

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-91 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, known as the Zoning Ordinance of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 8th day of July A.D. 2004.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 7th day of July, 2004, the same being at least fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 22nd day of July, 2004, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 22nd day of July, A.D. 2004.

ATTEST:



CITY SECRETARY



MAYOR

APPROVED:



CITY ATTORNEY

ORDINANCE NO.

Exhibit "A"

PART 1: Land Title. Title to land not dedicated to public use and services or for utility purposes and not otherwise designated for development purposes shall remain in the owner thereof, his heirs, assigns, lessees and successors in interest and shall not be the responsibility of the City of Abilene for any purpose.

PART 2: Development Specifications. All development in the Planned Development District shall be in accordance with the maps, topographical and drainage plans, utility plans, architectural drawings, site plan, plat, and any other required plans filed in connection with this requested Planned Development District and are hereby incorporated by reference and included as part of this ordinance.

All use and development within the Planned Development District must be in compliance with the general Comprehensive Zoning Ordinance of the City of Abilene except as otherwise specifically provided herein.

PART 3: Building Specifications. All structures in said Planned Development District shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That Chapter 23, Subpart E, Abilene Municipal Code, known as the Zoning Ordinance of the City of Abilene, is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: From AO (Agricultural Open-space) and HC (Heavy Commercial) District to PDD (Planned Development District).

That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PART 5: Legal Description. The legal description of this PDD is as follows:

001220 - ABILENE WAL-MART

PROPERTY DESCRIPTION

Being a tract of land situated in the south half of Section 24, Blind Asylum Land, in the N. J. Decker Survey, Abstract No. 957, in the City of Abilene, Taylor County, Texas, being all of that certain tract of land as described by deed to Larry L. Hill, recorded in Volume 2315, Page 789, Deed Records, Taylor County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch iron rod with yellow cap stamped "Dunaway Assoc. Inc." set (hereinafter called 5/8 inch iron rod set) for the southwest corner of Lot 1, Block A, Liddle Acres, an addition to the City of Abilene, according to the plat recorded in Cabinet 2, Slide 249-B, Plat Records, Taylor County, Texas, and being in the northwest right of way line of State Highway No. 351 (Ambler Avenue) (a variable width right-of-way, 130 feet wide at this point);

North 33°12'52" West, with the west line of said Lot I, a distance of 258.49 feet to a 5/8 inch iron rod set for the POINT OF BEGINNING, and being the common east corner of said Hill tract and that certain tract of land as described by deed to Millard F. McKnight and LaVorise L. McKnight Revocable Living Trust, recorded in Volume 2209, Page 856, Deed Records, Taylor County, Texas;

THENCE with the common line of said Hill tract and said McKnight tract the following courses and distances:

North 88°06'33" West, a distance of 674.40 feet to a point;

North 00°51'59" West, a distance of 419.99 feet to a point in the south line of Lowden Street (unrecorded right-of-way);

THENCE South 88°54'18" East, departing said common line, with said south line of Lowden Street, a distance of 673.28 feet to a 3/8 inch iron rod found;

THENCE South 00°57'52" East, passing at a distance of 9.53 feet the northwest corner of the aforementioned Lot I, Block A, Liddle Acres, and continuing with the common line of said Hill tract and said Lot I, in all a distance of 429.38 feet to the POINT OF BEGINNING and containing 285,910 square feet or 6.563 acres of land.~,""

2001220 - ABILENE WAL-MART

PROPERTY DESCRIPTION

Being a tract of land situated in the south half of Section 24, Blind Asylum Land, in the N. J. Decker Survey, Abstract No. 957, in the City of Abilene, Taylor County, Texas, being part of that certain tract of land as described by deed to Millard F. McKnight and LaVorise L. McKnight Revocable Living Trust, recorded in Volume 2209, Page 856, Deed Records, Taylor County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with yellow cap stamped "Dunaway Assoc. Inc." set (hereinafter called 5/8 inch iron rod set) for the southwest corner of Lot 1, Block A, Liddle Acres, an addition to the City of Abilene, according to the plat recorded in Cabinet 2, Slide 249-B, Plat Records, Taylor County, Texas, and being in the northwest right of way line of State Highway No. 351 (Ambler Avenue) (a variable width right-of-way, 130 feet wide at this point);

THENCE South 61 °24'51" West, with said northwest right-of-way line of State Highway No. 351, a distance of 49.87 feet to a 1/2 inch iron rod found for the common south corner of said McKnight tract and Section 1, McKnight Addition, an addition to the City of Abilene, according to the plat recorded in Cabinet 1, Slide 36, Plat Records, Taylor County, Texas;

