

**ORDINANCE 18-037**

**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 UNDERLYING “R-3A” (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT) TO PLANNED UNIT DEVELOPMENT (PUD) WITH UNDERLYING “R-3A” (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Killeen MFD, 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 1, Block 1, Texas Sunflower Addition Amended, from Planned Unit Development (PUD) with underlying “R-3A” (Multifamily Apartment Residential District) zoning to Planned Unit Development (PUD) with underlying “R-3A” (Multifamily Apartment Residential District) in order to revise the PUD concept plan and increase the number of residential units, said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 17th day of September 2018 with the following conditions:

- (i) Phase Two of the multifamily development shall not exceed a total of 72 apartment units and 6 two-story duplex units;
- (ii) the PUD shall adhere to the attached site plan, to include the secondary pool and cabana area, and additional landscaping as illustrated by the applicant;
- (iii) the architectural façade standard for the apartment development shall be consistent with the architectural elevations (renderings submitted by the applicant); and

- (iv) the architectural façade standard for the two-story duplex clusters shall be consistent with the architectural elevations (renderings submitted by the applicant);

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 16th day of October 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 opinion that the request should be approved subject to those conditions and standards as stipulated 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 1, Texas Sunflower Addition Amended, from Planned Unit Development (PUD) with underlying “R-3A” (Multifamily Apartment Residential District) zoning to Planned Unit Development (PUD) with underlying “R-3A” (Multifamily Apartment Residential District) subject to the conditions listed above, for property being locally known as 5002 Thayer 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.

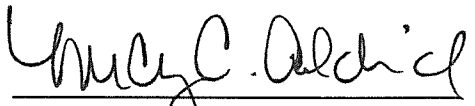
**SECTION IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 16th day of October 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:**


