

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM PLANNED UNIT DEVELOPMENT (PUD) WITH “SF-2” (SINGLE-FAMILY RESIDENTIAL DISTRICT) USES AND “R-3” (MULTIFAMILY RESIDENTIAL DISTRICT) TO “R-2” (TWO FAMILY DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, RSBP Developers, Inc. 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 a Planned Unit Development (PUD) with “SF-2” (Single-Family Residential District) uses and “R-3” (Multifamily Residential District) to “R-2” (Two Family District), said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen; 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 11th day of April 2017, 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 a Planned Unit Development (PUD) with “SF-2” (Single-Family Residential

District) uses and “R-3” (Multifamily Residential District) to “R-2” (Two Family District), said property being Lots 1-13, Block 11, Lots 1-4, Block 12 and Lots 1-4, Block 13, Lakeview Park Subdivision.

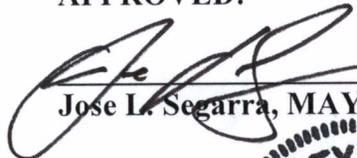
SECTION II. That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

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.

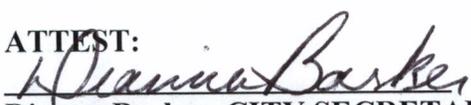
PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 11th day of April 2017, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:



Jose L. Segarra, MAYOR

ATTEST:



Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM



Kathryn H. Davis, City Attorney



Case #17-09

Ord. #17-__



Date Paid:	<u>3/3/17</u>
Amount Paid:	<u>\$ 300.00</u>
Cash/MO #/Check #:	<u>#</u>
Receipt #:	<u>501</u>

CASE #: 217-09

City of Killeen Zoning Change Application

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

Name(s) of Property Owner: RSBP DEVELOPER, INC.

Current Address: 2901 E. Stan Schlueter Loop

City: Killeen **State:** Texas **Zip:** 75642

Home Phone: (254) 526-3981 **Business Phone:** (254) ⁶³⁴⁻⁵⁵⁶⁷ Ext #104 **Cell Phone:** (254) 535-1540

Email: bpurser@kesltd.com; 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 1606 Justin Lane

Legal Description: 7.64 acre tract out of the J.S. Wilder Survey, Abstract # 912, Bell County, Texas

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: PUD **Present Use:** VACANT

Proposed Zoning: R2 **Proposed Use:** TWO-FAMILY RESIDENTIAL DISTRICT

Conditional Use Permit for: _____

This property was conveyed to owner by deed dated 2014 and recorded in Volume _____

Page _____, Instrument Number 2016-20454 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

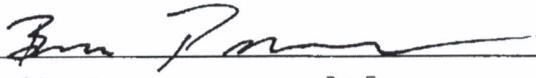
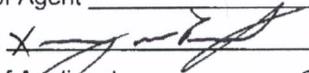
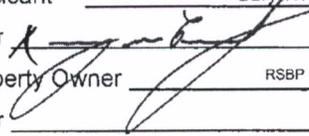
City: Killeen State: Texas Zip: 76542 - _____

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 	Title <u>KES- Rep</u>
Printed/Typed Name of Agent <u>Ben Purser</u>	Date <u>3-3-17</u>
Signature of Agent _____	Title _____
Printed/Typed Name of Agent _____	Date <u>3</u>
Signature of Applicant 	Title <u>President - RSBP</u>
Printed/Typed Name of Applicant <u>Gary W. Purser, Jr.</u>	Date <u>3-3-17</u>
Signature of Property Owner 	Title <u>President - RSBP</u>
Printed/Typed Name of Property Owner <u>RSBP DEVELOPER, INC.</u>	Date <u>3-3-17</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:

Z17-09

ZONING FROM:

PUD and R-3 To R-2

APPLICANT:

SCF KILLEEN FAMILY LP

PROPERTY OWNER:

MARK DEWAYNE STANFORD

LEGAL DESCRIPTION:

A0306BC G W FARRIS, 10-3,
ACRES 4.576; A0306BC
G W FARRIS, 10-5,
ACRES 1.765

Legend

-  Zoning Case
-  Parcel
-  City Limits



Date: 3/8/2017





**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

Z17-09

ZONING FROM:

PUD and R-3 To R-2

APPLICANT:

RSBP DEVELOPER, INC.

