165' north of the south property line.

A conditional use permit is required for any tower that is constructed in a commercially zoned district. Conditional use permits must be approved by the majority of the planning and zoning commission and then by the city council with a three-fourths affirmative vote. The city council may impose reasonable conditions and safeguards deemed appropriate to that application in order to protect the health, safety, and welfare of the public and protect property and values.

Applicant/Property Owner: Min Tae and Un Young Kim

Property Location: The property is located along the south right-of-way of Elms Road and is locally known as 2901 W. Elms Road, Killeen, Texas.

Legal Description: Lot 1, Block 8, Roberts Addition, Section 8

Zoning/ Plat Case History:

The subject property was rezoned from R-1 (Single Family Residential District) to B-5 on March 5, 2002, per ordinance # 02-08.

The property is Lot 1, Block 8, Roberts Addition, Section 8, which was filed for record on February 19, 2003 in Cabinet C, Slide 324-A, Plat Records of Bell County, Texas.

Character of the Area:

Existing Land Use(s) on the Property: Hero Plaza which currently houses a Texaco gas station and convenience store.

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: No additional public water or sanitary sewer demands are anticipated for the proposed development.

Transportation:

Existing conditions: The school is located along the south right-of-way of Elms, which is classified as a 90' minor arterial on the city's thoroughfare plan.

Proposed Improvements: None

Projected Traffic Generation: None

Environmental Assessment

Topography: The site has elevations ranging from 956' to 976'. The tower is proposed to be located at an elevation of 970'.

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

Land Use Analysis

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

Plan Recommendation: The Comprehensive Plan calls for a wide range of commercial retail and service uses, at varying scales and intensities depending on the site.

Consistency: Communication towers are ancillary uses, and the request is consistent with the Comprehensive Plan.

Staff notified nine (9) surrounding property owners within a 200' notification boundary. There were no protests.

Recommendation

The Planning and Zoning Commission recommended approval of the applicant's request for the monopole tower by a vote of 4 to 3 (with Commissioners Traina, Steine and Hoover in opposition) subject to the following conditions:

1. The proposed monopole will be constructed as a stealth tower.
2. Any construction within the area to be zoned for the tower shall be located outside of any fire lanes to protect public safety access.
3. Any additional construction on the property, located within or outside of the area to be zoned, that alters the drainage patterns or calculations will require the site to come into compliance with drainage standards in order to make the site suitable for development.
4. Prior to permitting, the applicant shall provide a dimensioned/scaled as-built survey to include the requested zoning area, existing and proposed structures, fences, private and public infrastructure, public easements, and fire lanes.