*for*   
Jose L. Segarra, MAYOR

**ATTEST:**

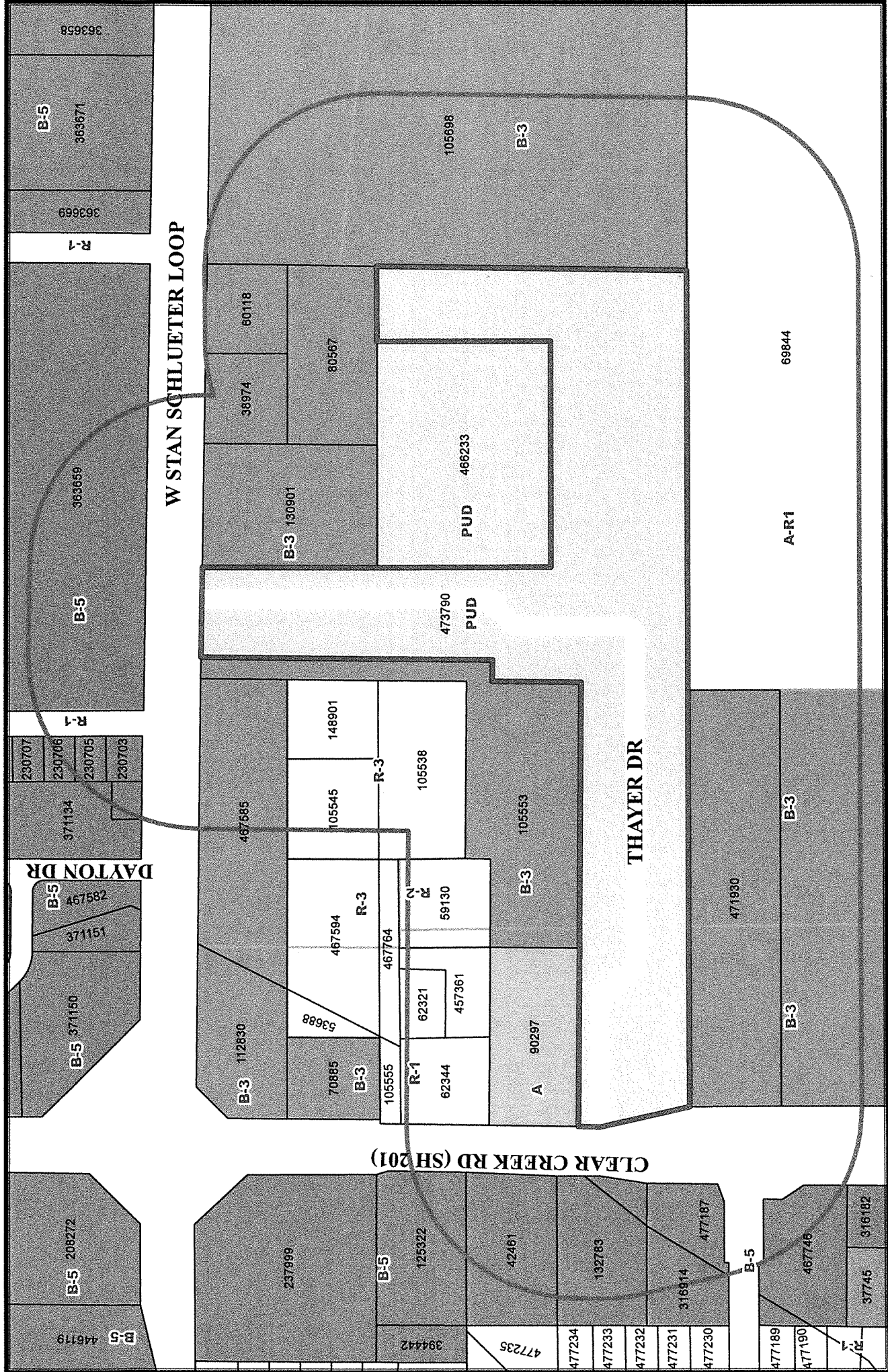
  
Lucy C. Aldrich, CITY SECRETARY



**APPROVED AS TO FORM**

  
Kathryn H. Davis, City Attorney

Case #18-20  
Ord #18-037



