

ORDINANCE NO. 43-2007

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-120 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 27th day of September A.D. 2007.

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, 2007, 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 October, 2007, 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 October, A.D. 2007.

ATTEST:


CITY SECRETARY *(Interim)*


MAYOR

APPROVED:


CITY ATTORNEY

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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:

BEING 2.700 acres out of the Northwest quarter of Section 32 and the Northeast quarter of Section 33, Blind Asylum Lands, Abstract Nos. 1396 and 1412, respectively, City of Abilene, Taylor County, Texas and also being all of that 2.035 acre tract out of said Section 32 described in a deed to Kenneth L. Musgrave recorded in Volume 3316, Page 254 of the Official Public Records of Taylor County, Texas and being 0.665 acre out of the remainder of a 9.594 acre tract, out of said Section 33 described in a deed to Musgrave 351, JV, LTD recorded in Volume 3050, Page 402 of said Official Public Records. Said 2.700 acre tract is more particularly described in metes and bounds as follows:

BEGINNING at a 3/8 inch iron rod (N = 6,857,583.11', E = 1,601,253.36') found in the East line of said Section 33, Blind Asylum Lands, same being the West line of said Section 32, Blind Asylum Lands and at an angle point in the southerly right-of-way line of Scottish Road (dedicated to the public per Right-of-Way Dedication recorded in Volume 3369, Page 558 of said Official Public Records) and said iron rod further being the Northwest corner of said 2.035 acre tract and a northeasterly corner of said remainder of 9.594 acres and from which a 3/4 inch aluminum rod with 2 inch aluminum Jacob and Martin, Ltd. cap (henceforth called a standard monument) found at an angle point in the southeasterly right-of-way line of Musgrave Boulevard (said Musgrave Boulevard dedicated to the public per Volume 3283, Page 53 of said Official Public Records) near it's intersection with East Overland Trail (the I-20 access road) bears S49°52'52"W 534.47 feet;

THENCE S89°31'23"E 127.03 feet along said southerly right-of-way line of Scottish Road, same being the North line of said 2.035 acre tract to a 1/2 inch iron rod found at the Northeast corner of said 2.035 acre tract and the Southeast corner of said Scottish Road right-of-way, said point further being an interior corner of the remainder of a 96.52 acre tract of land conveyed to Mary Jane Griffith, Trustee, in Volume 2689, Page 745 of said Official Public Records;

THENCE S49°54'49"E 159.69 feet along the northeasterly line of said 2.035 acre tract and a westerly line of said remainder of 96.52 acres to a standard monument found at an angle point in said line;

THENCE S50°27'52"E continuing along said common line between said 2.035 acres and the remainder of said 96.52 acres a distance of 54.21 feet to a 1/2 inch iron rod with plastic Jacob & Martin, Ltd. cap found for corner;

THENCE S00°17'21"W 209.85 feet along a West line of said remainder of 96.52 acres, same being the East line of said 2.035 acres to a 1/2 inch iron rod with plastic cap Jacob & Martin, Ltd. cap found at the southeast corner thereof;

THENCE N88°09'51"W 291.81 feet along the South line of said 2.035 acres and a westerly North line of said remainder of 96.52 acres to a 1/2 inch iron rod with a plastic Jacob & Martin, Ltd. cap found for corner in said West line of Section 32 and the East line of both said Section 33 and said 9.594 acre tract;

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THENCE N00°17'23"E 53.20 feet along said West line of both said Section 32 and said 2.035 acre tract, same being the East line of both said Section 33 and said 9.594 acre tract to a standard monument found for an interior corner hereof;

THENCE N49°54'48"W 236.57 feet to a standard monument found in the southeasterly right-of-way line of Musgrave Boulevard, same being the northwesterly line of the remainder of said 9.594 acre tract and from which said standard monument found at said angle point in said southeasterly right-of-way line of Musgrave Boulevard bears S46°59'47"W 309.42 feet;

THENCE N46°59'47"E 224.38 feet along said southeasterly right-of-way line of Musgrave Boulevard to a standard monument found at the intersection of said right-of-way line with said southerly right-of-way line of said Scottish Road and said standard monument further being the most northerly corner of said remainder of 9.594 acres;

THENCE S43°00'17"E 26.90 feet along said southerly right-of-way line of Scottish Road, same being the northeasterly line of said remainder of 9.594 acres to the **POINT OF BEGINNING** and containing 2.700 acres of land.

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 shall govern the use and development of this Planned Development District.

I. PERMITTED USES:

- A. Uses permitted in the Shopping Center district, hardware/ lumber sales, and hotel/motel.