THENCE, with the common line of said McKnight tract and said Section 1 the following courses and distances:

North 33°16'47" West, a distance of 228.80 feet to a 5/8 inch iron rod set;

North 87°56'47" West, a distance of 257.30 feet to a 3/8 inch iron rod found;

South 00°41 '47" East, a distance of 166.58 feet to a 5/8 inch iron rod set in the north line of that certain tract of land as described by deed to Marietta Chase Mills, recorded in Volume 1580, Page 984, Deed Records, Taylor County, Texas, and as described by deed to Eddie Chase, recorded in Volume 1580, Page 990, Deed Records, Taylor County, Texas;

THENCE North 88°45'17" West, with the common line of said McKnight tract and said Chase tract, passing at a distance of 739.37 feet the common north corner of said Chase tract and that certain tract of land as described by deed to James D. Self and wife, Beth LaVaughn Self, recorded in Volume 515, Page 238, Deed Records, Taylor County, Texas, with the common line of said Self tract and said McKnight tract, in an overall distance of 1015.21 feet to the southeast corner of that certain tract of land described to West Texas Utilities Company recorded in Volume 206, Page 171, Deed Records, Taylor County, Texas;

THENCE North 01 °09'55" East, with the east line of said West Texas Utilities tract, (Volume 206, Page 171), a distance of 638.01 feet to a point in the south line of Lowden Street (unrecorded right-of-way);

THENCE South 88°54'18" East, with said south line of Lowden Street, a distance of 604.58 feet to the common north corner of said McKnight tract and the certain tract of land as described by deed to Larry L. Hill, recorded in Volume 2315, Page 789, Deed Records, Taylor County, Texas;

THENCE with the common line of said McKnight tract and said Hill tract the following courses and distances:

South 00°51 '59" East, a distance of 419.99 feet to a point;

South 88°06'33" East, a distance of 674.40 feet to a 5/8 inch iron rod set in the west line of the aforementioned Lot 1, Block A, Liddle Acres;

THENCE South 33°12'52" East with the common line of said McKnight tract and said Lot 1, a distance of 258.49 feet to the POINT OF BEGINNING, containing an area of 503,540 square feet or 11.560 acres of land.

PROPERTY DESCRIPTION

Being a tract of land situated in the south half of Section 24, Blind Asylum Land, in the W. F. Decker Survey, Abstract No. 956, in the City of Abilene, Taylor County, Texas, being part of that certain tract of land as described by deed to Millard F. McKnight and LaVorise L. McKnight Revocable Living Trust, recorded in Volume 2209, Page 856, Deed Records, Taylor County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with yellow cap stamped "Dunaway Assoc. Inc." set (hereinafter called 5/8 inch iron rod set) for the common north corner of said McKnight tract and that certain tract of land as described to Abilene Christian College, recorded in Volume 326, Page 461, Deed Records, Taylor County, Texas, and being in the south line of Lowden Street (unrecorded right-of-way);

THENCE South 88°54'18" East, with said south line, a distance of 403.50 feet to the northwest corner of that certain tract of land as described to West Texas Utilities Company, recorded in Volume 206, Page 171, Deed Records, Taylor County, Texas;

THENCE South 01°09'55" West, with the west line of said West Texas Utilities tract, a distance of 637.75 feet to the southwest corner of said West Texas Utilities tract, and being in the north line of that certain tract of land as described by deed to J. Keith Justice and wife, Vera Justice, recorded in Volume 429, Page 315, and Volume 675, Page 148, Deed Records, Taylor County, Texas;

THENCE North 88°45'17" West, with the common line of said McKnight tract and said Justice tract a distance of 400.82 feet to a fence corner post found;

THENCE North 00°55'27" East, continuing with said common line, passing at a distance of 208.88 feet a 5/8 inch iron rod set for the common east corner of said Justice tract and the aforementioned Abilene Christian College tract, continuing with the common line of said McKnight tract and said College tract, in an overall distance of 636.70 feet to the POINT OF BEGINNING and containing 256,265 square feet or 5.884 acres of land.

