

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-113 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 Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 28th day of August A.D. 2008.

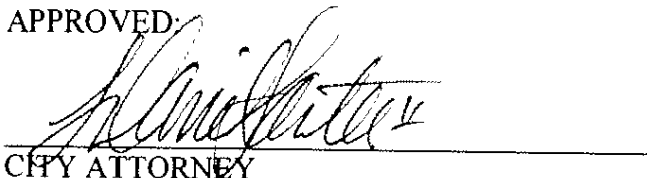
A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 29th day of July, 2008, the same being more than 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 11th day of September, 2008, 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 11th day of September, A.D. 2008.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. 48-2008

EXHIBIT "A"

PAGE 2 ORDINANCE NO. 48-2008

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 possession of 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 any 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 the herein 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 HC (Heavy Commercial), LI (Light Industrial), GC (General Commercial), and AO (Agricultural Open Space) 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:

BEGINNING at a 3/4 inch aluminum rod with 2 inch aluminum Jacob & Martin cap (henceforth called a standard monument) found on the Northwest right-of-way line of Musgrave Boulevard being the Southeast corner of Lot 1, Block A of the Home Subdivision as shown on the plat thereof recorded in Plat Cabinet 2, Slide 342-C, Plat Records of Taylor County, Texas, from said point the intersection of the Northeast right-of-way line of U.S. Interstate Highway 20 and said Northwest right-of-way line of Musgrave Boulevard bears S46°59'47"W 332.45 feet, said point further being the beginning of a non-tangent curve to the right having a radius of 322.00 feet, a delta angle of 38°22'18" and a long chord which bears N18°25'26"W 211.64 feet;

THENCE in a northwesterly direction along an easterly line of said Lot 1, Block A and the arc of said curve to the right a distance of 215.65 feet to a standard monument found at the end of said curve;

THENCE N00°45'43"E, continuing along said easterly line of said Lot 1, Block A, a distance of 64.71 feet to a standard monument found at the beginning of a curve to the right, said curve to the right having a radius of 14.50 feet and a delta angle of 90°00'00" and a long chord which bears N45°45'43"E 20.51 feet;

THENCE in a northeasterly direction along said curve to the right, at an arc length of 21.27 feet pass a standard monument found at the most northerly Southeast corner of said Lot 1, Block A and continuing a total arc length of 22.78 feet to a standard monument set at a point of

THENCE in a northeasterly direction along said curve to the right, at an arc length of 21.27 feet pass a standard monument found at the most northerly Southeast corner of said Lot 1, Block A and continuing a total arc length of 22.78 feet to a standard monument set at a point of

reverse curvature being the beginning of a curve to the left having a radius of 142.65 feet, a delta angle of 43°45'56" and a long chord which bears N68°52'45"E 106.34 feet;

THENCE along the arc of said curve to the left a distance of 108.97 feet to a standard monument set at the end of said curve to the left;

THENCE N46°59'47"E a distance of 2.56 feet to a standard monument set for the Northeast corner hereof;

THENCE S43°00'13"E 200.00 feet to a point on said Northwest right-of-way line of Musgrave Boulevard for the Southeast corner hereof;.

THENCE S46°59'47"W along said right-of-way line a distance of 254.53 feet to the **POINT OF BEGINNING** and containing **1.081** acres of land, more or less.

PART 6: Purpose. The purpose of the Planned Development District (PDD) request is to allow for mix of commercial and residential 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 and the attached concept plan (Exhibit B) shall govern the use and development of this Planned Development District.

I. PERMITTED USES:

A. Uses permitted in the Shopping Center district (See Exhibit C) and hardware/ lumber sales.

II. SITE DEVELOPMENT

A. Minimum Building Setbacks:

- 1) 20' along streets with only landscaping between building and street, otherwise 30'.
- 2) 15' along all exterior PDD boundaries
- 3) 0' for all internal parcels

B. Maximum Structure Height:

- 1) 40 feet and no more than 2 stories, excluding architectural details.

