

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-3 (LOCAL BUSINESS DISTRICT) AND A-R1 (AGRICULTURAL SINGLE-FAMILY RESIDENTIAL DISTRICT) TO PLANNED UNIT DEVELOPMENT (PUD) WITH UNDERLYING B-2 (LOCAL RETAIL DISTRICT) AND R-3A (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Texas Sunflower, Ltd. 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 23.52 acres out of the J.E. Maddera Survey, Killeen, Texas, from B-3 (Local Business District) and A-R1 (Agricultural Single-Family Residential District) to Planned Unit Development with underlying B-2 (Local Retail District) and R-3A (Multifamily Apartment Residential District) zoning, said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 14th day of September 2015 with the following conditions:

- (i) The multifamily apartments shall not exceed a total of 190 apartment units;
- (ii) The PUD shall adhere to the attached site plan;
- (iii) The development will provide the following community amenities: volleyball area; dog/pet park, pool and clubhouse; and
- (iv) The architectural façade standard for the nursing home and the apartment development shall be consistent with the R-3A zoning district;

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 22nd day of September 2015, 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 23.52 acres out of the J.E. Maddera Survey, Killeen, Texas, shall be changed from B-3 (Local Business District) and A-R1 (Agricultural Single-Family Residential District) to Planned Unit Development with underlying B-2 (Local Retail District) and R-3A (Multifamily Apartment Residential District) zoning for property being located southeast of the intersection of W. Stan Schlueter Loop (FM 3470) and Clear Creek Road (S. H. 201), 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 22nd day of September 2015, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

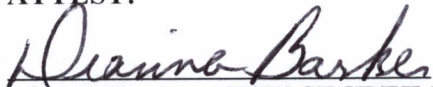
APPROVED:



Scott Cospers, MAYOR

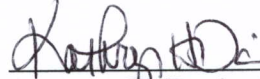


ATTEST:



Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM



Kathryn H. Davis, City Attorney

Case #15-24

Ord #15-__

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City of Killeen
Zoning Change Application

CASE #:

2 15-22

Name(s) of Property Owner (s): TEXAS SUNFLOWER, LTD

Address: 3106 S WS YOUNG DRIVE, SUITE C303

City: KILLEEN State: TEXAS Zip: 76542

Home Phone: () Business Phone: (254) 432-6520 Cell Phone:

Name of Applicant: SAME
(if different than Property Owner)

Address:

City: State: Zip:

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

Address/ Location of Property to be Rezoned: 5010 W STAN SCHLUETER LOOP

Has the Property been Platted? Y (N)
Lot(s) Block(s) Subdivision

Legal Description: 23.52 ACRES OF THE J.E. MADDERA SURVEY, ABSTRACT NO. 600
Metes and Bounds Description

Is there a simultaneous plat of this property? NO
(Plat Name)

Type of Ownership: Sole Ownership ☒ Partnership Corporation Other

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

Present Zoning(s): B3/A-R1 Present Use: VACANT

Proposed Zoning(s): PUD/W B2/R-3A Proposed Use: NURSING HOME / APARTMENTS

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 8-5-15

Signature of Property Owner Diane Cornell for Tx Sunflower Title President

Printed/Typed Name of Property Owner Tx Sunflower Date 8/13/2015

Signature of Property Owner _____ Title _____

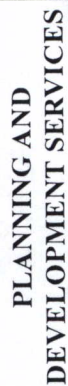
Printed/Typed Name of Property Owner _____ Date _____

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.

Revised Mar 2004



ZONING CASE:

Z15-22

ZONING FROM:

B-3 and A-R1
to B-2 and R-3A

APPLICANT

TEXAS SUNFLOWER LTD

PROPERTY OWNER:

TEXAS SUNFLOWER LTD

LEGAL DESCRIPTION:

