

**ORDINANCE NO. 12-057**

**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 UD (UNIVERSITY DISTRICT) TO UD WITH CUP (CONDITIONAL USE PERMIT) ALLOWING FOR TWO FAMILY RESIDENTIAL USE AND RESIDENTIAL TOWNHOUSE SINGLE FAMILY USE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, William R. and Robbie A. Dunivan 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 approximately 16.305 acres, being out of the M.T. Martin Survey, Abstract No. 693, from UD (University District) to UD with a CUP (conditional use permit) to allow for two family residential use and residential townhouse single family use, said request having been duly presented and recommended for approval with the conditions and development scheme as illustrated on the applicant's submitted site data plan (exhibit 1) by the Planning and Zoning Commission of the City of Killeen on the 13<sup>th</sup> 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 28<sup>th</sup> 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 for approximately 16.305 acres, being out of the M.T. Martin Survey, Abstract No. 693, being located north of Reece Creek Road and west of S.H. 195, Killeen, Texas, be changed from UD (University District) to UD with a CUP

(conditional use permit) to allow for two family residential use and residential townhouse single family use, with the conditions and development scheme as illustrated on the applicant's submitted site data plan (exhibit 1).

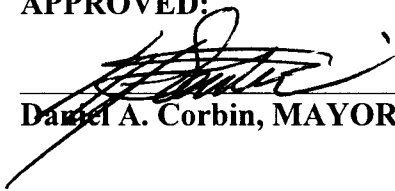
**Section II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**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 28<sup>th</sup> 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