PROPERTY OWNER:

RSBP DEVELOPER, INC.

LEGAL DESCRIPTION:

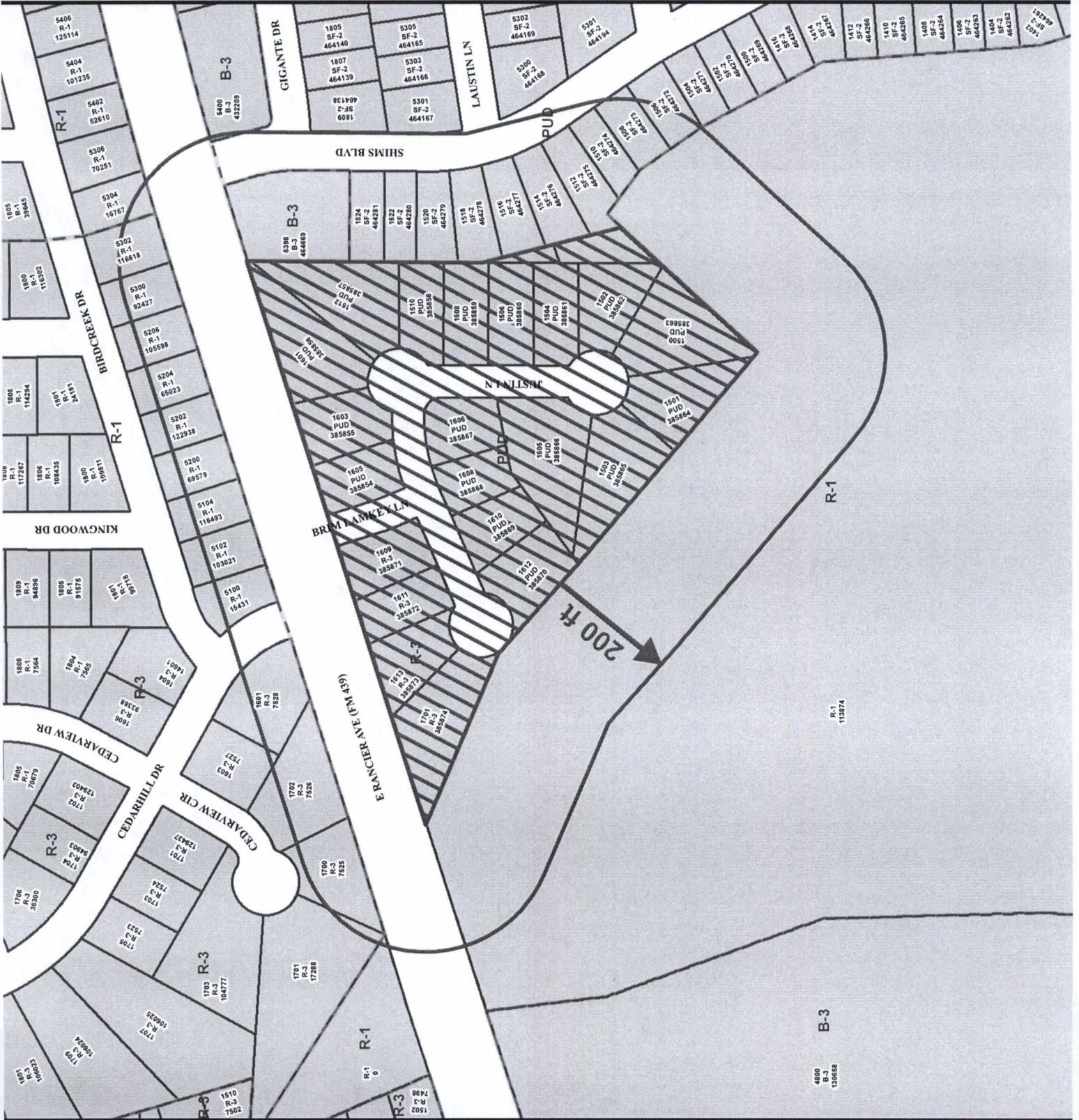
A0306BC G W FARRIS, 10-3,
ACRES 4.576; A0306BC
G W FARRIS, 10-5,
ACRES 1.765