23.52 ACRES OF THE J.E.
MADDERA SURVEY,
ABSTRACT NO. 600

LEGEND



Zoning Case



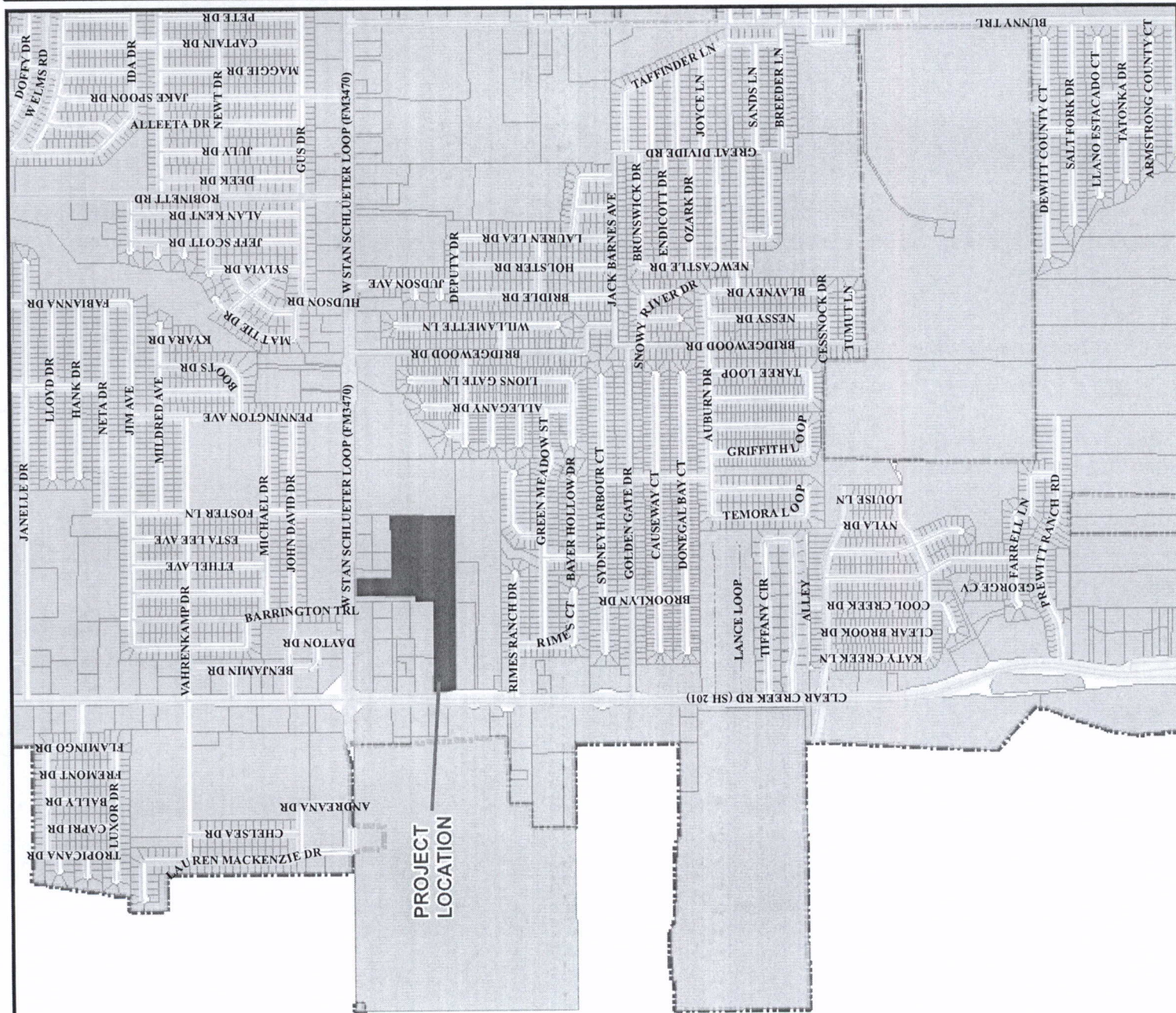
Parcel



City Limits



Date: 8/21/2015





Z15-22

B-3 and A-R1
to B-2 and R-3A

APPLICANT

TEXAS SUNFLOWER LTD

PROPERTY OWNER:

TEXAS SUNFLOWER LTD

LEGAL DESCRIPTION:

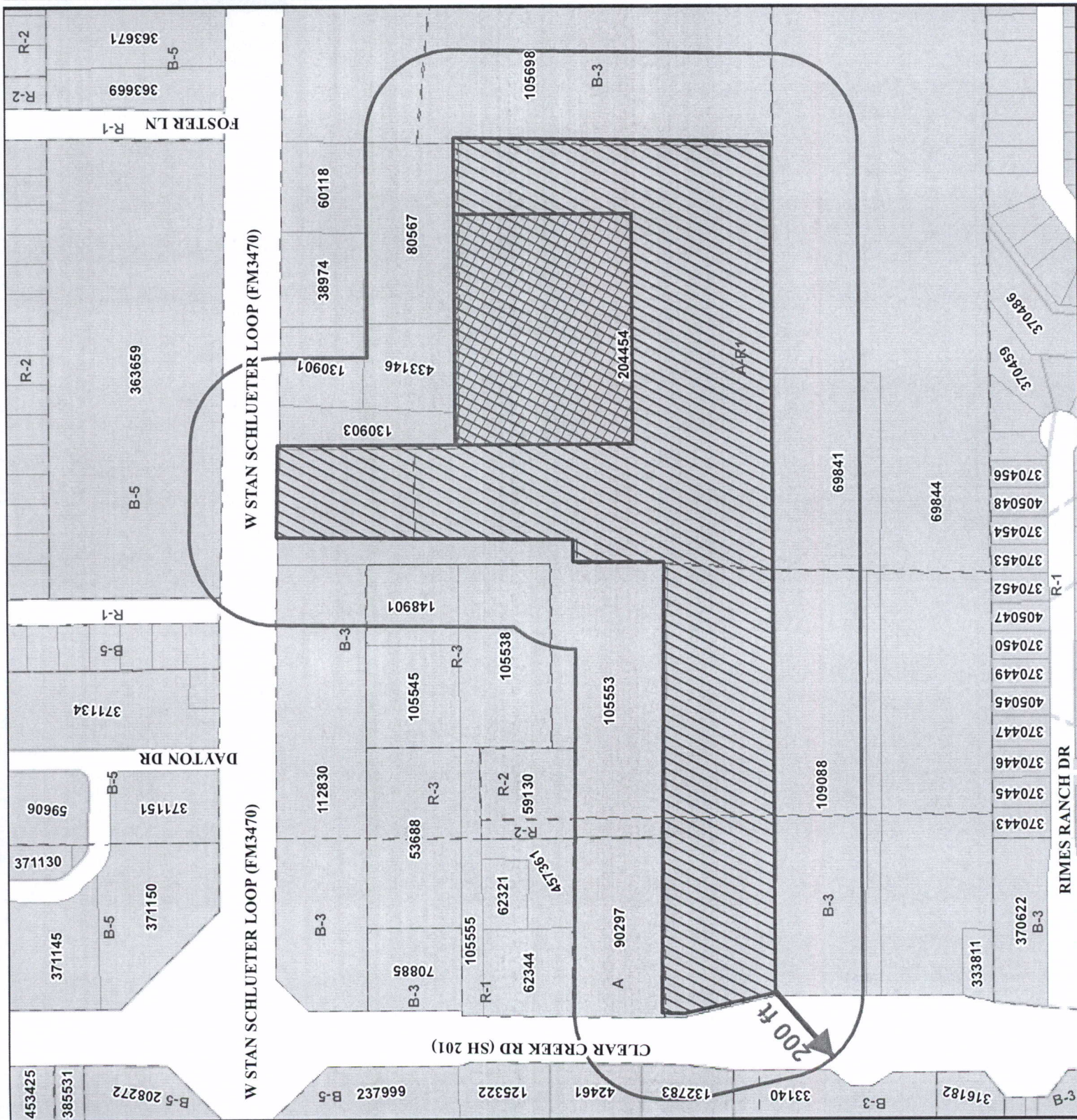
23.52 ACRES OF THE J.E.
MADDERA SURVEY,
ABSTRACT NO. 600

LEGEND

-  Proposed B-2
 200 FT Buffer
 Proposed R-3A
 Current Zoning
 Subdivision
 Parcel
 City Limits



Date: 8/21/2015



RECEIVED

SEP 14 2015

PLANNING

Mr. or Madam Commissioner and members of the Planning and Zoning Commission of Killeen.

Thank you for allowing me the opportunity to speak today on the request to rezone the 23.52 acres of the J.E. Madderda Survey from Agricultural to Single Family Residential District and Local Business District to Planned Unit Development and Multifamily Apartments.