**Zoning Case Notification Plan**

**Case Z-2018-20**

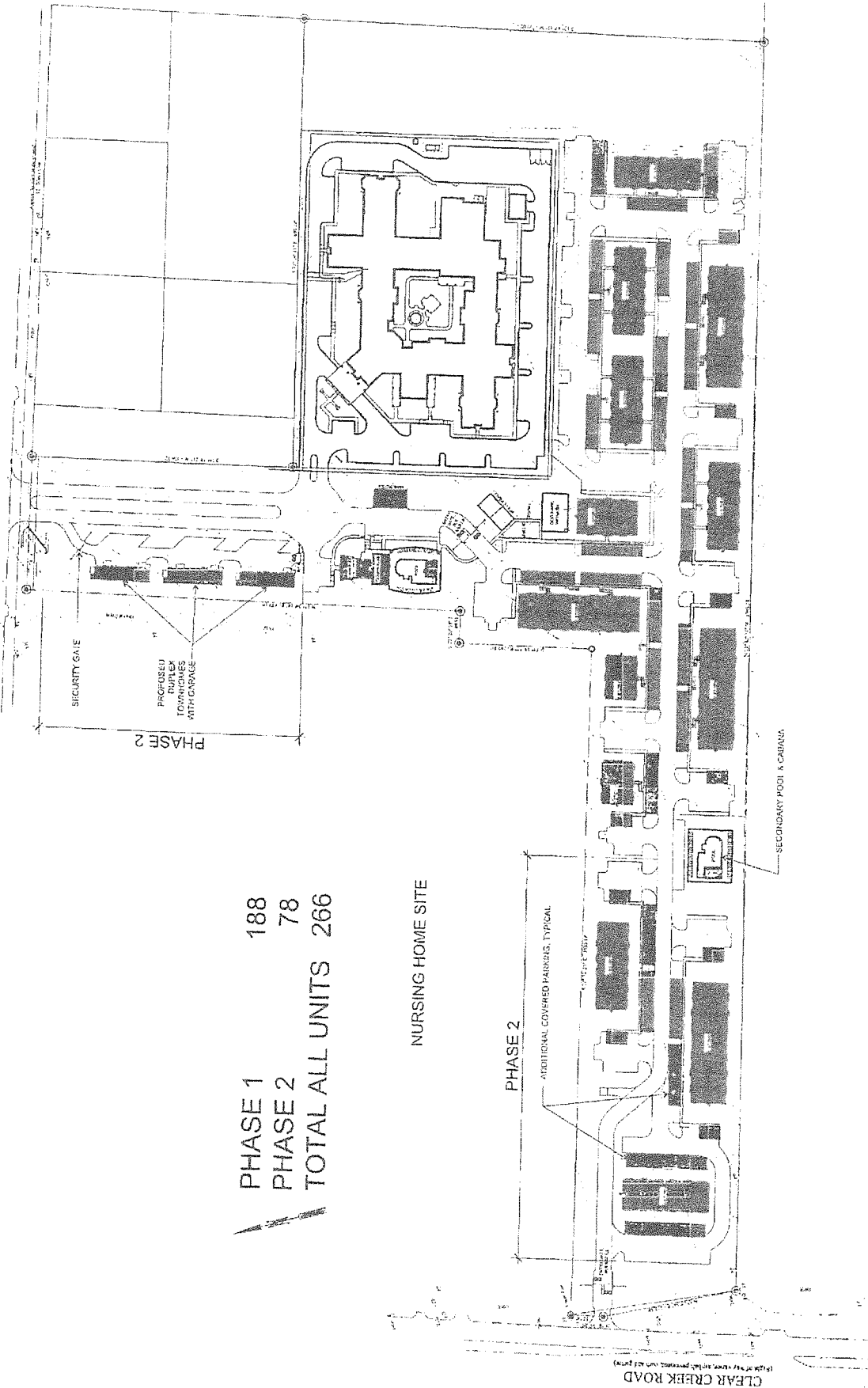
Council District: 4  
 PUD w/ R-3A TO PUD w/ R-3A  
 1 inch = 300 feet  
 Subject Property Legal Description: TEXAS SUNFLOWER ADDITION AMENDED (L1 B1), BLOCK 001, LOT 001A, 18.636AC

