

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

WHEREAS, 439 Lakeview Development, Ltd. submits this request for an amendment of the zoning ordinance of the City of Killeen by changing the classification of 8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision, from "R-3" (Multifamily Residential District) and "B-3" (Local Business District) to a Planned Unit Development (PUD) for "SF-2" (Single-Family Residential District) uses, said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen with the following deviations: 20' front yard setback; 5,750 square feet minimum lot size; 115' minimum lot depth; this approval excludes Lots 1 through 3 and the remainder tract, which are located at the northwest corner of the concept plan on the 1st day of August 2016; 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 23rd day of August 2016, 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 of the following described tract be changed from “R-3” (Multifamily Residential District) and “B-3” (Local Business District) to a Planned Unit Development (PUD) with “SF-2” zoning with the following deviations: 20’ front yard setback; 5,750 square feet minimum lot size; 115’ minimum lot depth, with the exclusion of Lots 1 through 3 and the remainder tract, which are located at the northwest corner of the concept plan, said property being part of the Lakeview Park Subdivision. The property is located along the south right-of-way of Rancier Avenue (FM 439), directly south of Cedarhill Drive, Killeen, Texas.

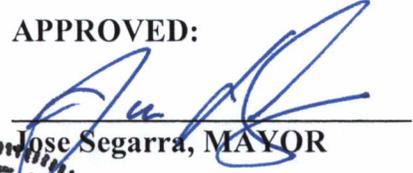
SECTION II. That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

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 23rd day of August 2016, 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 Segarra, MAYOR

ATTEST:



Dianna Barker, CITY SECRETARY



APPROVED AS TO FORM



Kathryn H. Davis, City Attorney
Case #16-14
Ord. #14-__



Date Paid:	6/17/16
Amount Paid:	\$ 300.00
Cash/MO #/Check #:	# 1151
Receipt #:	414

CASE #: 216-14

City of Killeen Zoning Change Application

General Zoning Change \$300.00 [] Conditional Use Permit \$500.00

Name(s) of Property Owner: 439 LAKEVIEW DEVELOPMENT LTD
 Current Address: 2901 E. Stan Schlueter Loop
 City: Killeen State: Texas Zip: 75642
 Home Phone: (254) 526-4652 Business Phone: (254) ⁶³⁴⁻⁵⁵⁶⁷ Ext #104 Cell Phone: (254) 535-1540
 Email: cpurser@purserco.com

Name of Applicant: (same)
 (If different than Property Owner)

Address: _____
 City: _____ State: _____ Zip: _____
 Home Phone: () _____ Business Phone: () _____ Cell Phone () _____
 Email: _____

Address/Location of property to be rezoned: Located at and around 1606 Justin Lane

Legal Description: 8.12 ac. out of the J. S. Wilder Survey, Abstract No. 912

Metes & Bounds or Lot(s) Block Subdivision

Is the rezone request consistent with the Comprehensive Plan? YES NO
 If NO, a FLUM amendment application must be submitted.

Type of Ownership: _____ Sole Ownership Partnership _____ Corporation _____ Other _____
 Present Zoning: B-3, R-3 Present Use: _____ Vacant _____
 Proposed Zoning: PUD - SF2 Proposed Use: _____ PUD _____

Conditional Use Permit for: _____
 This property was conveyed to owner by deed dated _____ 2014 and recorded in Volume _____

Page _____ Instrument Number 201400039974 of the Bell County Deed Records.
 (Attached)

Is this the first rezoning application on a unilaterally annexed tract?
 Yes _____ (Fee not required) No (Submit required fee)

APPOINTMENT OF AGENT

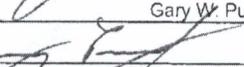
As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Killeen Engineering & Surveying, Ltd.
Mailing Address: 2901 E. Stan Schlueter Loop
City: Killeen State: Texas Zip: 76542 - _____
Home Phone: (254) 526-4652 Business Phone: (254) 526-3981 Email: bpurser@kesltd.com

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; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me. This authorization only applies to this specific zoning request.