C. Building Materials:

- 1) Any building over 25,000 square feet shall include both horizontal and vertical articulation in the building design.
- 2) A minimum of 10% of the exterior face of any building visible from publicly accessible areas, such as streets, driveways, parking lots, and walkways (loading areas are not included) shall be composed of brick, stone, decorative block, or similar materials.
- 3) The remaining area of the building face shall be limited to glass, EIFS, stucco, stucco-like finishes, or other similar materials.
- 4) Elevation plans shall be submitted with the Site Plan for review and approval by the Planning Director prior to site plan approval. Any variation in design or materials will be subject to review and may be permissible at the discretion of the Planning Director.

D. Parking and ingress/ egress:

- 1) All parking areas shall comply with the provisions specified in the Zoning Ordinance.
- 2) Internal circulation of vehicular and pedestrian traffic shall be required between parcels within each tract of the development.
- 3) There shall be only one access (curb cut) off of E Overland Trail.
- 4) Development must comply with the construction plan for East Lake Road and Musgrave Boulevard individual driveway access restrictions and provision of a 10 foot wide shared-use path in the right-of-way in lieu of a sidewalk along the roads (See Exhibit D).

E. Signage:

- 1) Signage within the PDD must comply with the requirements of the City's Sign Ordinance, except as modified by the following.

- 2) Freestanding:
 - (a) 1 pole sign for the PDD with a maximum height of 50' and a maximum square footage as follows:
 - (i) 300 square feet if only 1 business is advertised.
 - (ii) 400 square feet if more than one business is advertised
 - No single business shall have greater than 300 square feet of sign area.
 - (b) 2 group signs for the PDD with a maximum height of 30' and a maximum area of 300 square feet shall be allowed in the areas designated on the concept plan.
 - (c) 2 Group monument signs for the PDD with a maximum height of 20' and a maximum area of 200 square feet shall be allowed in the areas designated on the concept plan.
 - (d) Monument signs along Musgrave Blvd with a maximum height of 12' and a maximum area of 200 square feet shall be allowed in the areas designated on the concept plan
- 3) Wall signs:
 - (a) Wall signage may not exceed 10% of the area of any wall on which the signs are located.
 - (b) Wall signage may only be attached to the main structure.
- 4) Banners
 - (a) Banners shall only be located flat against the face of a building and shall count toward the maximum allowable wall signage.
- 5) Prohibited signs
 - (a) Portable signs
 - (b) Offsite signage except for allowed group signs that advertise businesses or entities within the PDD.
 - (c) Streamers, pennants, balloons, and similar devices
 - (d) Temporary signs and freestanding banners, except for real estate signs and a "grand opening" event within 30 days of the issuance of a Certificate Occupancy.

F. Landscaping and buffers:

- 1) Landscaping in the PDD must comply with the requirements of the City's Landscaping Ordinance, but in no case shall be less than the following.
 - (a) A minimum of a 10-foot wide landscaped area shall be provided along all roads. The landscaped area shall be located entirely on private property.
 - (b) Landscaping within the required 10-foot wide strip must consist of living materials, except for sidewalks, paths, or driveway crossings, and shall include at least 1 tree and 2 shrubs per 40 linear feet of frontage.
 - (c) In addition to the landscaped strip along the street-side boundaries, no less than five (5) percent of the remaining lot area shall be landscaped. The remaining lot area shall be calculated by subtracting the area of the required landscaped strip from the total lot area.
 - (d) Landscaping within the remaining required area must consist of living materials and shall include at least 2 trees and 4 shrubs per 1,000 square feet of landscape area.
 - (e) Parking lot landscaping shall be required based on the following:
 - (i) Ten percent of the lot area must be landscaped for areas of a parking lot located between a principal structure and the street.
 - (ii) Five percent of the parking lot area must be landscaped for areas of a parking lot not adjacent to a street, such as those to the side or rear of a principal structure.

(iii) Parking lots must be setback from a property line by a landscaped strip at least 5 feet in width.

(iv) Landscaped aisle-end islands and interior islands are required at a rate of 2 per 40 parking spaces in a row. *These count toward the minimum landscape area within the parking lot.* Each island must be at least 162 square feet in area. At least 50% of the islands must contain a tree.