I violently oppose this rezoning proposal by Texas Sunflower Limited and ask that you reject the proposal to rezone this property.

The property in question is directly to the right and rear of my residence of 33 years. The conceptual plan of this rezoning shows retail stores, planned unit developments, and multi-family apartments to the side and rear of my residence. Although I have a multitude of concerns about the consideration in this proposal, there are 3 major concerns that I feel need to be brought forward to the commission for consideration in this proposal

1. First, if this rezoning effort is allowed to take place directly to the right and rear of my home, and streets built joining my property line there will be an increase in noise that inherently comes with retail shops and multifamily apartment homes due to the increase in the sheer density of residents that now occupy a small space. With nothing to buffer this noise from traffic and residents, it will be a constant disturbance to my quality of life on property that I've resided on for 33 years.

2. Secondly, in the conceptual plan that was provided, traffic access to the planned unit development, nursing home, retail stores, and multi-family apartments surround my home on three sides without any privacy barriers to filter noise or prevent damage to my property. There will inherently be non-stop traffic literally to the right and rear of my home at all hours of the day and night. Again, with nothing to serve as a buffer to this traffic next and to the rear of my property,

my property is now at risk of incurring damages that no one will take responsibility for and shift the burden back to me to pay for when I currently don't have this problem.

3. My final concern with this proposed rezoning is my personal safety, this massive increase in residents and business patrons has the potential for there to be an increase in crime. As a widower of a veteran who only wanted to live in a place where we could look out and see open fields and breathe fresh air, I feel that all of that would be taken away because it provide financial gain to someone else. With increased development comes increased crime and I fundamentally fear for my life and my property if this rezoning is allowed to happen.

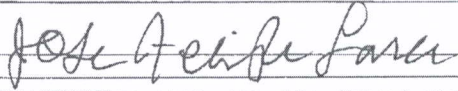
Comment [D1]:

While I don't oppose development to keep our city growing, I do oppose development that basically takes away all the freedoms I had for 33 years at my residence. If it is this commission's decision to recommend approval of this proposal to the City Council, I would ask the

commission to ensure that my residence is clearly separated from the planned unit development, retail shops, and multifamily apartments by a minimum 6 foot high wooden privacy fence that is place to right and rear of my property. I would also ask that a height restriction be place on the retail shops, planned unit development, and multi-family apartments as not to have those residents and store owners have the ability to view my property from the side and rear due to the height of their stores residences'.

Thank you for allowing me the time to address the planning and zoning commission on this matter brought before you all today.

YOUR NAME:	Dorothy Sue Worshim	PHONE NUMBER:	284 526 4755
CURRENT ADDRESS:	5002 W. Stan Schlueterhp K. Illeen, TX 76549		
ADDRESS OF PROPERTY OWNED:	5002 W. Stan Schlueterhp. K. Illeen, TX 76549		
COMMENTS:	B-3 and A-R1 to B-2 and R-3A		
I am opposed to the Proposed Rezoning of the property in question. This Proposed rezoning directly affects my quality of life that I have worked to enjoy for 33 years. As one of the remaining Residents in the area, I enjoy a simple quality of life. This Proposed rezoning threatens that quality of life due to excessive noise and traffic. More important my personal safety is at the forefront of this proposed rezoning and I fear for my life and property, should this rezoning be allowed to happen.			
SIGNATURE:	Dorothy Sue Worshim		
320 KILLEEN TEXAS 76549-1329	254 501 7630	2 SPO #15722	FAX 14-16
WWW.CIKILLEEN.TX.US			
RECEIVED			

YOUR NAME:	Jose Felipe Luna	PHONE NUMBER:	(254) 289-3962
CURRENT ADDRESS:	4212 Adobe Dr Killeen Tx 76542		
ADDRESS OF PROPERTY OWNED:	property ID# 80567		
COMMENTS:	B-3 and A-R1 to B-2 and R-3A		
I do not oppose this development as long as I can still get to my property.			
		RECEIVED	
SIGNATURE: EX 1329 KILLEEN, TEXAS 76540-1329 (254) 501-7630		SPO# Z15-22 FAX 13	

WWW.CIKILLEEN.TX.US

SEP 14 2015
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 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 #Z15-21 "R-2" (TWO-FAMILY RESIDENTIAL DISTRICT) TO "B-3" (LOCAL BUSINESS DISTRICT)

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

Eunhee Stewart submits this request to rezone Lot 2, Block 2, Parklane Addition (unrecorded) and part of Lot 3, Block 'A', Susan Spofford Subdivision, from "R-2" (Two-Family Residential District) to "B-3" (Local Business District) for commercial use. The properties are locally known as 1129 York Avenue and 1107 York Avenue, Killeen, Texas.