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 <u></u>	Title <u>Project Manager</u>
Printed/Typed Name of Agent <u>Ben Purser</u>	Date <u>6/17/16</u>
Signature of Agent _____	Title _____
Printed/Typed Name of Agent _____	Date _____
Signature of Applicant <u>X </u>	Title <u>President</u>
Printed/Typed Name of Applicant <u>Gary W. Purser, Jr.</u>	Date <u>6-13-16</u>
Signature of Property Owner <u>X </u>	Title <u>President</u>
Printed/Typed Name of Property Owner <u>439 LAKEVIEW DEVELOPMENT LTD</u>	Date <u>6-13-16</u>
Signature of Property Owner _____	Title _____
Printed/Typed Name of Property Owner _____	Date _____
Signature of Property Owner _____	Title _____
Printed/Typed Name of Property Owner _____	Date _____

*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.



PLANNING AND DEVELOPMENT SERVICES

ZONING CASE:
Z16-14

ZONING FROM:
B-3 and R-3 To PUD (SF-2)

APPLICANT:
439 LAKEVIEW DEVELOPMENT LTD

PROPERTY OWNER:
439 LAKEVIEW DEVELOPMENT LTD

LEGAL DESCRIPTION:
LAKEVIEW PARK SUBDIVISION

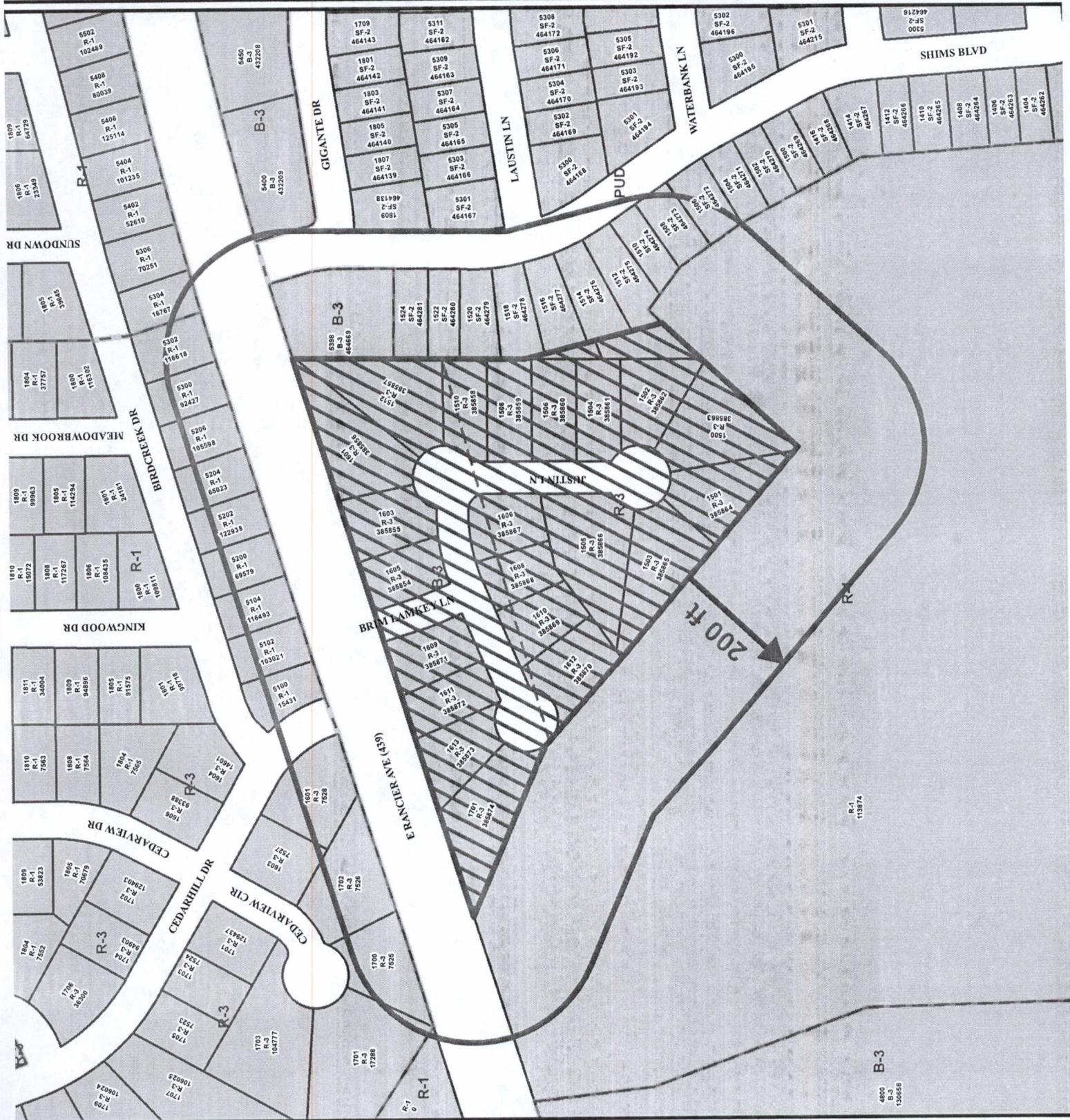
LEGEND



- 200' Buffer
- Zoning Case
- Current Zoning
- Subdivision
- Parcel
- City Limits



Date: 6/23/2016



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 HERE	
YOUR NAME: <i>DALE HENNING</i>	PHONE NUMBER: <i>254 535 5083</i>
CURRENT ADDRESS: <i>28 ELMER KING</i>	<i>Belton, TX 76513</i>
ADDRESS OF PROPERTY OWNED: <i>1700 ± 1703 CedarView Cir.</i>	
COMMENTS:	<i>B-3 and R-3 to PUD for SF-2</i>
<i>Approve OF Request</i>	
RECEIVED	
<i>JUL 12 2016</i>	
PLANNING	
SIGNATURE: <i>Dale Henning</i>	SPO #Z16-14/ <i>02.03</i>

PO BOX 1329 KILLEEN TEXAS 76540 1329 254 501 7630 254.501.7628 FAX