(f) Xeriscape principles shall be utilized.

(g) All parkways shall be landscaped, excluding sidewalks, paths, or driveway crossings.

(h) A Landscaping Plan must be submitted in conjunction with a Site Plan.

G. Screening and Fencing:

- 1) Fencing within a street yard setback shall be limited to wrought iron, or similar, and/or masonry construction. All other fencing must be constructed of wrought iron, or similar, masonry, wood, or vinyl-coated chain link or similar materials.
- 2) Facilities for power, air conditioning, mechanical equipment, and solid waste handling shall be screened from view of publicly accessible areas, including rooftop equipment.

H. Sidewalks:

- 1) Sidewalks and shared use paths shall comply with the construction plan for East Lake Road and Musgrave Boulevard (See Exhibit D).
- 2) All development must comply with the Sidewalk Master Plan.

I. Outdoor Storage and Display:

- 1) Outdoor storage is limited to 5% of the total site area, or up to 15% if the excess over 5% is completely screened from view of adjacent properties.
- 2) Outdoor storage and display is prohibited in the following areas:
 - (a) Required building setback yards
 - (b) Landscaped areas
 - (c) Required parking spaces and maneuvering areas
- 3) Outdoor storage and display of merchandise must be designated on an approved site plan.
- 4) 2 fully operational licensed semi trailers shall be allowed as shown on the concept plan (See Exhibit B)
- 5) Freight containers are prohibited

J. Lighting:

- 1) All site lighting shall comply with the performance standards governing exterior illumination in the City of Abilene Zoning Ordinance. Additionally, all lighting shall be fully shielded and directed away from residential areas.

PART 10: Development Schedule. If a building permit is not approved within 18 months of the date of this ordinance, the Planning Director may initiate rezoning of the PDD to the previous zoning designation.

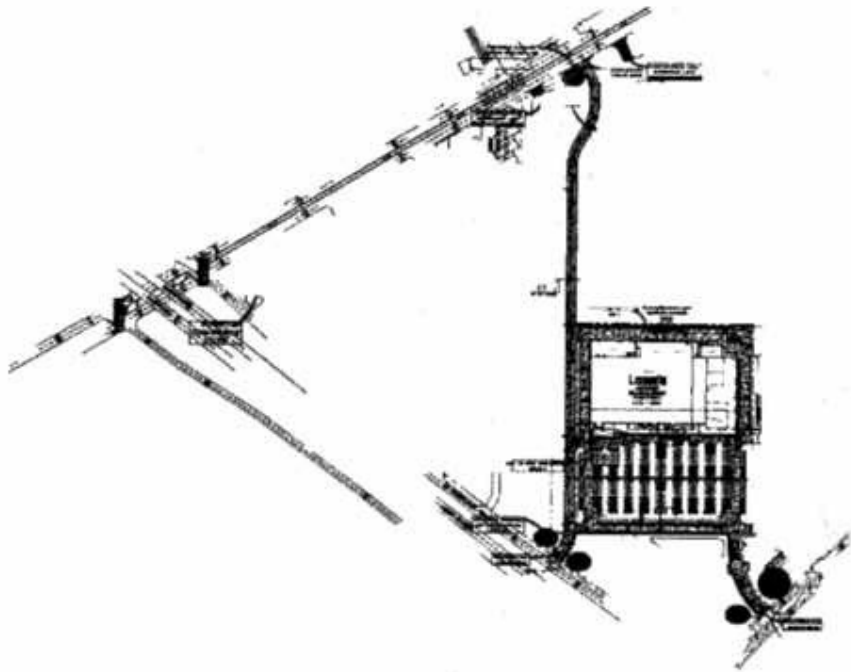


Exhibit "C"

SC – SHOPPING CENTER DISTRICT

RESIDENTIAL USES:

- X Multi-Family Dwellings
- C Patio Homes
- X Single Family Detached Dwellings
- C Townhouses

ACCESSORY AND INCIDENTAL USES:

- C Accessory Building
- C Fences, Walls and Hedges
- C-TP Field Office or Construction Office (temporary)
- C-TP Mobile Home (temporary security residence)
- C Recreation Equipment, Mobile (storage and parking)
- X Satellite Dish Antenna
- C Swimming Pools, Private (accessory to residential use)
- C Tennis Courts, Private (accessory to residential use)

CULTURAL AND RECREATIONAL USES:

- C-TP Amusement Facility (temporary)
- X Arcade, for Games
- X Art Galleries
- X Bowling Lanes
- X Civic, Social, and Fraternal Organizations
- X Libraries
- X Museums
- X Park and/or Playground
- X Pool or Billiard Halls
- X Skating Rink
- X Theaters and Playhouses (See also Drive-In Movies)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- X Fire Station
- X Governmental Administrative Offices
- X Medical and Dental Clinic or Office
- X Medical and Dental Laboratory
- X Optical Shop
- X Police Station
- X Post Office
- X Social Service Organization Offices
- X Surgical Center

EDUCATIONAL AND RELIGIOUS USES:

- X Business School

Exhibit "C"

- C Church or Place of Worship
- C Kindergarten or Child Care Center
- X Youth Organizations and Centers (i.e. Boy Scouts, YMCA, YWCA)

OFFICE-TYPE USES:

- X Accounting, Auditing, Tax and Bookkeeping Services
- X Adjustment and Collection Services
- X Advertising Services
- X Appraisal Services
- X Architectural and Planning Services
- X Business Associations
- X Consumer and Mercantile Credit Reporting Services
- X Detective Services
- X Employment Services
- X Engineering Services
- X Educational and Scientific Research Offices
- X Government Administration Offices
- X Insurance Agents, Carriers, and Brokers
- X Legal Services
- X Medical or Dental Office or Clinic
- X Office Space (general/unspecified)
- X Protective and Security Services
- X Real Estate Agent, Brokers, and Management
- X Security and Commodity Brokers, Dealers, and Exchanges
- X Social Service Organization Office
- X Stenographic, Duplicating and Mailing Services
- X Telephone Answering
- X Title Abstractors

SERVICES (OTHER THAN OFFICE-TYPE):

- X Automobile Wash
- X Banking Services
- X Banking Services (remote automatic)
- X Beauty and Barber Services
- X Blueprinting and Photocopying Services
- X Credit Unions
- X Financing and Loan Services
- X Health Club or Physical Fitness Services
- X Interior Decorating Services
- X Key and Lock Repair
- X Laundry and Dry Cleaning (self-service)
- X Laundry and Dry Cleaning Services, Including Pressing, Alteration and Garment Repair (does not accept items from pick-up stations)
- X Photographic Services

- X Savings and Loan Associations
- X Shoe Repair, Shoe Shining and Hat Cleaning Services

Exhibit "C"

- X Tailoring (custom)
- X Trading Stamp Services
- X Travel Arranging and Ticket Services
- C-SE Veterinary Service (small animals)
- X Watch, Clock and Jewelry Repair Service

TRADE-RETAIL USES:

- X Antiques
- X Appliances (household)
- X Automobile Parts and Supplies (including tires)
- C-SE Bait Store and Live Bait Sales
- X Bakery Products (on premise sales)
- X Bicycles (includes servicing)
- X Book and Stationery
- X Cameras and Photographic Supplies
- X China, Glassware, and Metalware
- X Christmas Trees
- X Clothing and Apparel Accessories
- X Coins and Stamps
- X Dairy Products (on-premise sales)
- X Department Stores
- X Drug Store/Pharmacy
- C Farm Products (open-air)
- X Floor Coverings
- X Furniture and Home Furnishings
- X Furriers and Fur Apparel
- C Gasoline
- C Gasoline (with and including automobile service)
- X Gifts, Novelties, Souvenirs
- X Grocery Store (convenience type)
- X Grocery Store (supermarket)
- X Hardware
- X Hobby and Craft Supplies
- X Jewelry
- X Keys and Locks
- C Liquor Store On-Premise Consumption
- C-SE Liquor Store Off-Premise Consumption (unrestricted)
- C Liquor Store Off-Premise Consumption (beer/wine)
- X Meats and Fish
- X Music Supplies and/or Records
- X Newspapers and Magazines
- X Office Supplies and Equipment