**Legend**

- 400' Buffer
- Parcel
- City Limits



W. STAN SCHLUETER LOOP  
(Original map shows right-of-way, both and all)



PHASE 1 188  
PHASE 2 78  
TOTAL ALL UNITS 266

NURSING HOME SITE

CLEAR CREEK ROAD  
(Right-of-way shown, and left preserved, and all paved)

7



THAYER  
POINT

THAYER POINT  
MILL COUNTY

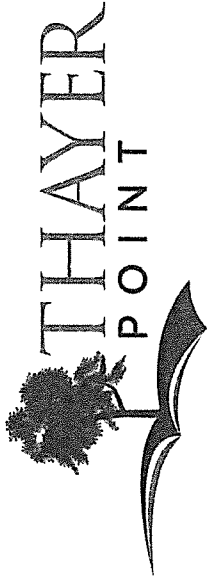
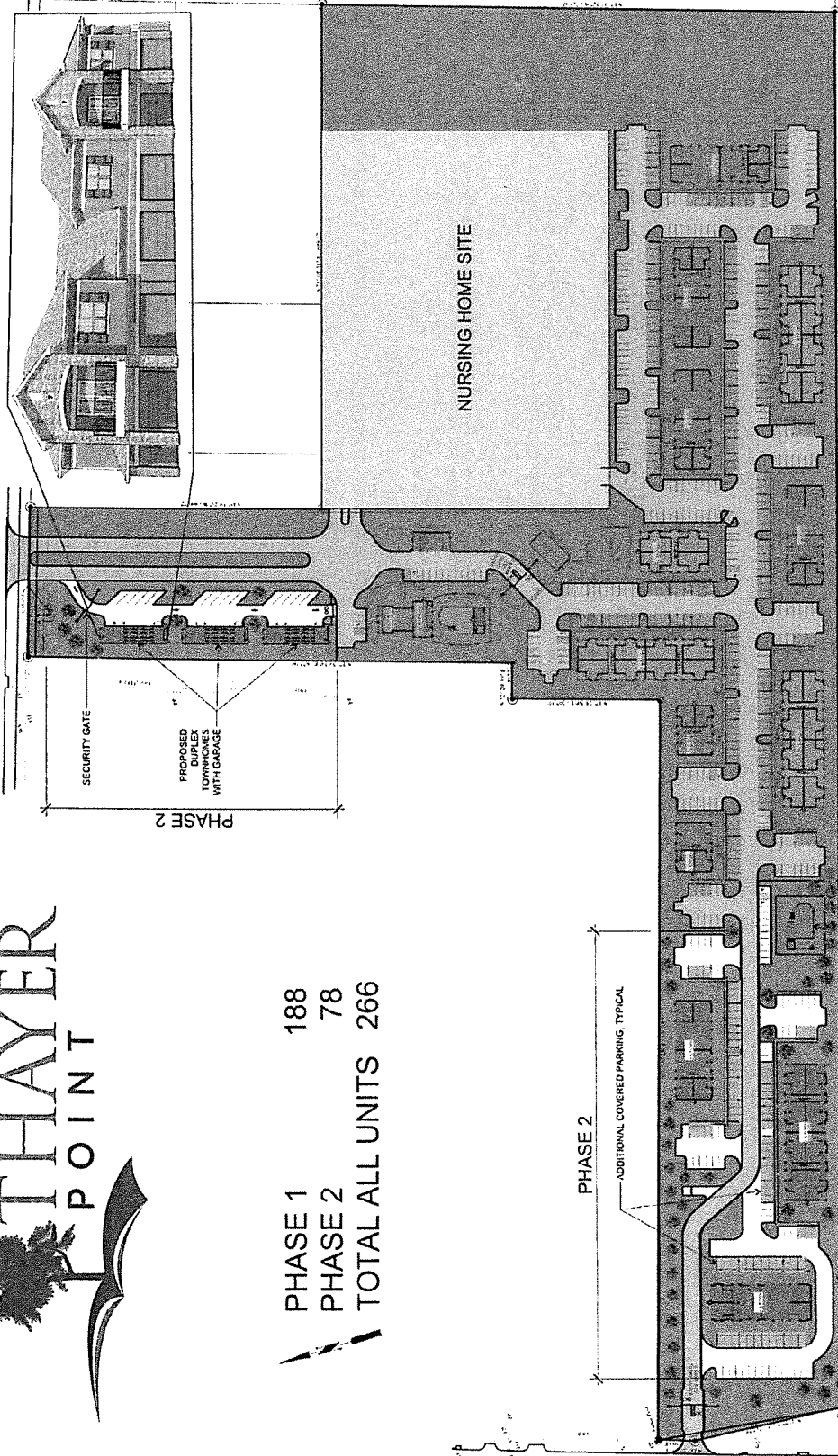
scott pranton  
architect, inc.