2001220 - ABILENE WAL-MART

PROPERTY DESCRIPTION

Being a tract of land situated in the south half of Section 24, Blind Asylum Land, in the N. J. Decker Survey, Abstract No. 957, in the City of Abilene, Taylor County, Texas, and being part of that certain tract of land as described by deed to James D. Self and wife, Beth LaVaughn Self, recorded in Volume 515, Page 238, Deed Records, Taylor County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the common south corner of said Self tract and that certain tract of land as described by deed to West Texas Utilities Company, recorded in Volume 206, Page 170, Deed Records, Taylor County, Texas, and being in the northeast right-of-way line of Interstate Highway No. 20 (a variable width right-of-way, 400 feet wide at this point);

THENCE North 01° 15'16" East, with the common line of said Self tract and said West Texas Utilities Company tract, a distance of 705.00 feet to a point in the south line of that certain tract of land as described by deed to West Texas Utilities Company, recorded in Volume 206, Page 171, Deed Records, Taylor County, Texas;

THENCE South 88°45'17" East, with the common line of said Self tract and said West Texas Utilities Company tract, a distance of 13.73 feet to the common south corner of said West Texas Utilities Company tract and that certain tract of land as described by deed to Millard F. McKnight and La V orise L. McKnight Revocable Living Trust, recorded in Volume 2209, Page 856, Deed Records, Taylor County, Texas, and with the common line of said Self tract and said Mc Knight tract, in an overall distance of 289.57 feet to the common north corner of said Self tract and that certain tract of land as described by deed to Marietta Chase Mills, recorded in Volume 1580, Page 990, Deed Records, Taylor County, Texas;

THENCE South 01°31'21" West, with the common line of said Self tract and said Chase tract a distance of 350.32 feet to a 5/8 inch iron rod set for the common east corner of said Self tract and that certain tract of land as described by deed to Frank W. Martin and wife, Louise Martin recorded in Volume 442, Page 33, Deed Records, Taylor County, Texas;

THENCE with the common line of said Self tract and said Martin tract the following courses and distances:

South 62°31'21" West, a distance of 125.00 feet to a 5/8 inch iron rod set;

South 01 °31 '21" West, a distance of 322.62 feet to a 5/8 inch iron rod set in the northwest right-of-way line of State Highway No. 351 (Ambler Avenue) (a variable width right-of-way);

THENCE South 61 °24'51" West, with said northwest right-of-way line of State Highway No. 351, a distance of 42.61 feet to a 5/8 inch iron rod set for the east end of a corner clip from said northwest right-of-way line of State Highway No. 351 to the northeast right-of-way of aforementioned Interstate Highway No. 20;

THENCE North 84°54'43" West, with said corner clip, a distance of 83.22 feet to a 5/8 inch iron rod set in said northeast right-of-way line of Interstate Highway No. 20, from which an aluminum monument found bears North 64°04'09" East, a distance of 0.37 feet;

THENCE North 51°14'17" West, with said northeast right-of-way line of Interstate Highway No. 20, a distance of 71.62 feet to the POINT OF BEGINNING and containing 174,010 square feet or 3.995 acres of land.

2001220 - ABILENE WAL-MART

PROPERTY DESCRIPTION

Being a tract of land situated in the south half of Section 24, Blind Asylum Land, in the W. F. Decker Survey, Abstract No. 956, in the City of Abilene, Taylor County, Texas, and being part of that certain tract of land as described by deed to J. Keith Justice and wife, Vera Justice, recorded in Volume 429, Page 315, and all of that certain tract of land as described to J. Keith Justice and wife, Vera Justice, recorded in Volume 675, Page 148, Deed Records, Taylor County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the common south corner of said Justice tract and that certain tract of land as described by deed to West Texas Utilities Company, recorded in Volume 206, Page 170, Deed Records, Taylor County, Texas, and being in the northeast right-of-way line of Interstate Highway No. 20 (a variable width right-of-way, 400 feet wide at this point);

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THENCE North $51^{\circ}14'17''$ West, with said northeast right-of-way line of Interstate Highway No. 20, a distance of 573.16 feet to a 5/8 inch iron rod set in the common line of said Justice tract, and the remainder of that certain tract of land as described by deed to Abilene Christian College, recorded in Volume 326, Page 461, Deed Records, Taylor County, Texas;

THENCE with said common line the following courses and distances:

North $01^{\circ}21'57''$ East, a distance of 499.14 feet to a 5/8 inch iron rod set;

South $89^{\circ}15'03''$ East, a distance of 50.40 feet to a 5/8 inch iron rod set in the west line of that certain tract of land as described by deed to Millard F. McKnight and LaVoris L. McKnight Revocable Living Trust, recorded in Volume 2209, Page 856, Deed Records, Taylor County, Texas;

THENCE with the common line of said Justice tract and said McKnight tract the following courses and distances:

South $00^{\circ}55'27''$ West, a distance of 208.88 feet to a fence corner post found;

South $88^{\circ}45'17''$ East, a distance of 402.10 feet to the common north corner of said Justice tract and aforementioned West Texas Utilities Company tract;

THENCE South $01^{\circ}15'16''$ West, with the common line of said Justice tract and said WTU tract, a distance of 639.75 feet to the POINT OF BEGINNING and containing 222,129 square feet or 5.099 acres of land.

