

ORDINANCE

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 87 ACRES OUT OF THE M.T. MARTIN SURVEY, ABSTRACT NO. 963, BEING APPROXIMATELY 62 ACRES FROM “A” (AGRICULTURAL DISTRICT) TO “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT), AND APPROXIMATELY 9 ACRES OUT OF THE M.T. MARTIN SURVEY, ABSTRACT NO. 963 FROM “UD” (UNIVERSITY DISTRICT) TO “UD” (UNIVERSITY DISTRICT) WITH A “CUP” (CONDITIONAL USE PERMIT) FOR PROPERTY LOCALLY KNOWN AS 410 TOWER HILL LANE AND 9600 S. FORT HOOD STREET, KILLEEN, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Brandy Kelley has presented to the City of Killeen on behalf of JoAnn Kelley a request for an amendment to the zoning ordinance of the City of Killeen to change the classification of approximately 78 acres out of the M.T. Martin Survey Abstract No. 963 from “A” (Agricultural District) to “R-1” (Single-Family Residential District), and approximately 9 acres from “UD” (University District) to “UD” with a “CUP” (Conditional Use Permit), said request having been duly presented and recommended for approval on the 6th day of August 2018, by the Planning and Zoning Commission of the City of Killeen, of changing approximately 62 acres from “A” (Agricultural District) to “R-1” (Single-Family Residential District) and approximately 9 acres from “UD” (University District) to “UD” (University District) with a “CUP” (Conditional Use Permit) for single-family residential use with the following conditions:

- That all residential housing within the “CUP” (Conditional Use Permit) area shall meet the height and area requirements as detailed within Sections 31-187 through 188 of the Code of Ordinances, and that the applicant shall satisfy all architectural and landscaping requirements within the “UD” (University District).

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 August 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 majority opinion that the amendment should be approved as recommended 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 approximately 62 acres out of the M.T. Martin Survey Abstract No. 963 be changed from “A” (Agricultural District) to “R-1” (Single-Family Residential District) and approximately 9 acres out of the M.T. Martin Survey Abstract No. 963 be changed and from “UD” (University District) to “UD” with a “CUP” (Conditional Use Permit) for single family residential use with the condition that all residential housing within the “CUP” (Conditional Use Permit) area shall meet the height and area requirements as detailed within Sections 31-187 through 188 of the Code of Ordinances, and that the applicant shall satisfy all architectural and landscaping requirements within the “UD” (University District), for the property generally locally known as 9600 S. Fort Hood Street and 410 Tower Hill Lane, Killeen Texas.

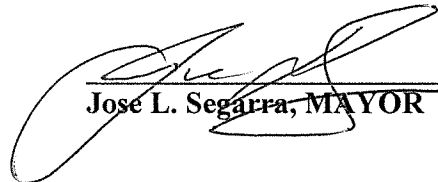
SECTION II. That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

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.

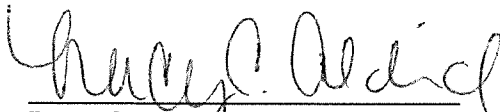
SECTION IV. That this ordinance shall take effect immediately upon passage of the ordinance.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 28th day of August 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:

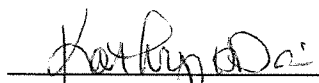

Jose L. Segarra, MAYOR

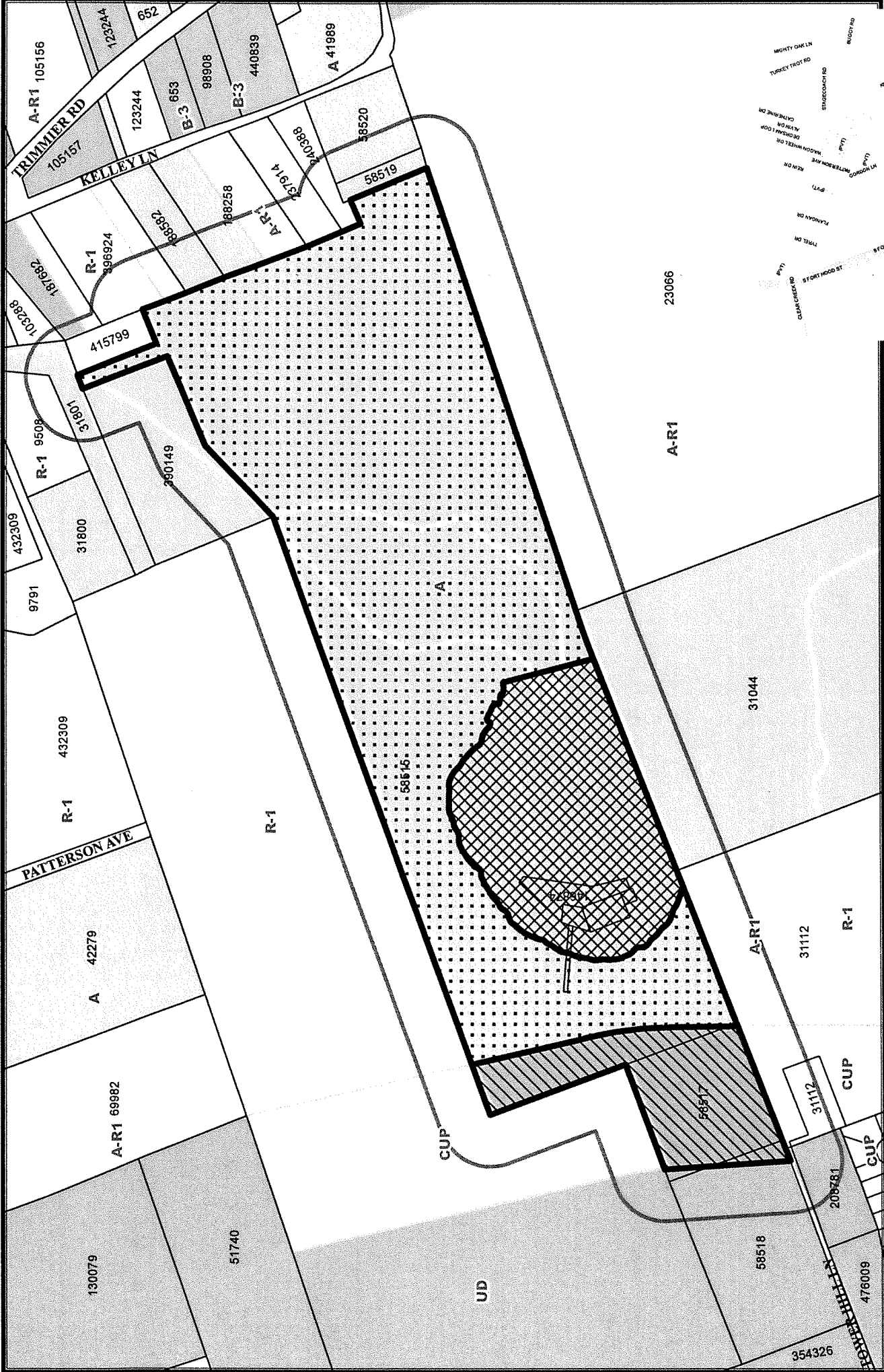
ATTEST:


Lucy C. Aldrich,
CITY SECRETARY



APPROVED AS TO FORM


Kathryn H. Davis, CITY ATTORNEY
Case #18-15
Ord. #18-027



ZONING MAP
Case Z-2018-15
 Council District: 3
 REQUESTED: A TO R-1 & UD TO UD WITH CUP FOR R-1
 1 inch = 500 feet
 Subject Property Legal Description: A09638C M T MARTIN, 4, ACRES 87.58 OUT OF 179.293 ACRES
 1 in = 500 ft