District Descriptions:

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 (with drive-in or pick-up service).
- (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: Eunhee Stewart

Property Location: The property is located along the east right-of-way of Fort Hood Street, along the north right-of-way of York Avenue.

Legal Description: 1129 York Avenue is Lot 2, Block 2, Parklane Addition (unrecorded); 1107 York Avenue is part of Lot 3, Block 'A', Susan Spofford Subdivision.

Zoning/ Plat Case History:

There is no recent zoning activity for this property.

1129 York Avenue is Lot 2, Block 2, Parklane Addition (unrecorded); 1107 York Avenue is part of Lot 3, Block 'A', Susan Spofford Subdivision.

Character of the Area:

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

Figure 1. Zoning 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, sanitary sewer, and drainage utility services are readily accessible to the subject property located within the City of Killeen municipal utility service area. Adequate potable water and sanitary sewer capacity are available to all tracts within the property. Public storm drainage infrastructure lies within the abutting rights-of-way.

Transportation:

Existing conditions: This property will gain access from York Avenue. There are no scheduled improvements for this roadway.

Environmental Assessment

Topography: The property is relatively flat.

Regulated Floodplain/Floodway/Creek: This property is located in a Zone X Special Flood Hazard Area. The soils for the site are classified as follows: all Slidell silty clay with 0 to 2 percent slopes (SIB). This soil is considered prime farmland. However, these parcels are currently residentially developed. There are no known wetlands on this parcel. Unless re-platted the 1964 Drainage requirements will apply to any new development on these parcels.

Currently runoff on this development flows through street rights of ways and easements prior to entering Gilmer Ditch. The runoff then flows from Gilmer Ditch into Nolan Creek prior to leaving the City. Nolan Creek is currently listed on the TCEQ's 2012 303(d) water quality list for impairment due to bacteria and concerns for near non-attainment for nutrients.

Land Use Analysis

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

Plan Recommendation: The 'General Commercial' character encourages a wide range of commercial, retail and service uses, at varying scales and intensities depending on the site.

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

Public Notification:

The staff notified 21 (twenty-one) surrounding property owners regarding this request. No responses have been received at this time.