15-00-2  
7/25/18

P.U.D. SITE PLAN

P.U.D.

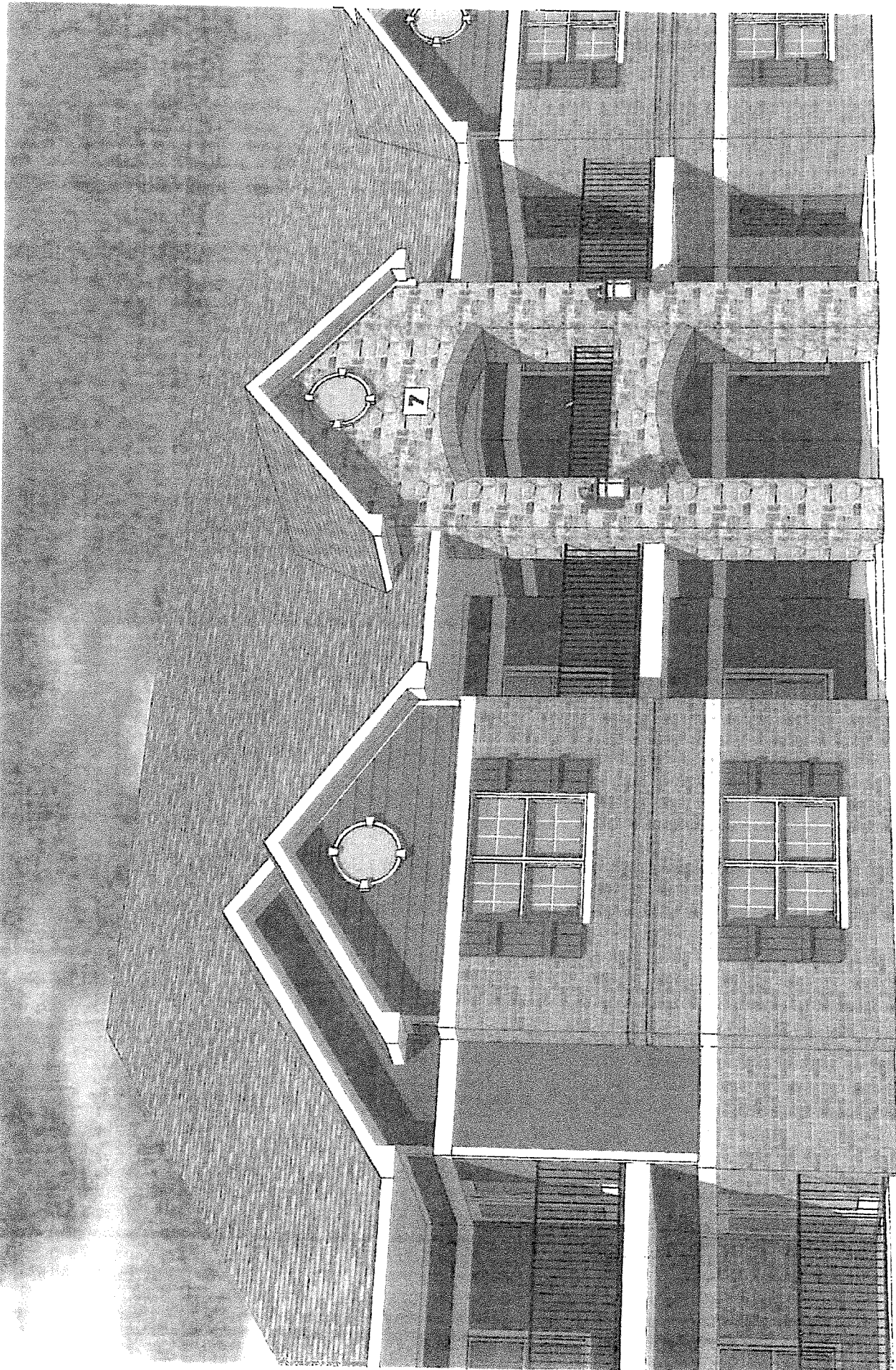
W. STAN SCHLUETER LOOP  
EXISTING AND PROPOSED PARKING, DRIVE AND FUTURE



PHASE 1 188  
PHASE 2 78  
TOTAL ALL UNITS 266

CLEAR CREEK ROAD

17



**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
SEPTEMBER 17, 2018**

**CASE #Z18-20  
“PUD” w/“R-3A” to “PUD” w/“R-3A”**

**HOLD** a public hearing and consider a request submitted by Killeen Engineering & Surveying, Ltd., on behalf of Killeen MFD, L.L.C., to rezone Lot 1, Block 1, Texas Sunflower Addition Amended from Planned Unit Development (PUD) with “R-3A” (Multifamily Apartment Residential District) to Planned Unit Development (PUD) with “R-3A” (Multifamily Apartment Residential District) in order to revise the PUD concept plan and increase the number of apartment units. The property is addressed as 5002 Thayer Drive, Killeen, Texas.

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

Chairman Peters requested staff comments.

City Planner, Tony McIlwain, stated that the purpose of the rezoning request is to add 78 additional residential units as phase two of the development scheme. Specifically, the concept plan illustrates three (3) new three-story apartment buildings being located near the southwest entry of the site nearest Clear Creek Road (S.H. 201). Each of these three apartment buildings will contain 24 residential units. There are three (3) new two-story duplex clusters being proposed near the main entry nearest W. Stan Schlueter Loop (FM 3470), with each cluster containing two 2-story duplex units (6 total). The total number of residential units included in phase one and proposed with phase two equal 266; the applicant is allowed a total of 324 units by-right.

Staff recommended approval of the applicant’s request with the following conditions:

- (i) Phase two of the multifamily development shall not exceed a total of 72 apartment units and 6 two-story duplex units;
- (ii) the PUD shall adhere to the attached site plan, to include the secondary pool and cabana area, and additional landscaping as illustrated by the applicant;
- (iii) the architectural façade standard for the apartment development shall be consistent with the architectural elevations (renderings submitted by the applicant); and
- (iv) the architectural façade standard for the two-story duplex clusters shall be consistent with the architectural elevations (renderings submitted by the applicant).

Mr. McIlwain stated that staff notified twenty-three (23) surrounding property owners within 400 ft. of the subject site and received no written responses.

Ms. Michelle Lee, 2901 E. Stan Schlueter Loop, Killeen, Texas, was present to represent this request.

Devin Wright, 2312 Ramsgate Way, Arkansas, was also present to represent this request.