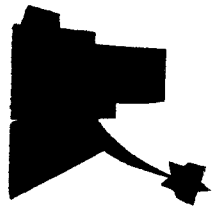


**APPROVED AS TO FORM**

  
Kathryn H. Davis, City Attorney

Case #12-25  
Ord # 12-





**PLANNING AND DEVELOPMENT SERVICES**

**ZONING CASE:**

**#Z12-25**

**ZONING FROM:**

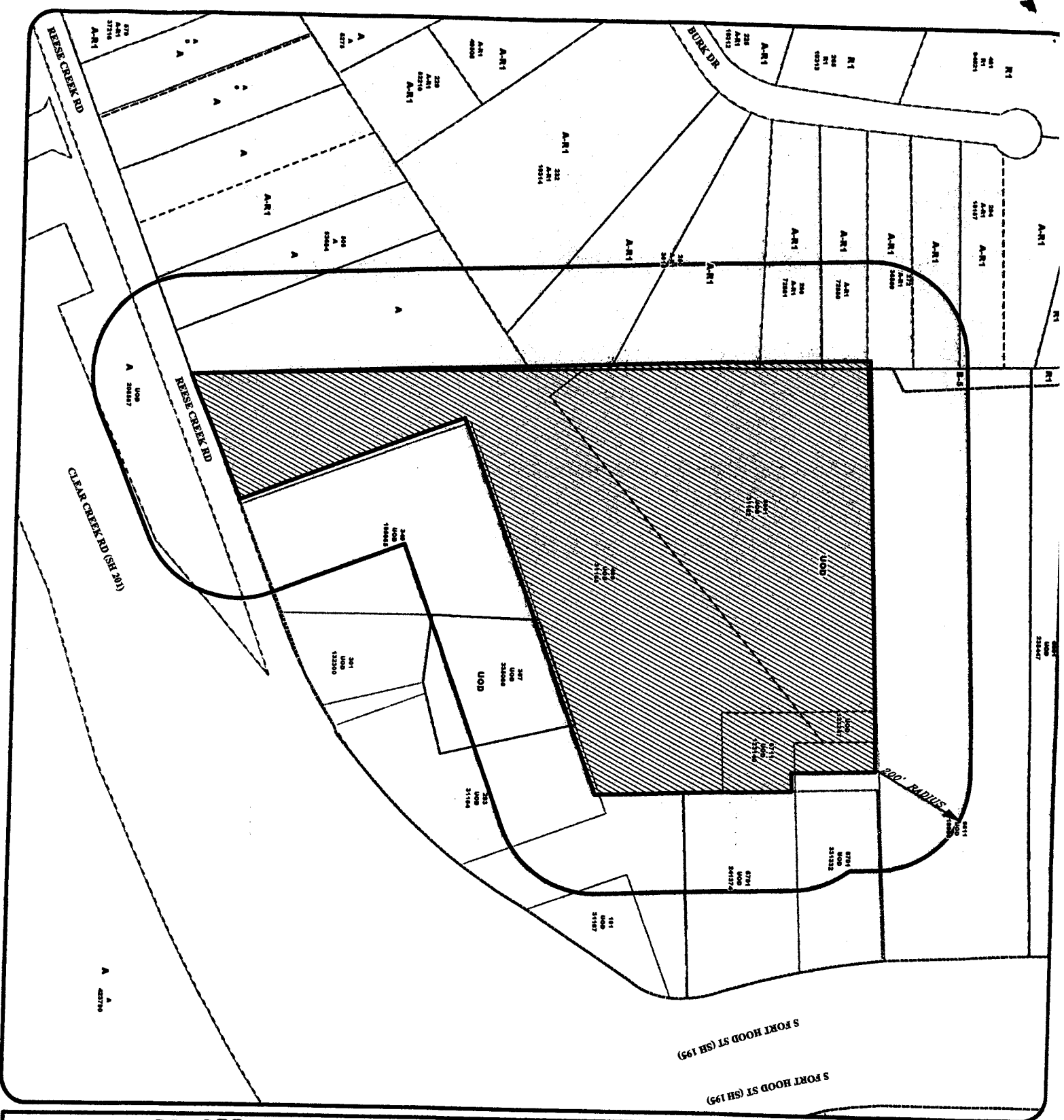
**UD TO UD W/CUP FOR R2 AND RT-1**

**PROPERTY OWNER:**

**WILLIAM R AND ROBBIE A DUNIVAN**

- Legend**
- Buffer\_of\_12-25
  - Production, GISADMIN, Zoning Cases 2012
  - City Limits
  - CURRENT ZONING
  - Production, GISADMIN, Parcel
  - Subdivision