Legend
Zoning Case 15-18
ZONING
 (APPROXIMATELY 16 ACRES) TO REMAIN (A)
 (APPROXIMATELY 62 ACRES) A TO R-1
 (APPROXIMATELY 9 ACRES) UD TO UD/CUP

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
AUGUST 6, 2018**

**CASE #Z18-15
“A”, “UD” to “R-1” & “UD” w/CUP FOR “R-1”**

B. HOLD a public hearing and consider a request submitted by Brandy Kelley on behalf of Joann Kelley to rezone approximately 79.37 acres from “A” (Agricultural District) to “R-1” (Single Family Residential) and 8.21 acres from “UD” (University District) to “UD” with a Conditional Use Permit (CUP) for “R-1” (Single-Family Residential) housing for a total of approximately 87.58 acres out of the M.T. Martin Survey, Abstract No. 963. The property is addressed as 9600 S. Fort Hood Street and 410 Tower Hill Lane, Killeen, Texas.

Vice Chair Purser requested staff comments.

Senior Planner, Wallis Meshier, stated that this request is for approximately 87 acres. She stated that the recommendation for the zoning request should follow the FLUM amendment recommendation. Staff recommended that the portion of the subject property that is between 950 feet and 1,500 feet east of State Highway 195 be changed from “UD” (University District) to “UD” (University District) with a “CUP” (Conditional Use Permit) for single-family residential use, and that the portion of the subject property that is 1,500 feet or more east of State Highway 195 be changed from “A” (Agricultural District) to “R-1” (Single-Family Residential District), with the exception of the 16-acre portion that is encumbered by the top of the hill.

Ms. Meshier states that staff notified twenty-three (23) surrounding property owners regarding this request, and received three (3) letters in support of the request.

Ms. Brandy Kelley, 9320 SH 195, Killeen, Texas, was present to represent this request.

Vice Chair opened the public hearing. With no one requesting to speak, the public hearing was closed.

Commissioner Dorroh motioned to recommend approval of approximately 9 acres from “UD” (University District) to “UD” (University District) with a “CUP” (Conditional Use Permit) for single-family residential use, approximately 62 acres from “A” (Agricultural District) to “R-1” (Single-Family Residential District), and approximately 16 acres to remain as “A” (Agricultural District), following the FLUM amendment recommendation. Commissioner Latham seconded, and the motion passed by a vote of 5 to 0.

Vice Chair Purser stated that the zoning case will be forwarded to City Council with a recommendation to approve.

CUT HERE

YOUR NAME: Steve & Jan Dykes PHONE NUMBER: (254) 238-6293

CURRENT ADDRESS: 167 Biels Loop Killeen, TX 76542

ADDRESS OF PROPERTY OWNED: "A" to "R-1" and "UD" w/CUP for "R-1"

COMMENTS: We support this rezoning

RECEIVED
AUG 02 2018
PLANNING

SIGNATURE: *Jan Dykes* SPC #Z18-15/ 02

YOUR NAME: JoAnn Kelley PHONE NUMBER: (254) 234-2977

CURRENT ADDRESS: 410 Tower Hill Ln

ADDRESS OF PROPERTY OWNED: 410 Tower Hill Ln

COMMENTS: I am in favor of rezoning from "A" to "R-1" and "UD" w/CUP for "R-1"

RECEIVED
AUG 06 2018
PLANNING

SIGNATURE: *JoAnn Kelley* SPO #Z18-15/ 02

YOUR NAME: JoAnn Kelley PHONE NUMBER: (254) 234-2977

CURRENT ADDRESS: 410 Tower Hill Lane

ADDRESS OF PROPERTY OWNED: 410 Tower Hill Lane

COMMENTS: I support rezoning from "A" to "R-1" and "UD" w/CUP for "R-1".