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

Commissioner Cooper motioned to recommend approval of the request as recommended by staff. Commissioner Dorroh seconded, and the motion passed by a vote of 5 to 0.

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

Vice Chairman Purser returned to the dais.

## CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 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**

**DATE:** October 2, 2018

**TO:** Ronald L. Olson, City Manager

**FROM:** Dr. Ray Shanaa, AICP, Exec. Dir. of Planning and Development Services

**SUBJECT:** Zoning Case #Z18-20 Planned Unit Development (PUD) with "R-3A" (Multifamily Apartment Residential District) to Planned Unit Development (PUD) with "R-3A" (Multifamily Apartment Residential District) to Planned Unit Development (PUD) with "R-3A" (Multifamily Apartment Residential District)

**Background and Findings**

This request is submitted by Killeen MFD, L.L.C. to rezone Lot 1A, Block 1, Texas Sunflower Addition Amended, from a Planned Unit Development (PUD) with "R-3A" (Multifamily Apartment Residential District) to Planned Unit Development (PUD) with "R-3A" (Multifamily Residential District) in order to revise the PUD concept plan and increase the number of residential units for Thayer Point from 188 to 266. The property is addressed as 5002 Thayer Drive, Killeen, Texas.

The Thayer Point PUD was approved by the City Council on September 22, 2015, per ordinance No. 15-052. The existing PUD allows for a skilled nursing facility and a total of 188 apartment units with the following amenities:

- Resort style pool with decking and pool furniture;
- Outdoor grilling areas with pavers, stone, etc.;
- Pet park;
- Sand volleyball court;
- Coffee bar in the front office;
- Very modern, upscale 24 hour fitness center;
- Parking garages;
- Covered parking with pergola look;
- Media/business center;
- Upscale clubhouse/recreation room;
- Full landscaping package at entries/business office, and ornamental shade trees around the property/perimeter;
- Balcony at every unit.

The purpose of the rezoning request is to add 78 additional residential units as Phase 2 of the development scheme. Specifically, the concept plan illustrates three (3) new three-story apartment buildings being located near the southwest entry of the site nearest Clear Creek Road (S.H. 201). Each of these three apartment buildings will contain 24 residential units.

There are three (3) new two-story duplex clusters being proposed near the main entry nearest W. Stan Schlueter Loop (FM 3470), with each cluster containing two 2-story duplex units (6 total). The total number of residential units included in phase 1 and proposed with Phase 2 equal 266; the applicant is allowed a total of 324 units by-right.

#### District Descriptions:

- (a) Uses. A building or premises in a "R-3A" Multifamily Apartment Residential District shall be used only for the following purposes:
  - (1) Any use permitted in the "R-1" or "R-2" districts.
  - (2) Multifamily structures containing five (5) or more separate dwelling units, including large apartment complexes with high rise structures.
  - (3) Boarding and lodging houses.
  - (4) Fraternity or sorority houses.
  - (5) Licensed group or community homes housing six (6) or more persons.
  - (6) Dormitories for educational or employment purposes as a primary use.
  - (7) Any group housing activity not otherwise identified in another multifamily or business district.
  - (8) Accessory buildings and uses, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a business.
- (b) Planned unit development required. Rezoning applications requesting zoning under this division shall be subject to the requirements of 31-256.9 of this division, if applicable.

#### Sec. 31-256.9. - Planned Unit Development (PUD) required.

- (a) A Planned Unit Development (PUD) as provided in Chapter 31, Article V, Division 8, Killeen Code of Ordinances shall be required for any request for an "R-3F" and/or "R-3A" district when the total acreage of the request alone, or when the total acreage of the request combined with all adjacent areas zoned "R-2", "R-3", "R-3F", and "R-3A", and/or areas within a two-thousand feet radius of any of the property seeking to be rezoned, consist of twenty-five (25) acres or more. The purpose for requiring a PUD is to provide the Planning and Zoning Commission and the City Council with the ability to determine the proposed development's impact on surrounding properties, existing infrastructure and open/recreational space and also to determine whether additional public improvements to serve denser multifamily development are necessary to promote the health, safety and welfare of the development's residents.
- (b) Properties are considered adjacent and subject to the computation of this section if they are continuously zoned for multifamily and/or two family residential use regardless of ownership, property lines, easements or rights-of-way.
- (c) The applicant shall provide any public infrastructure beyond the city's minimum development standards that is required to service the proposed development, including open/recreational space and oversized water, sewer and drainage facilities and greater street widths.
- (d) The applicant is responsible for determining whether or not a PUD is required. However, if the Director of Planning and Development Services determines at any time that a PUD

is required and one was not submitted the applicant shall be informed in writing and they shall either modify their application to include the PUD or withdraw the application and have all associated application fee(s) returned.

