

ORDINANCE NO. 46-2024

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY APPROVING A CONDITIONAL USE PERMIT (CUP) AFFECTING A CERTAIN PROPERTY; 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 of the Land Development Code of the City of Abilene, is hereby amended by approving a Conditional Use Permit (CUP) 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.

PART 3: 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.

PASSED ON FIRST READING the 26th day of September, 2024.

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 16th day of August, 2024, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 3rd day of October, 2024, 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 FINAL READING THIS 3rd day of October, 2024.


ATTEST:



CITY SECRETARY



MAYOR

APPROVED:


CITY ATTORNEY



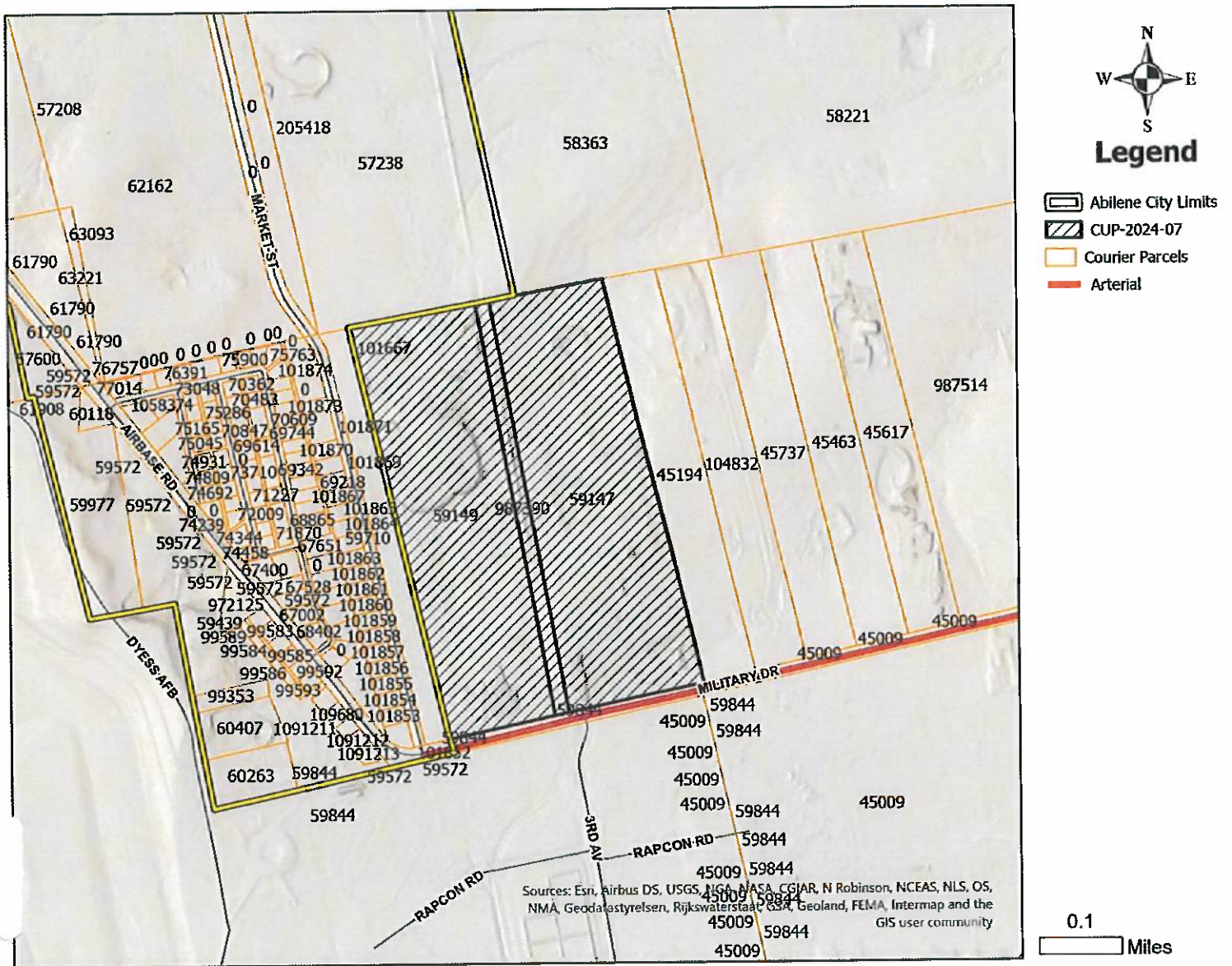
EXHIBIT A

Apply a Conditional Use Permit to approximately 99.27 acres zoned Agricultural Open (AO) to allow a concrete batch plant subject to the:

1. Site Plan; and
2. Plan of Operation.

Legal Description being 99.27 acres out of Survey 23, Block 2 of Southern Pacific Railway Company in Taylor County, Texas.

Located at 8302 Military Drive



Site Plan

E- Electrical Box



CUP Plan of Operation

1. A Plan of Operation must be submitted with Conditional Use Permit applications to:

- Describe how the proposed CUP use(s) will operate;
- Specify the nature of the proposed use(s) of the property; and
- Address potential issues or concerns from surrounding property owners or the City.

The CUP will allow a concrete batch plant to be set across the street from the back gate of Dyess AFB. This plant will be dedicated to batch concrete for the ongoing construction and growth of the air force base. The proximity to the base will allow quicker turnaround times and overall aid in construction time.