RECEIVED
AUG 06 2018
PLANNING

SIGNATURE: *JoAnn Kelley* SPO #Z18-15/ 02

-----CUT HERE-----

YOUR NAME: <i>Vera Todd</i>	PHONE NUMBER: <i>713-927-6564</i>
CURRENT ADDRESS: <i>171 Biels Loop, Killam, TX 76542</i>	
ADDRESS OF PROPERTY OWNED: <i>Same</i>	
COMMENTS: <i>"A" to "R-1" and "UD" w/CUP for "R-1"</i>	
<i>I support the rezoning of the Kelly Land</i>	
	RECEIVED
	AUG 07 2018
SIGNATURE: <i>Vera Todd</i>	SPO #Z18-15/ <i>103</i> PLANNING

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 in 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: August 21, 2018

TO: Ronald L. Olson, City Manager

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

SUBJECT: ZONING CASE #Z18-15 "A" (Agricultural District) and "UD" (University District) to "R-1" (Single-Family Residential District) and "UD" (University District) with a "CUP" (Conditional Use Permit) for Single-Family Residential Use

Background and Findings:

This request is submitted by Brandy Kelley on behalf of JoAnn Kelley to rezone approximately 87 acres out of the M.T. Martin Survey, Abstract No. 963, from "A" (Agricultural District) to "R-1" (Single-Family Residential District), and from "UD" (University District) to "UD" with a "CUP" (Conditional Use Permit) for single-family residential use. The property is locally known as 410 Tower Hill Lane and 9600 South Fort Hood Street, and is generally located on the east side of S.H. 195, north of the intersection with Tower Hill Lane, in Killeen Texas.

Sec. 31-439 of the Killeen Code of Ordinances states that the first nine hundred and fifty (950) feet of depth within the University District, as measured from State Highway 195, shall be designated for commercial use, and that the remaining five hundred and fifty (550) feet of depth of shall be designated for mixed-use development, or residential use via a conditional use permit." In accordance with this section, the applicant is requesting a Conditional Use Permit within the "UD" (University District) to allow for single-family residential use for the portion of the subject area that is between 950 feet and 1,500 feet east of State Highway 195. For the portion of the subject area that is 1,500 feet or more from State Highway 195, the applicant is requesting a change from "A" (Agricultural District) to "R-1" (Residential Single-Family).

Property Specifics:

Applicant / Property Owner: Brandy Kelley / JoAnn Kelley

Property Location: 410 Tower Hill Lane and 9600 Tower Hill Lane, Killeen, Texas

Legal Description: Approximately 87 acres out of the M.T. Martin Survey Abstract No. 963

Zoning/ Plat Case History: There have been no recent zoning change requests for this property.

District Descriptions:

"A" (Agricultural District) Description:

A building or premise in a district "A" Agricultural District shall be used only for the following purposes:

- (1) Stables, commercial or private.
- (2) Agricultural uses to include animal production, crop production, horticulture, and support housing.
- (3) Home occupations as permitted in district "R-1" single-family residential district.
- (4) Agricultural single-family residential in accordance with division 3 of this article.
- (5) Accessory buildings customarily incident to the uses in this section.

"R-1" (Residential-Single Family District) Description:

A building or premise in a district "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.
- (15) Cemetery.

"UD" (University District) Description:

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 excluding credit access businesses as defined by the Texas Finance Code.
- (2) Hospital, home or center for the acute or chronic ill, or assisted living facility.
- (3) Household appliance sales and repair service, no outside storage.
- (4) Retail bakery or confectionery: engaged in preparation, baking, cooking, selling and delivery of products.
- (5) Business day care.
- (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 fifty (950) feet to one thousand five 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.

Surrounding Land Uses:

Direction	Zoning District	Land Use
North	"R-1" and "UD" w/ CUP	Vacant
South	"A", "A-R1", and "UD" w/ CUP	Vacant
East	"A" and "A-R1"	Low Density Residential
West	"UD" and "UD" w/ CUP	Vacant

Existing Land Use(s) on the Property: The property is undeveloped.

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 located within the City of Killeen municipal utility service area and available to the subject tract.

Transportation:

Existing conditions: The property is located north of Tower Hill Lane, which is a private, unimproved street.