LEGEND

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



Date: 3/8/2017



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

REZONING CASE #Z17-09 PLANNED UNIT DEVELOPMENT (PUD) WITH "SF-2" (SINGLE-FAMILY RESIDENTIAL DISTRICT) AND "R-3" (MULTIFAMILY RESIDENTIAL DISTRICT) TO "R-2" (TWO FAMILY RESIDENTIAL DISTRICT)

ORIGINATING DEPARTMENT

Planning and Development Services

BACKGROUND AND FINDINGS:

RSBP Developers, Inc. 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 a Planned Unit Development (PUD) for "SF-2" (Single-Family Residential District) and "R-3" (Multifamily Residential District) uses to "R-2" (Two Family Residential District). 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.

District Descriptions:

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

- (1) Any use permitted in district "R-1"
- (2) Two-family dwellings

The property is currently vacant. There is a mixture of existing commercial uses and residential uses in the vicinity.

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

Plan Recommendation: The 'General Residential' character encourages detached residential dwellings as the primary focus, attached housing types subject to compatibility and open space standards (e.g. duplexes), planned developments with a mix of housing types subject to compatibility and open space standards, public/institutional, parks, and other public spaces. The characteristics of this designation include:

- Predominantly "R-1" zoning district with less openness and separation between dwellings compared to Suburban Residential areas
- Auto-oriented character that can be offset with architectural standards, landscaping, and limited uniform subdivision designs
- Neighborhood-scale commercial emerging over time for well-suited areas

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

THE ALTERNATIVES CONSIDERED:

Which alternative is recommended? Why?

The City Council shall take the following Pharr v. Tippitt guidelines into consideration making a decision on a zoning request:

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

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; however, it will be necessary to maintain future publicly dedicated infrastructure.

Is this a one-time or recurring expenditure?

The maintenance of publicly dedicated infrastructure will be on-going.

Is this expenditure budgeted?

This expenditure is not discretely budgeted.

If not, where will the money come from?

Various Public Works accounts

Is there a sufficient amount in the budgeted line-item for this expenditure?

This is not applicable at this time.

RECOMMENDATION:

The Planning and Zoning Commission recommended approval of the applicant's zoning request by a vote of 4 to 0, with Commissioner Purser abstaining. The staff notified 16 (sixteen) surrounding property owners regarding this request and received no protests.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the Legal Department.

Figure 1. Aerial Map



**MINUTES
PLANNING AND ZONING COMMISSION MEETING
MARCH 20, 2017**

**CASE #Z17-09
PUD w/ SF-2 and R-3 to R-2**

HOLD a public hearing and consider a request submitted by RSBP Developers, Inc., 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 a Planned Unit Development (PUD) for “SF-2” (Single-Family Residential District) uses and “R-3” (Multifamily Residential District) to “R-2” (Two Family Residential District). 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.

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

Chairman Frederick requested staff comments.

City Planner Tony McIlwain stated that this property was rezoned 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) on August 23, 2016, per Ordinance No. 16-039. This zoning request is more restrictive than the previous “R-3” zoning that was on the property prior to the last approved zoning action. The zoning request is consistent with the FUM of the Comprehensive Plan. Staff recommends approval of the applicant’s “R-2” zoning request.

The staff notified 16 (sixteen) surrounding property owners regarding this request. No responses have been received.

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

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

Commissioner McLaurin motioned to recommend approval of “R-2” (Two Family Residential District). Vice Chair Dorroh seconded the motion. The motion passed unanimously.

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

Commissioner Purser returned to the dais.