- X Optical Goods
- X Paint, Glass, and Wallpaper
- X Pets and Pet Supplies
- X Plant Material (flowers and household plants)
- X Restaurants, Standard
- X Restaurants, Drive-In and Fast Food
- X Shoes
- X Shopping Centers
- X Sporting Goods and Athletic Equipment
- X Tobacco Products
- X Variety Stores

Exhibit "C"

TRANSPORTATION, COMMUNICATION AND UTILITIES USES:

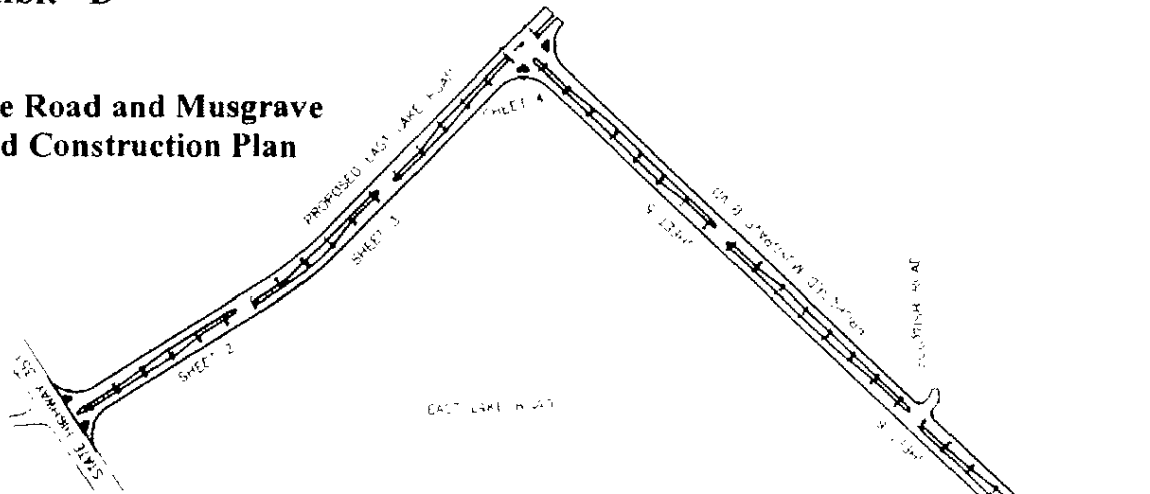
- X Automobile Parking Lot or Structure (commercial)
- SE Electric Substations
- X Gas Line Regulating or Compression Station
- X Radio Studios (without broadcast tower)
- X Sewage Pressure Control Stations and Lift Stations
- X Water Pressure Control Stations
- X Water Storage

*** LEGEND**

- X Permitted as a Right-of-Use
- SE Permitted by Special Exception Only, Requiring Approval by Board of Adjustment.
- C Permitted Subject to Compliance with Conditions Described within Section 23-306.5 of Zoning Ordinance.
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment.

Exhibit "D"

East Lake Road and Musgrave Boulevard Construction Plan



NOTE: AT LEAST 3 DAYS BEFORE COMMENCEMENT OF CONSTRUCTION, THE CONTRACTOR SHALL FILE A NOTICE OF INTENT (NOI) WITH TCEQ. THE NOTICE SHALL BE SENT TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, STORM WATER & GENERAL PERMITS TEAM, MC-228, P.O. BOX 13087, AUSTIN, TEXAS 78711-3087 AND ONE COPY SHALL BE SENT TO THE CITY OF ABILENE ENGINEERING DEPARTMENT. THE NOI FORM AND PERMIT REQUIREMENTS MAY BE OBTAINED FROM TCEQ OR FROM THEIR WEBSITE (www.TCEQ.state.tx.us). THE CONTRACTOR SHALL PREPARE A STORM WATER POLLUTION PREVENTION PLAN (SWPPP) AND OBTAIN AND FULLY COMPLY WITH THE TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES) PERMIT TXR 150000. QUESTIONS CONCERNING THE NOI AND PERMIT REQUIREMENTS MAY BE ADDRESSED TO CINDY ROONE WITH TCEQ AT 512-239-4524.