Proposed Improvements: None at this time.

Projected Traffic Generation: A typical single-family home will generate ten (10) vehicle trips per day [note-this data is sourced from the Institute of Transportation Engineer (ITE) Trip Generation Rates-9th Edition, provided through Spack Consulting].

Environmental Assessment:

There is a TP&L easement that bisects the eastern portion of this parcel and there are several utility and access easements shown on this parcel. Additionally, there is a large drainage easement on this parcel that is not currently illustrated on the exhibit. The only points of access onto this parcel are the private access drive from Biels Loop that crosses the TP&L easement. The second point of access is through a private road (Tower Hill Lane) which connects to S. Fort Hood Street.

This property does not lie within a FEMA regulatory Special Flood Hazard Area (SFHA). Currently sheet flow runoff exits this parcel and flows down the hill in all directions. From there the majority of the combined runoff flows west into an unnamed tributary to North Reece Creek. The runoff from the eastern portion of the hill flows southeast into Rock Creek. Both North Reece Creek and Rock Creek flow south into the Lampasas River prior to leaving the City. These water courses areas not currently listed on the TCEQ's 303(d) water quality list for impairment. The applicant is advised that the area being zoned is not currently platted. At the

time of development the current drainage and infrastructure standards will be applicable to this site.

The property owner and his agents are cautioned that unknown or unforeseen site conditions may require remedial action to provide safe and adequate water, sewer, or drainage service to the property. Further, City of Killeen development regulations require that capacity analyses related to development of the property are the sole responsibility of the owner. The owner or his agents, acting as the permit applicant for the subject property, shall coordinate tie in to all publicly dedicated infrastructure with the Public Works Department.

Land Use Analysis:

Future Land Use Map: This area is designated as 'SC' (Suburban Commercial), 'E' (Estate), 'SR' (Suburban Residential), and 'P-R' (Parks and Recreation) on the Future Land Use Map (FLUM) of the Comprehensive Plan.

Plan Recommendation:

- Suburban Commercial: Range of commercial retail and service uses, at varying scales and intensities depending on the site.
- Estate: Detached residential dwellings, public/institutional uses, and parks and public spaces.
- Suburban Residential: Detached residential dwellings, planned developments to provide for other housing types (e.g., townhouse, patio) in a Suburban character setting, public/institutional uses, and parks and public spaces.
- Parks and Recreation: Public parks and open space, public trails, public recreation areas

Consistency: The requested zoning change is not consistent with the FLUM. However, a FLUM amendment application has been submitted concurrently with this request.

Public Notification: Staff notified twenty-three (23) surrounding property owners regarding this request. As of the date of this report, staff has received three (3) letters in support and no letters in opposition to the request.

THE ALTERNATIVES CONSIDERED:

Which alternative is recommended? Staff's recommendation to the Planning and Zoning Commission was that the portion of the subject property that is encumbered by the hill remain zoned "A" (Agricultural District).

Why? Development of the existing hill would be extremely costly, and it is therefore unlikely that it will be developed as single-family (R-1) residential use. Staff recommended that top of the hill remain zoned "A" (Agricultural District) in order to preserve the land which will not be developed.

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 the following:

- That approximately 62 acres out of the subject property be changed from "A" (Agricultural District) to "R-1" (Residential-Single Family District).
- That approximately 16 acres, consisting of the top of the hill (see attached exhibit), remain as "A" (Agricultural District).
- That approximately 9 acres, consisting of the portion of the subject property that is between 950 feet and 1,500 feet from State Highway 195, be changed from "UD" (University District) to "UD" with a "CUP" (Conditional Use Permit) for single-family residential use.
- That all residential housing within the "CUP" (Conditional Use Permit) area shall meet the height and area requirements as detailed within Sections 31-187 through 188 of the Code of Ordinances, and that the applicant shall satisfy all architectural and landscaping requirements within the "UD" (University District).

DEPARTMENTAL CLEARANCES:

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