The first issue that could arise is an increase in traffic. By having the batch plant set up off base it will allow deliveries to the plant to be spread out through the day. The alternative would be to fit all the deliveries in the small window the construction entrance to Dyess is open. If the construction entrance is closed, a large end dump would be forced to use the front gate, increasing the already congested main gate off of Arnold Blvd.

Another concern would be dust created by the plant. The Cemco concrete that is to be set is a new plant equipped with a dust collection system that prevents materials from escaping the plant. All other dust issues will be controlled by water trucks and/or pavement.

Noise would be the last issue that surrounding property owners could bring up. The 6 acres the plant is to be set has the same owner as the immediate surrounding property. The plant is all electric which removes the need for external generators. All other precautions will be taken as needed to reduce noise concerns of neighbors. This includes the dirt berms around the perimeter of the property.

2. The Plan of Operation will be incorporated into an ordinance if the CUP is approved to protect the rights of the applicant to operate and to protect the rights of the surrounding owners.

We as the applicants will do all in our power to be courteous of the surrounding neighbors and the city. Our goal is to not become a nuisance, but rather to add value to the city and aid in the growth of Dyess AFB.

3. Each CUP is unique with respect to how an applicant proposes to operate, the layout of the subject property, and the type of uses surrounding the subject site.

The surrounding properties are mostly undeveloped land, with the exception of a few houses to the west. We have taken consideration in selecting a piece of property that would keep traffic from traveling on the road in front of their homes. All necessary precautions will be taken to keep the roads safe and be as considerate as possible to the homeowners. The property is also situated in such a way that there will be a land buffer and the ability to build berms to reduce noise and better control any dust issues.

4. Typical details that are addressed in a Plan of Operation are:

- Hours of Operation;
- Days of Operation;
- Will the use be conducted indoors or have any outdoor operations; and
- Will the use have any unique characteristics that need to be stipulated in the request?

Typical hours of operation will be Monday-Saturday but may be subject to change due to weather or the construction needs on Dyess. All operations will be conducted outdoors as this is

a temporary batch plant. The location selected is a few hundred feet North of where the previous batch plant was located during the construction of the taxiway in 2016.

5. **The most important detail on the Plan of Operation is a thorough description of the proposed use(s) because if the CUP is approved, the only CUP use allowed is precisely what is described in the CUP application. An example is a CUP to allow auto repairs. The following details should be addressed:**

- **Will the proposed repairs be minor (tires and oil) or major (transmission, collision repair, painting)?**
 - **Will repairs be completely indoors or outdoors, and will merchandise be stored or displayed outdoors?**
 - **Are any other uses proposed, such as wrecker service, a convenience store, car wash, etc?**
- Similar All uses that require a CUP should follow this same strategy to describe the proposed use.**

Being a new plant there will be minimal repairs needed. All other repairs will be conducted off site. Any storage of needed chemicals and/or petroleum products will be done in accordance with TCEQ requirements. All stored items will be stored in a way to not be visible from the roadway.

6. **Are any improvements proposed to mitigate any adverse impacts of the proposed use, particularly if the adjoining use(s) are residential, such as:**

- **Fencing, landscaping, or buffer yards;**
- **Limiting the hours or days of operation;**
- **Noise mitigation; or**
- **Any other measures.**

All required improvements will be made to mitigate adverse impact to surrounding properties. The immediate landowner is the same owner of the 6 acres where the plant will sit. This area was selected in a way to where there will be buffer yards surrounding the plant and, if need be, construction of berms to reduce noise and mitigate dust concerns.

7. **Good rules of thumb in preparing a Plan of Operation are:**

- **If you were one of the adjoining property owners, what would be your concern(s) about the proposed CUP, and how can those concerns be addressed?**
- **What measures can be taken to ensure that the CUP, if granted, will be compatible with the surrounding properties?**

David Gray (one of the applicants) is the landowner for the immediate adjoining property. If I was the property owner for the land adjoining the remaining 103 acres, my main concerns would be noise, traffic, and dust. The additional traffic on/off Dyess has already started. With this permit being granted we would be better able to control traffic for the property owners in the area. This can be done by scheduling aggregate deliveries during passive traffic times. Being in control of the trucks delivering aggregate will also allow us to imminently address and resolve any issue. The dust would be mitigated by a new plant with its dust collection system. We will do all in our power to reduce noise by using berms and hours of operation. The plant operation will be drastically quieter than the bombers taking off, which the property owners are already accustomed to. Our goal is to be as respectful and accommodating as possible through this growth period. We feel that being from the Abilene area we will be able to better connect with the property owners. We also have a reputation to uphold in the community.

- 8. The Plan of Operation allows the applicant to explain the request and to proactively address issues. A thorough Plan of Operation can improve the chances of approval and can help to avoid enforcement issues in the future when the proposed use is in operation.**

The plan of operation is to establish a concrete batch plant outside the back gate of Dyess AFB to better aid in the growth and construction. We will import aggregate from a local source, hire locally and ultimately keep the money in the Big Country. In doing so, this batch plant will be able to positively impact the City of Abilene and the surrounding areas. All precautions will be taken throughout the time this plant will be located on this property to maintain a positive relationship with the surrounding property owners and the City of Abilene.

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