**DATE:** 07/30/12





PLANNING AND  
DEVELOPMENT SERVICES

**ZONING CASE:**

#Z12-25

**ZONING FROM:**

UOD TO UD W/CUP  
FOR R2 AND RT-1

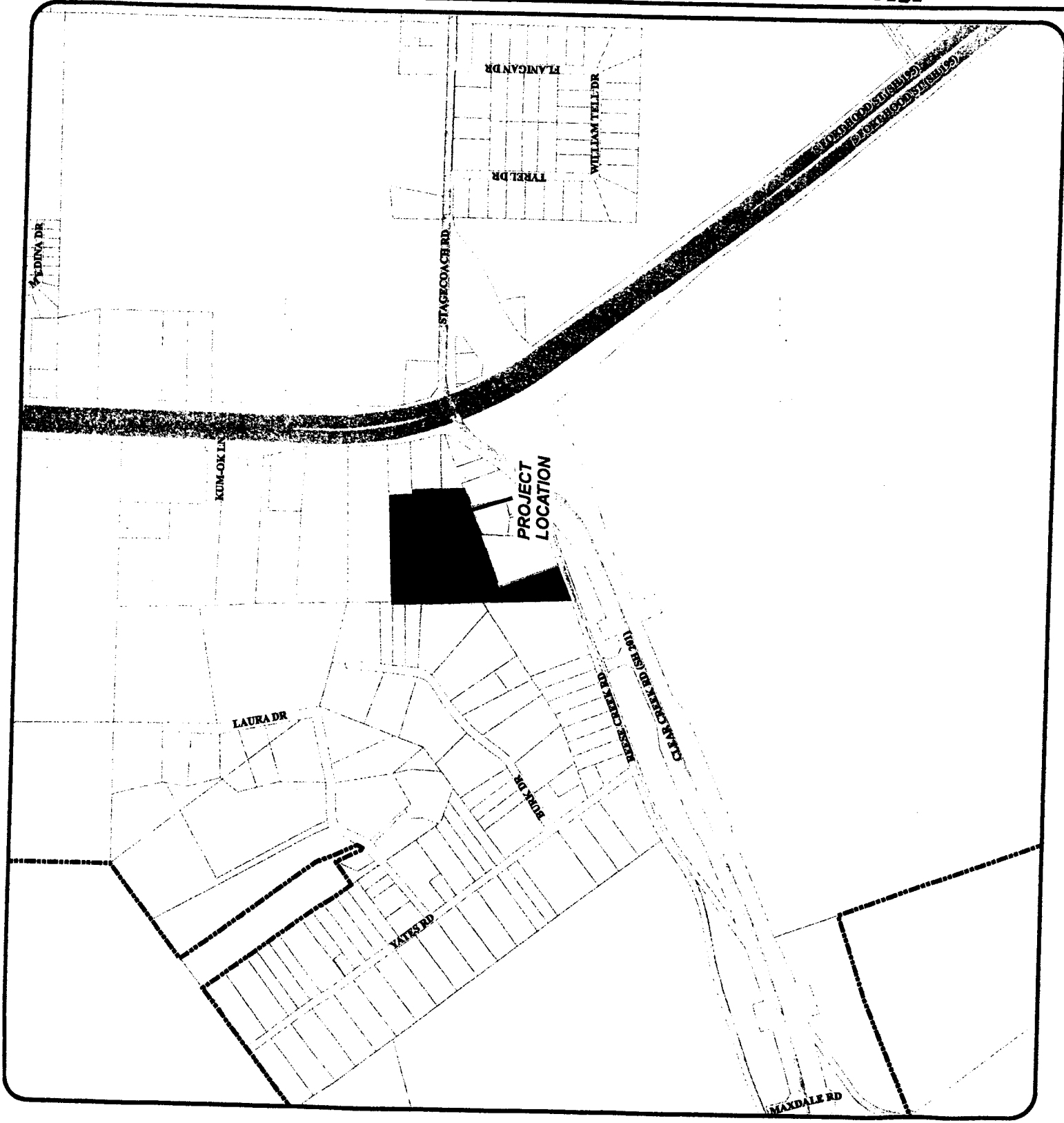
**PROPERTY OWNER:**

WILLIAM R. AND ROBBIE A  
DUNIVAN

Legend  
Production: GISADMIN\_ZoningCases2012  
City Limits  
Production: GISADMIN\_Parcel



DATE: 07/30/2012



**CITY COUNCIL MEMORANDUM FOR ORDINANCE**

**AGENDA ITEM**

**ZONING CASE #Z12-25  
UNIVERSITY DISTRICT (UD) TO UD  
WITH CONDITIONAL USE PERMIT (CUP)  
FOR R-2 (TWO FAMILY RESIDENTIAL  
DISTRICT) AND RT-1 (RESIDENTIAL  
TOWNHOUSE SINGLE FAMILY  
RESIDENTIAL DISTRICT) USES**

**ORIGINATING DEPARTMENT**

**PLANNING & DEVELOPMENT SERVICES**

**Nature of the Request**

This request is to rezone approximately 16.305 acres from UD (University District) to UD with a conditional use permit (CUP). The applicant is petitioning to rezone the property to allow for R-2 (Two-Family Residential) and RT-1 (Residential Townhouse Single-Family) development to correspond with the setbacks as expressed on the applicant's submitted site data plan. Specifically, the applicant is requesting deviations to the required 30' front yards as established in the University District (UD).