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.

### **Property Specifics**

Applicant / Property Owner: Killeen MFD, L.L.C.

Property Location: The property is addressed as 5002 Thayer Drive, Killeen, Texas.

Legal Description: Lot 1A, Block 1, Texas Sunflower Addition Amended.

Zoning/ Plat Case History:

- The property was rezoned from "B-3" (Local Business District) and "A-R1" (Agricultural Single-Family Residential District) to the current PUD on September 22, 2015, per ordinance No. 15-052.
- The area was most recently platted as Texas Sunflower Addition Amended, which was filed for record on March 21, 2017 as Dedication Instrument No. 2017-10828, Official Records of Bell County, Texas.

Character of the Area: The surrounding land uses consist of conforming and non-conforming single-family residential uses, institutional uses and undeveloped acreage sites.

Existing Land Use(s) on the Property: The property is currently under development and contains the business center and numerous apartment buildings; the adjacent 120- bed skilled nursing center, Killeen Nursing and Rehabilitation, is operational.

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 available to the above subject tract located within the City of Killeen municipal utility service area. Adequate potable water and sanitary sewer capacity is currently available to the tract. An existing potable water transmission main borders the Stan Schlueter Loop frontage of the property, while an existing sanitary sewer gravity interceptor crosses the southeast corner of the subject tract.

**Transportation:**

Existing conditions: The tract has direct access to both Clear Creek Road (S.H. 201) and Stan Schlueter Loop (FM 3470), which are classified as 110' principal arterials on the City's adopted Thoroughfare Plan.

Proposed Improvements: No additional right-of-way improvements are proposed at this time.

Proposed Traffic Generation: If approved, at full build-out, the PUD will include 266 multifamily units. These units will generate 1,769 daily trips with 136 total generated trips during AM peak hour and 165 total generated trips during PM peak hour [note-this data is sourced from the Institute of Transportation Engineer (ITE) Trip Generation Rates-9th Edition, provided through Spack Consulting].

Environmental Assessment: There are no known wetlands on this property. There are no known environmental issues with the existing or proposed development for this site.

**Land Use Analysis**

Land Use Plan: This area is designated as 'General Residential' and 'Suburban Commercial' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

Plan Recommendation: The 'General Residential' designation encompasses detached, residential dwelling units, attached housing types, planned developments, as well as parks and public/institutional places. The 'Suburban Commercial' designation encompasses a range of commercial retail and service uses, at varying scales and intensities depending on the site. Characteristics of this designation are their close proximity to residential areas, reduced site coverage and the exclusion of some auto-oriented uses.

Consistency: The PUD proposal is consistent with the Comprehensive Plan.

Public Notification: Staff notified twenty-three (23) surrounding property owners within 400 feet of this property regarding this request. As of the date of this report, staff has received no responses.

**THE ALTERNATIVES CONSIDERED:**

**Which alternative is recommended?**

Staff is not recommending any alternatives.

**Why?**

Staff supports the request to rezone the properties.

**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 Commissioner Purser abstaining from the vote. The recommendation is subject to the following conditions:

- (i) Phase Two of the multifamily development shall not exceed a total of 72 apartment units and 6 two-story duplex units;
- (ii) the PUD shall adhere to the attached site plan, to include the secondary pool and cabana area, and additional landscaping as illustrated by the applicant;
- (iii) the architectural façade standards for the apartment development shall be consistent with the architectural elevations (renderings submitted by the applicant); and
- (iv) the architectural façade standards for the two-story duplex clusters shall be consistent with the architectural elevations (renderings submitted by the applicant).

**DEPARTMENTAL CLEARANCES:**

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

**ATTACHED SUPPORTING DOCUMENTS:**

Maps

Overall PUD Concept Plan  
Phase 2 Site Plan  
Apartment Architectural Elevation  
Minutes  
Ordinance  
Considerations