 WWW.CIKILLEEN.TX.US

CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

ZONING CASE #Z16-14 "R-3" (MULTIFAMILY RESIDENTIAL DISTRICT) AND "B-3" (LOCAL BUSINESS DISTRICT) TO PLANNED UNIT DEVELOPMENT (PUD) WITH "SF-2" (SINGLE-FAMILY RESIDENTIAL DISTRICT)

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

439 Lakeview Development Ltd. submits this request to rezone approximately 8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision, from "R-3" (Multifamily Residential District) and "B-3" (Local Business District) to a Planned Unit Development (PUD) for "SF-2" (Single-Family Residential District) uses. The properties are locally known as 1500 through 1506, 1508, 1510, 1512, 1601, 1603, 1605, 1606, 1608 through 1613 and 1701 Justin Lane, Killeen, Texas.

The applicant is proposing the following PUD deviation and trade-off:

- 20' feet front yard setback, which is a decrease from the required 25' front yard setback
- 115' minimum lot depth, which is an increase from the required 100' feet minimum lot depth

The net effect of the PUD will be an increase in the minimum lot size from 5,000 square feet to 5,750 square feet and an increase of the buildable envelope (i.e. developable area) from 2,200 square feet to 3,000 square feet. The current "SF-2" architectural design and landscaping standards will apply to the PUD request.

The architectural design standards are as follows: The same exterior architectural elevation may not be used within any grouping of five homes. Homes must have a minimum of 50% brick, stucco or stone veneer for exterior walls excluding doors, windows and gables.