**University District boundary.**

The university district regulations apply to all property located in the current or future corporate city limits for a depth of fifteen hundred (1,500) feet at the following locations: north of the State Highway 201 right-of-way for a distance of approximately sixty-six hundred (6,600) feet west of the intersection of State Highway 201 and State Highway 195; west and east of the State Highway 195 right-of-way for a distance of approximately fifteen hundred (1,500') feet north of the intersection of State Highway 195 and State Highway 201; and, east of the State Highway 195 right-of-way for a distance of approximately seventy-six hundred (7,600) feet south of the intersection of State Highway 195 and State Highway 201, the first nine hundred and fifty (950) feet of depth within this segment of the district, as measured from State Highway 195, shall be designated for commercial use. The remaining five hundred and fifty (550) feet of depth of this segment shall be designated for mixed-use development, or residential use via a conditional use permit.

**Use regulations.**

- (a) A building or premises in the university district shall only be used for uses permitted in the "B-2" district, subject to the provisions of this division, and for the following purposes:
- (1) Bank, savings and loan or other financial institution.
  - (2) Hospital, home or center for the acute or chronic ill, or assisted living facility.
  - (3) Household appliance sales and repair service.

provided the property owner remains in continuous compliance with any conditions or safeguards imposed.

### Property Specifics

**Applicant/Property Owner:** William R. and Robbie A. Dunivan

**Property Location:** The property is located on the north right-of-way of Reese Creek Road, approximately 1,307' west of the intersection of Clear Creek Road (S. H. 201) and S. Fort Hood Street (S. H. 195), and is locally addressed as 409 Reese Creek Road, Killeen, Texas.

**Legal Description:** The property is part of Lot 1, Block 1, Dunivan Addition, part of the Moses T. Martin Survey, Abstract No. 693, and part of the William Freer Survey, Abstract No. 517, Bell County, Texas.

#### Zoning/ Plat Case History:

- The property was annexed into the City of Killeen effective March 16, 1999 per Ordinance No. 99-16. The property was zoned from to UOD on May 9, 2006 per Ordinance No. 06-48.
- The property has not been platted.

### Character of the Area:

**Existing Land Use(s) on the Property:** This is an undeveloped tract.

#### Figure 1. Zoning Map



**Historic Properties:** None

## Infrastructure and Community Facilities

### Emergency Response:

Fire Protection District: City of Killeen, Fire District 6.

Fire Response Zone: 6-21

Miles from Fire Station: Approximately 4.5 miles from Fire Station No. 6, which is located at 2001 E. Elms Road.

### Water, Sewer and Drainage Services:

Provider: City of Killeen is the water provider.

Within Service Area: City of Killeen

Feasibility Study or Service Commitment: Water service is available with adequate capacity. Sewer service will require extension of a sanitary sewer main from the existing interceptor west of the proposed development.

### Transportation:

Existing conditions: Reese Creek Road is a county-grade thoroughfare and is classified as a 70' collector on the City's Thoroughfare Plan. The section providing access to the proposed development is being constructed as part of the S.H. 195/ S. H. 201 interchange TxDOT pass through funding project.

Proposed Improvements: None, as part of this project.

Projected Traffic Generation: Marginal

## Environmental Assessment

**Topography:** The property is a hill ranging in elevation from 932' to 982'.

**Regulated Floodplain/Floodway/Creek:** This lot is not within any FEMA Special Flood Hazard Area.

## Land Use Analysis

**S. H. 195/ S.H. 201 Land Use Plan:** This area is within the Commercial designation of the S. H. 201/195 Land Use Plan (LUP) and the Suburban Commercial designation of the future land use map (FLUM) of the comprehensive plan.

**Plan Recommendation:** The S. H. 195/ S.H. 201 LUP designates the subject site as commercial use, based on the determination that the frontages of S.H. 201 and S.H. 195 have commercial potential and...“lining major arterials with commercial uses is a locally accepted planning practice in the surrounding region.” The S.H. 195/ S.H. 201 interchange also holds potential for commercial development, in a more intensive amount than those areas that are simply along one frontage or the other.

**Future Land Use Map:** Chapter 2 and the future land use map (FLUM) of the recently approved Killeen comprehensive plan show this area as Suburban Commercial.