NOTE: ALL EXCAVATION GREATER THAN 5 FEET DEEP SHALL COMPLY WITH U.S.H.A. TRENCH SAFETY STANDARDS. THE CONTRACTOR SHALL NOTIFY THE CITY OF ABILENE CONSTRUCTION SERVICES AT 325-678-8077 AT LEAST 48 HOURS IN ADVANCE OF ANY CONSTRUCTION ACTIVITIES.

NOTE: PRECONSTRUCTION MEETING WILL BE REQUIRED BY CITY OF ABILENE AT CITY HALL PRIOR TO START OF CONSTRUCTION.

NOTE: TRAFFIC CONTROL IS REQUIRED ON THIS PROJECT AND SHOULD BE APPROVED BY TXDOT. THE TEXAS MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES SHALL ALSO BE ADHERED TO. ADVANCE SIGNS ARE REQUIRED ON ACCESS ROADS, SH 351 AND OTHER COUNTY ROADS. SEE SHEET 18 FOR TRAFFIC CONTROL STANDARDS

NOTE: ALTHOUGH SIDEWALKS ARE NOT SHOWN ON THESE CONSTRUCTION PLANS, SIDEWALKS OR A SHARED-USE PATH ARE TO BE INCLUDED ALONG ALL FRONTAGES ALONG THESE SEGMENTS OF EAST LAKE ROAD AND MUSGRAVE BOULEVARD. THESE WILL BE SHOWN ON ALL FUTURE SITE PLANS FOR DEVELOPMENTS ALONG THESE FRONTAGES AND CERTIFICATES OF OCCUPANCY WILL NOT BE ISSUED UNTIL IMPROVEMENTS ARE COMPLETE. A SIDEWALK WILL BE REQUIRED ON THE EAST SIDE OF EAST LAKE ROAD AND ON THE SOUTH SIDE OF MUSGRAVE BLVD. A SHARED-USE PATH WILL BE REQUIRED ON THE WEST SIDE OF EAST LAKE ROAD AND ON THE NORTH SIDE OF MUSGRAVE BLVD. THE MINIMUM SEPARATION BETWEEN THE BACK OF CURB AND THE SIDEWALK OR PATH SHALL BE THREE FEET AND THIS AREA SHALL BE MAINTAINED IN VEGETATIVE COVER. THE SIDEWALKS AND SHARED-USE PATH SHALL BE CONSTRUCTED PER CITY STANDARDS AT THE TIME OF DEVELOPMENT AND MUST BE APPROVED BY THE DIRECTOR OF PUBLIC WORKS AND THE PLANNING DIRECTOR.

NOTE: FUTURE DRIVEWAYS FOR THESE SEGMENTS OF EAST LAKE ROAD AND MUSGRAVE BOULEVARD WILL BE SUBJECT TO CITY OF ABILENE ACCESS MANAGEMENT STANDARDS AT THE TIME OF DEVELOPMENT, OR THE FOLLOWING, WHICHEVER ARE MORE RESTRICTIVE. DRIVEWAY ENTRANCES WILL BE LOCATED AT MEDIAN OPENINGS AS SHOWN ON THESE CONSTRUCTION PLANS AND WILL BE LIMITED TO NO MORE THAN ONE ADDITIONAL DRIVEWAY BETWEEN MEDIAN OPENINGS ON THE SIDE OF THE STREET WITH THE SHARED-USE PATH AND NO MORE THAN TWO ADDITIONAL DRIVEWAYS BETWEEN MEDIAN OPENINGS ON THE SIDE OF THE STREET WITH SIDEWALKS.

APPROVED FOR CONSTRUCTION
BY THE
CITY OF ABILENE, TEXAS
[Signature]