The landscaping standards are as follows: All yards shall be fully sodded or covered with other city-approved groundcover, as determined by the Building Official, to ensure compatibility and to control dust, erosion and sediment from migrating off-site. Additionally, for each dwelling unit, a minimum of one (1) six (6) foot tall canopy tree with two-inch caliper, and eight (8) three (3) gallon shrubs, are required to be planted in the front yard. All landscaping must be in place upon final inspection unless an extension is granted in writing by the Building Official. Such extension shall not exceed sixty (60) days.

District Descriptions:

A building or premises in a "SF-2" Single-Family Residential District shall be used only for the following purposes:

- (1) Single-family dwellings meeting the criteria of the garden home district, with a minimum floor area of one thousand one hundred (1,100) square feet
- (2) All uses allowed in section 31-186, including those defined as home occupation uses

Property Specifics

Applicant/Property Owner: 439 Lakeview Development Ltd.

Property Location: The property is located along the south right-of-way of Rancier Avenue, west of Shimla Drive.

Legal Description: : The property is 8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision.

Zoning/Plat Case History:

- The property was rezoned from "R-3" (Multifamily Residential District) to "B-3" (Local Business District) on October 28, 2014, per Ordinance No. 04-78.
- The subject property is platted as Lakeview Park Subdivision, which was filed for record on May 16, 2006, in Cabinet D, Slide 116-AA, Plat Records, Bell County, Texas.

Character of the Area

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

Figure 1. Aerial 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 available to the property. The property lies entirely within a previously platted subdivision; however, no supporting public infrastructure was ever completed for the proposed development. In accordance with the City of Killeen Code of Ordinances, the developer is

required to extend public utilities to the property in accordance with the plan of service validated with the approved plat cases. 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.

Transportation:

Existing conditions: The applicant is proposing one direct ingress/egress point onto Rancier Avenue (FM 439), a state-system thoroughfare, which is classified as a 110' feet arterial on the City's adopted Thoroughfare Plan.

Proposed Improvements: The project concept plan contemplates one point of ingress/egress through a 50' right-of-way. The relocation of the platted Brim Lamkey Lane intersection with Rancier Ave (FM 439) is subject to approval by TxDOT. Discrete drives onto Rancier Ave (FM 439), a minor arterial street, would not be allowed.

Projected Traffic Generation: Not significant

Environmental Assessment

Topography: The elevation ranges from 796 feet to 806 feet above sea level.

Regulated Floodplain/Floodway/Creek: This property is partially located in a Zone AE Special Flood Hazard Area. There are no known wetlands on this parcel. Based on the submitted concept plan, this development will need to be re-platted and the current drainage requirements will apply to any development on this parcel. Currently, runoff on this development sheet flows south onto the adjacent parcels and drainage easements prior to entering Caprice Ditch. The runoff then flows from Caprice Ditch into Nolan Creek prior to leaving the City. Nolan Creek is currently listed on the TCEQ's 2014 303(d) water quality list for impairment due to bacteria and concerns for near non-attainment for nutrients.

Land Use Analysis

Land Use Plan: The property is designated as 'General Residential' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

Plan Recommendation: The 'General Residential' designation of the Comprehensive Plan is a medium intensity category and contemplates the following: detached residential dwellings as the primary focus; attached housing types subject to compatibility and open space standards (e.g., duplexes, townhomes, patio homes); planned developments, potentially with a mix of housing types and varying densities, subject to compatibility and open space standards; public/institutional; and parks and public spaces.