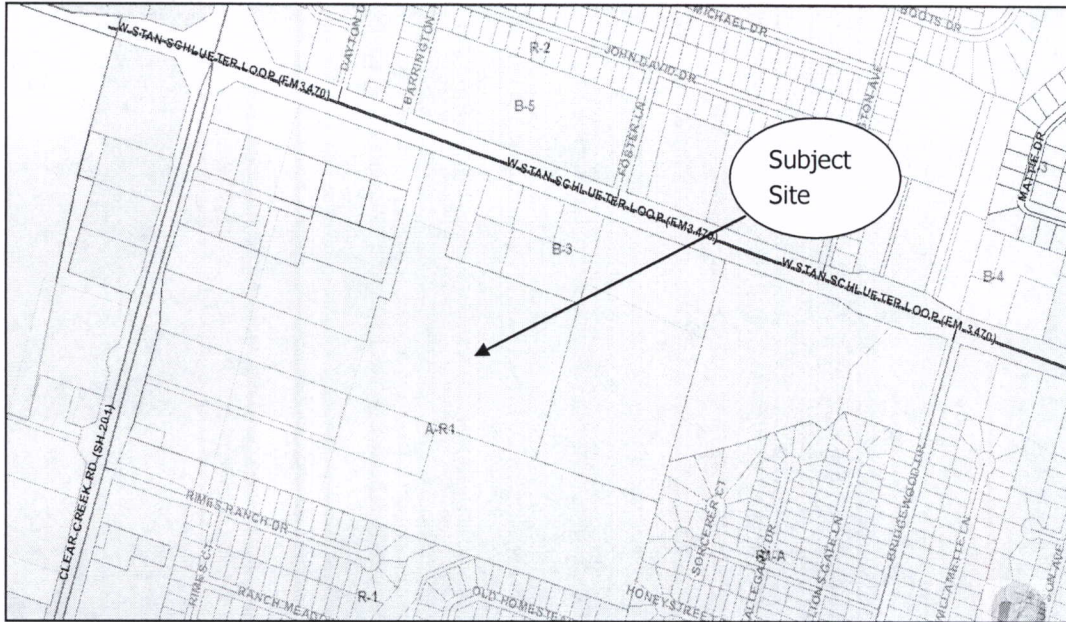
Recommendation

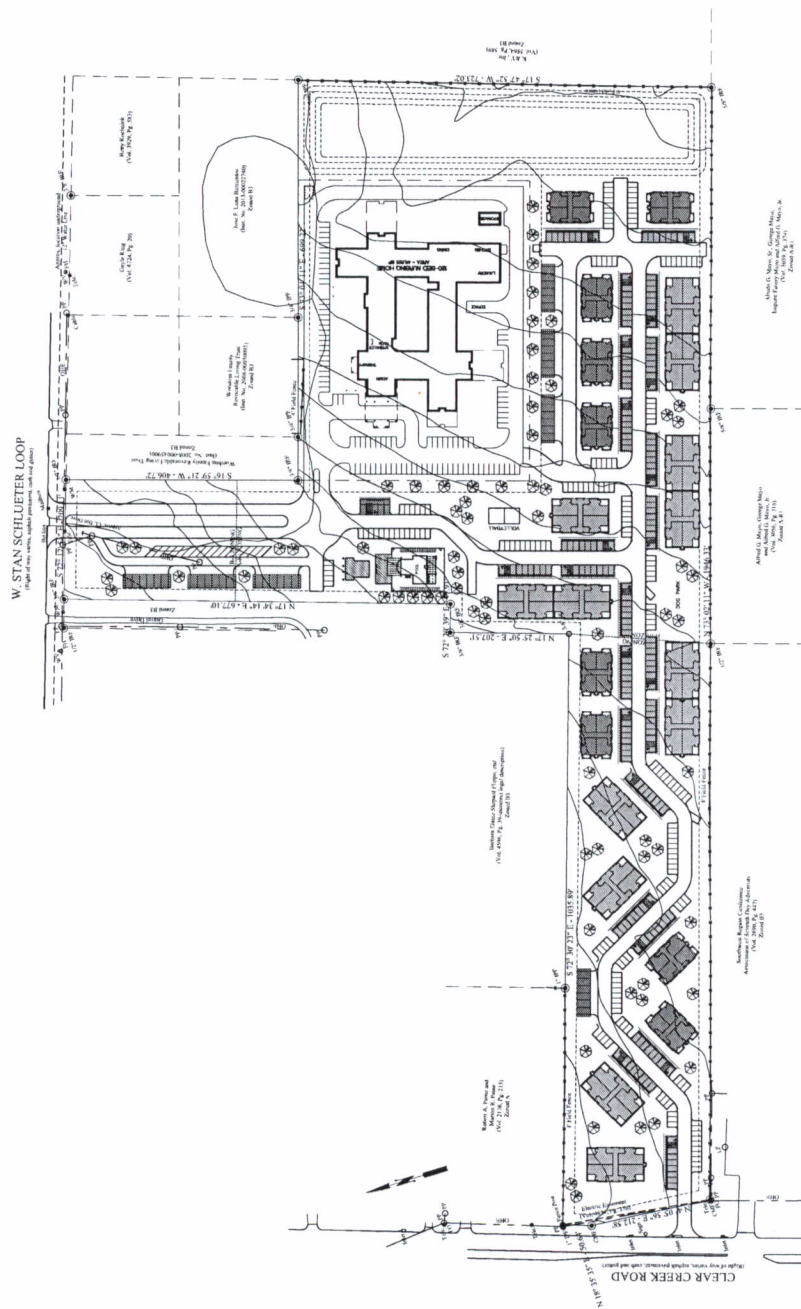
The applicant's PUD submittal is a result of the amount of land zoned "R-2" and "R-3" within 2,000 feet of the subject property. It shall be noted that the applicant has not sought nor requested any deviations from zoning requirements of the "B-2" and "R-3A" zoning districts except to have the screening requirement be waived for the interior of the property.