- (4) Retail bakery or confectionery: engaged in preparation, baking, cooking, selling and delivery of products.
  - (5) Boat and accessory sales, no outside storage.
  - (6) Bowling alleys.
  - (7) Cleaning or laundry (self-service).
  - (8) Cleaning or laundry, (pick-up station).
  - (9) 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.
  - (10) General food products, retail sales, such as supermarkets, butcher shops, dairy stores, seafood sales or health food sales.
  - (11) Cafeteria or catering service.
  - (12) Office, general business.
  - (13) Restaurant or café (with drive-thru or dine in service).
  - (14) Tennis, swim club, health club or gym.
  - (15) Small animal clinic or pet grooming shop.
  - (16) Hotel or motel.
  - (17) Job printing.
  - (18) Gasoline service station, auto laundry, car wash, or oil/ lube service station.
  - (19) Retail sales of new auto parts: no outside storage.
  - (20) A customarily incidental use: sale of beer and/or wine for off-premises consumption only shall be considered a customarily incident use in this district.
  - (21) Theaters of general release.
  - (22) A restaurant permitted to offer alcoholic beverages for sale operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, and in accordance with chapter 31, division 16, restaurant and alcohol sales district, as amended.
  - (23) Package stores operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, and in accordance with chapter 31, division 12A, district B-3A, local business and alcohol sales district, as amended.
  - (24) Mixed-use development, being located nine hundred and fifty (950) feet to fifteen hundred (1,500) feet east of the east right-of-way of State Highway 195, and for a distance of approximately seventy-six hundred (7,600) feet south of the intersection of State Highway 195 and State Highway 201, for the commercial and residential use of a building, set of buildings, or neighborhood, where the first floor is designed, constructed and used for commercial use only while allowing access to residential uses.
  - (25) Art gallery, book store or library.
- (b) Any conflict between this district and the districts incorporated herein, or the regulations provided by the other districts, shall be resolved so that the most stringent provision shall control.

#### **Conditional use permit.**

The city council by an affirmative majority vote may by ordinance grant a conditional use permit as provided in section 31-441 of this chapter for any residential or business land use for a specific parcel in the University District and may impose appropriate conditions and safeguards to assure that these land uses are compatible with and appropriate for locations adjacent to the future four-year university. Conditional use permits granted shall be considered permanent

**Plan Recommendation:** The Suburban Commercial character allows for a range of commercial retail and service uses, at varying scales and intensities depending on the site. This includes the following development types:

- Office (both large and/or multi-story buildings and small-scale office uses depending on the site)
- Planned development to accommodate custom site designs or mixing of uses in a suburban character setting
- Public/institutional
- Parks and public spaces

**Consistency:** The subject proposal is consistent with the LUP and the comprehensive plan. As stated earlier, the city council may grant a conditional use permit as provided in Killeen Code of Ordinances Section 31-441 for any residential or business land use for a specific parcel in the University District and may impose appropriate conditions and safeguards to assure that these land uses are compatible with and appropriate for locations adjacent to the future four-year university.

#### Public Notification

The staff notified twelve (12) surrounding property owners regarding this request. Staff has received no protests. Mr. Terry Brafford of 301 Reese Creek Road spoke of the need for more information regarding the project and its impact on the surrounding neighborhood. Mr. Lyndol Impson of 505 Reese Creek Road voiced concerns about flooding the area and stated “I don’t feel that this is needed or wanted”.

#### Recommendation

The Planning and Zoning Commission recommended approval of the applicant’s conditional use permit request to allow residential development for R-2 (Two-Family Residential) and RT-1 (Residential Townhouse Single-Family) with the conditions and development scheme as illustrated on the applicant’s submitted site data plan. The Comprehensive Plan encourages custom site design and mixing of uses in a suburban commercial setting. It is anticipated that this development will be attractive and allow residential, commercial, and retail uses. The applicant will meet all other code-related requirements such as screening and façade requirements.