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

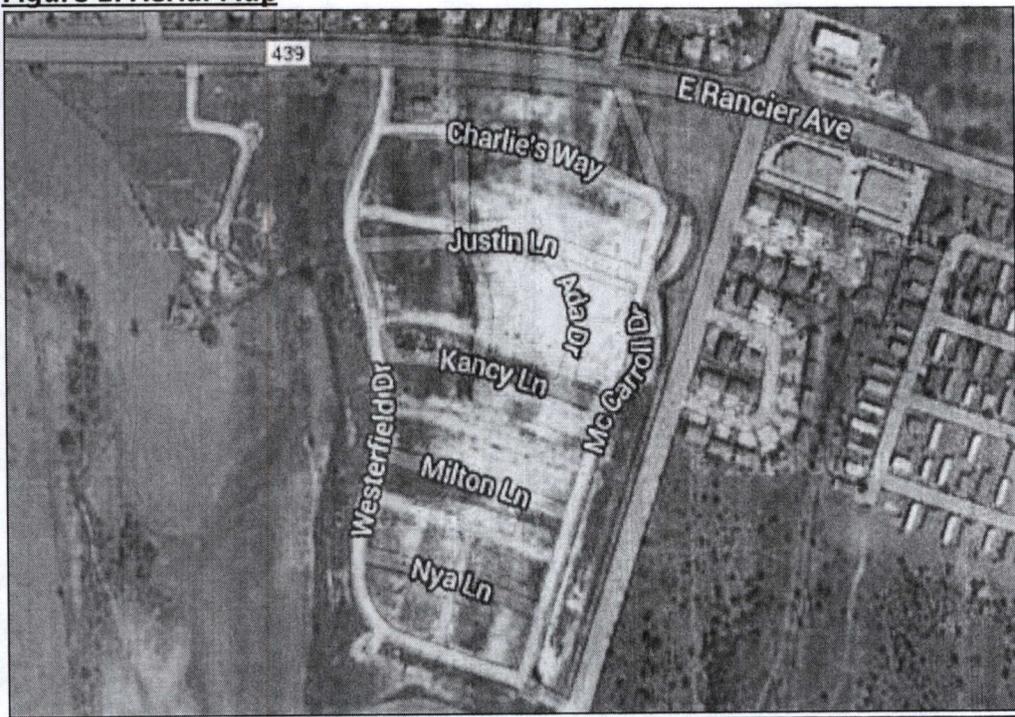
Public Notification

The staff notified sixteen (16) surrounding property owners regarding this request. Staff has received a response of support from Dale Hennig, the owner of 1700 and 1702 Cedarview Circle.

Recommendation

The Planning and Zoning Commission recommended approval of the applicant's PUD request, excluding Lots 1 through 3 and the remainder tract, which are located at the northwest corner of the concept plan. The purpose of excluding this portion of the property from the concept plan is to reduce the total number of lots from thirty-three (33) to thirty (30), thus removing the need for two access points. This project is a much needed in-fill development opportunity, and the project will further north Killeen revitalization efforts.

Figure 1. Aerial Map



**MINUTES
PLANNING AND ZONING COMMISSION MEETING
AUGUST 1, 2016**

**CASE #Z16-14
R-3 AND B-3 to PUD w/SF-2**

HOLD a public hearing and consider a request submitted by 439 Lakeview Development, Ltd. to rezone approximately 8.12 acres, being Lots 1-13, Block 11, Lots 1-4, Block 12, Lots 1-4, Block 13, Lakeview Park Subdivision, from B-3 (Local Business District) and R-3 (Multifamily Residential District) to a Planned Unit Development (PUD) for SF-2 (Single-Family Residential District) uses. The properties are locally known as 1500 through 1506, 1508, 1510, 1512, 1601, 1603, 1605, 1609, 1611, 1613 and 1701 Justin Lane, Killeen, Texas.

Chairman Frederick asked for staff comments.

City Planner Tony McIlwain stated that this request is to rezone approximately 8.12 acres, from "R-3" (Multifamily Residential District) and "B-3" (Local Business District) to a Planned Unit Development (PUD) for "SF-2" (Single-Family Residential District) uses.