Location:

The intersection of I-20 and State Highway 351.

PART 6: Purpose. The purpose of the Planned Development District (PDD) request is to allow for commercial development and related activities of a tract, which generally has not developed under present zoning and development procedures.

PART 7: Specific Modifications. The following regulations shall govern the use and development of this Planned Development District:

1. Permitted Uses:

A. Uses listed in the Retail Trade portion of the Permitted Use Chart in the Zoning Ordinance of the City of Abilene (henceforth called the Zoning Ordinance), with the following exceptions:

- Aircraft and accessories
- Auctions
- Automobiles and Trucks
- Marine Craft
- Mobile Homes
- Travel Trailers and Motor Homes
- Motorcycles
- Pawn Shops
- Scrap and Waste Material
- Secondhand Merchandise – including flea markets

B. Offices

C. Banks/Financial Institutions and Services

D. Travel Arranging

E. Beauty or Barber Shop

F. Laundry and Dry Cleaning

G. Telegraph/Money Transfer Services

H. Auto and Small Truck Servicing and/or Auto Wash only if incidental and attached to a Department Store

2. Site Development shall be in accordance with the following regulations and as generally depicted on the site plan attached hereto as Exhibit B.

A. Setbacks:

- Setbacks for the 21.453 acre tract (referred to henceforth as the "Primary Lot") shall be in compliance with Exhibit B.
- Setbacks for out parcels:
 - Along Public Right-of-way:
 - 20 feet minimum if use of the 20 feet is landscaped and/or sidewalks only.
 - 30 feet minimum if parking is located in the setback
 - All other setbacks: 10 feet

B. Maximum Height: 40 feet (excluding architectural exceptions generally allowed by the Zoning Ordinance).

C. Off-street Parking shall be provided in accordance with the Zoning Ordinance.

D. Loading Spaces

- For the Primary Lot: as depicted in Exhibit B.
- For the out parcels: as required by the Zoning Ordinance.

E. Driveway access:

- From State right-of-way: shall be determined by the regulations set forth by the Texas Department of Transportation.
- From City right-of-way: A maximum of one driveway per lot per street
- Internal to the PDD: Driveways from one lot to another lot within the PDD are recommended.

F. Signs:

- Free-standing signs
 - One pole sign shall be permitted along the I-20 frontage with a maximum height of 35 feet and a maximum area of 175 square feet. No other pole signs shall be permitted.
 - All other free standing signs shall be monument design with a maximum height of 6 feet and a maximum area of 75 square feet. Each business is limited to one monument sign.
- Wall signs: May not exceed 10% of the area of any wall on which they are located.
- Banners: Shall only be allowed when attached to and flat against a building
- Prohibited Signs: Portable signs, off-site advertising, other free-standing temporary signs

G. Landscaping

- Primary Lot: Shall be generally provided as shown on Exhibit B.
- Out parcels: Landscaping shall be similar and consistent with that shown on the Primary Lot in Exhibit B. Such landscaping shall be negotiated during the Site Plan Review process as each out parcel develops. If the City and the developer are unable to agree on landscaping, the developer may request an amendment to the PDD that specifies such landscaping.
- Landscaping shall consist of xeriscape materials and shall be designed and maintained according to xeriscape principles.

H. Outdoor storage and display of goods shall be prohibited with the exception of one area designated in Exhibit B which may be used for the outdoor display of merchandise only.

I. Freight Containers are prohibited.

PART 8: Development Schedule. If a building permit is not issued within 18 months of the date of this ordinance, the Planning Director shall initiate rezoning of the PDD to AO (Agricultural-Open Space) and HC, (Heavy Commercial) or if transfer of land does not occur within 60 days to Wal-Mart, the Planning Director shall initiate rezoning of the entire PDD, or any specific tract, to AO and/or HC as previously zoned upon written request of any or all of the owners.