The Planning & Zoning Commission unanimously recommended approval of the applicant's PUD zoning request with the following standards and conditions:

- (i) the multifamily development shall not exceed a total of 190 apartment units;
- (ii) the PUD shall adhere to the attached site plan;
- (iii) the development shall provide the following community amenities: volleyball area; dog/ pet park, pool and clubhouse; and
- (iv) the architectural façade standard for the nursing home and apartment development shall be consistent with the current standards for the "R-3A" zoning district.
- (v) the screening requirement between the proposed nursing home and multi-family units shall be waived on the applicant's property.

Figure 1, Zoning Map





CONCEPTUAL SITE PLAN
SCALE: 1"=100'

**PLANNING AND ZONING COMMISSION MEETING
SEPTEMBER 14, 2015**

**CASE #Z15-22
B-3 AND A-R1 TO PUD W/ B-2 AND R-3A**

HOLD a public hearing and consider a request by Texas Sunflower, Ltd. to rezone approximately 23.52 acres part of the J. E. Maddera Survey, Abstract No. 600, from B-3 (Local Business District) and A-R1 (Agricultural Single-Family Residential District) to a Planned Unit Development (PUD) with underlying zoning of B-2 (Local Retail District) and R-3A (Multifamily Apartment Residential District) uses. The property is located southeast of the intersection of W. Stan Schlueter Loop (FM 3470) and Clear Creek Road (S.H. 201), Killeen, Texas.

Chairman Frederick requested staff comments.

City Planner, Tony McIlwain, stated that this is an unplatted piece of property. This property was rezoned from 'A' (Agricultural District) to 'A-R1 and 'B-3' on July 11, 2000. The intent of the proposal is to develop a Planned Unit Development allowing for a nursing home facility as well as 18.64 acres for multifamily apartment residential living. A site plan has been provided that shows the layout of the property. A drive opening is proposed on Stan Schlueter Loop as well as on Clear Creek Road. The interior road is proposed to be a private drive. The applicant is proposing to include amenities such as: a dog park, club house, volley ball court and pool.

Staff notified fourteen (14) surrounding property owners within the 200 foot notification area. Staff received one protest from Ms. Worshim and one concern from Felipe Luna about not having access to his property.

Staff recommended approval of the applicant's PUD zoning request subject to the attached site plan, which includes the following community amenities: volleyball area; dog park, pool and clubhouse; and architectural façade standard consistency between the nursing home and apartment development. The applicant would like to remove the requirement to install an interior fence between the nursing home and the multifamily development. They do not want to block the development from one another. They do want to install screening along the exterior of the property to block the development to the north.

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

Commissioner Dillard arrived.

Chairman Frederick opened the public hearing.

Ms. Dorothy Worshim spoke in opposition and had the following concerns: increase in noise due to the increase in density of residents; traffic access surrounding home on three sides;

personal safety, increase in residents and business patrons and with increased development there is an increase of crime.

Mr. Griffin informed Ms. Worshim that an eight foot high masonry fence will be installed between her property and the new development. The nursing home will be one story as well as the apartments that front the entrances. Nothing will have site lines into Ms. Worshim's property.

Ms. Myrliene Lamberth, 4900 Clear Creek, Killeen, expressed a concern with water run-off once the 8' masonry wall was constructed along the west and south side of Ms. Worshim's property.

Mr. Rick Griffin, Fort Smith, Arkansas developer for the property spoke in support. He stated that the property when developed will be an upscale development. Mr. James Wright, 3800 S. WS Young Drive, Killeen, Texas realtor for the property stated that they have talked to the property owners and all are aware of the plans for the property.

With no one else requesting to speak, the public hearing was closed.

Vice Chair Dorroh motioned to recommend approval of the requested zoning waiving the requirement to install an interior fence as recommended by staff. Commissioner Alvarez seconded the motion. The motion passed unanimously.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to approve.