The applicant is proposing the following PUD deviation and trade-off:

- 20' feet front yard setback, which is a decrease from the required 25' front yard setback
- 115' minimum lot depth, which is an increase from the required 100' feet minimum lot depth

The net effect of the PUD will be an increase in the minimum lot size from 5,000 square feet to 5,750 square feet and an increase of the buildable envelope (i.e. developable area) from 2,200 square feet to 3,000 square feet. The current "SF-2" architectural design and landscaping standards will apply to the PUD request. Homes must have a minimum of 50% brick, stucco or stone veneer for exterior walls excluding doors, windows and gables. All yards shall be fully sodded or covered with other city-approved groundcover. Additionally, for each dwelling unit, a minimum of one (1) six (6) foot tall canopy tree with two-inch caliper, and eight (8) three (3) gallon shrubs, are required to be planted in the front yard.

The City Planner stated that during the workshop there was some discussion regarding the number of lots and the impact they would have with only one point of ingress/ egress. Part of the discussion was flexibility, if a single access point is approved, the access must be constructed as a raised median divided street with a distance of one-hundred and twenty (120) feet.

Mr. Ben Purser, Killeen Engineering & Surveying, Ltd., 2901 E. Stan Schlueter Loop, Killeen, Texas was present to represent this request.

Chairman Frederick opened the public hearing.

Ms. JoAnn Purser spoke in support of the request.

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

Deputy City Attorney Holli Clements read the following from City of Killeen Code of Ordinance:

Chapter 26, Section 26-101, (i)

Where a major entrance to a subdivision is not a planned collector on the thoroughfare plan, the local/marginal access street shall be a minimum of forty-eight (48) feet wide (back-of curb to back-of-curb) with a seventy (70) foot right of way for a minimum distance of one hundred and twenty (120) feet from the intersection. Where a subdivision has multiple points of ingress/egress, the major entrance shall be on the street with the most intense functional classification. In circumstances where the functional classifications are equal or both streets are local, the developer may select his major entrance subject to the approval of the city engineer. As a rule, new subdivisions must have at least two (2) access streets. A developer may request the planning and zoning commission waive this rule and approve one access street if the access street has no connecting streets, terminates in a permanent cul-de-sac, is not more than one thousand and two-hundred (1200) feet in length and provides access to not more than a total of thirty (30) single-family dwelling lots or an equivalent housing unit density comprised of duplex or multi-family structures. However, in no case shall lots platted in the city of Killeen have their sole access through an adjacent city. In addition to the single point of access situation presented by streets that end in permanent cul-de-sac, a single point of access may be dictated by property configuration, considerations the volume of property owned by the plat applicant, safety engineering, or access management restrictions. In determining if a new subdivision may have one point of ingress/egress, consideration shall be given to:

- (1) traffic circulation and emergency vehicle access;
- (2) traffic and pedestrian safety with due consideration given to school bus routes;
- (3) topography and visibility distances;
- (4) surrounding developed property and whether adjacent development is anticipated to provide additional access;
- (5) whether the property owner owns sufficient property to provide a second access point.

If a single access point is approved, the access must be constructed as a raised median divided street with a distance of one-hundred and twenty (120) feet. The city engineer will determine the number of lanes required and if turning or acceleration/deceleration lanes are required to provide safe ingress/egress after due consideration to the density of the subdivision and the functional clarification of the street intersecting with the access street.

After a lengthy discussion, City Planner McIlwain informed the Commission that the applicant decided to reduce the proposed project by 3 lots.

Vice Chair Dorroh stated that the commission should try to keep all lots residential.

The City Planner stated that the applicant is requesting approval of a Planned Unit Development (PUD) for "SF-2" (Single-Family Residential District) with a 20' foot front yard setback and a minimum lot depth of 115' feet. This will include everything that is in the concept plan with the exception of the northwest corner which are Lots 1-3 and the remainder tract that is being proposed.

Vice Chair Dorroh motioned to approve this request. Commissioner DeHart seconded the motion. The motion passed 6-0.

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