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) For Shopping Center and hardware/ lumber sales; 40 feet and no more than 2 stories, excluding architectural details.
- 2) For hotel/motel; 65 feet and no more than 4 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) For shopping Center and hardware/ lumber sales; 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.
- 2(b) For hotel/motel uses; 10% of the exterior face of the first floor of any building visible from a public street shall be composed of brick, stone, decorative block, or similar materials.
- 3) The remaining area of building facades 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 for consistency with the City aesthetic goals, 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) Development must comply with the construction plan for East Lake Road and Musgrave Boulevard, including individual driveway access restrictions. (See Exhibit B).
- 3) A drive connection with common access easement shall be provided to the adjacent property to the southwest of the site. This connection shall parallel Musgrave Blvd, but may be located as needed along the common property line.

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:
1 monument sign shall be permitted with a maximum height of 6' and a maximum area of 200 square feet.
 - 3) Wall signs:
 - (a) Wall signage may not exceed 10% of the area of any wall on which the signs are located. Articulation of a building façade as required in Section II, C, 1, shall not be applied to reduce this sign area.
 - (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, including a "Coming Soon" sign, 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 landscape area with an average width of 10', but in no case less than 7', shall be provided along all roads. The landscaped area shall be located entirely on private property.
 - (b) Landscaping within, or adjacent to, 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 B).
- 2) All development must comply with the Sidewalk Master Plan.

I. Outdoor Storage and Display:

- 1) In Shopping Center and hardware/lumber uses, 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) In hotel/motel uses, outdoor storage is prohibited.
- 3) 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
- 4) Outdoor storage and display of merchandise must be designated on an approved site plan.
- 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.

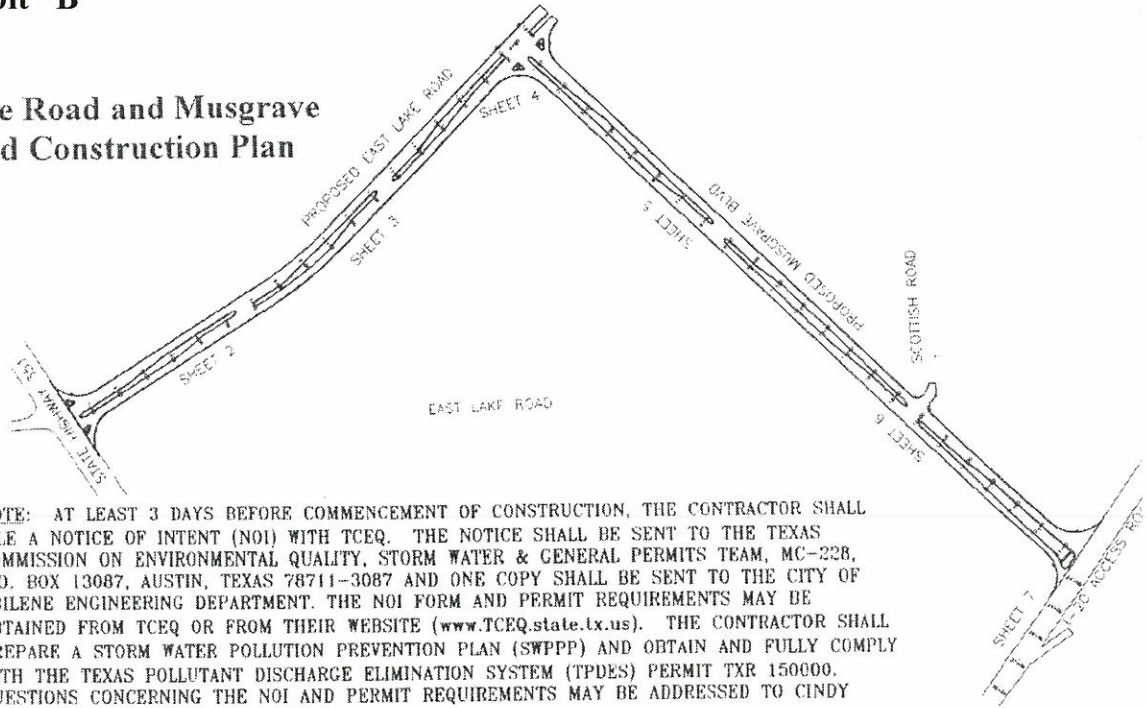
PART 10:

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.

- END -

Exhibit "B"

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 BOONE WITH TCEQ AT 512-239-4524.


NOTE: ALL EXCAVATION GREATER THAN 5 FEET DEEP SHALL COMPLY WITH O.S.H.A. TRENCH SAFETY STANDARDS. THE CONTRACTOR SHALL NOTIFY THE CITY OF ABILENE CONSTRUCTION SERVICES AT 325-676-6077 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 DEVICE SHALL ALSO BE ADHERED TO. ADVANCE SIGNS ARE REQUIRED ON ACCESS ROADS, SH 351 AND OTHER COUNTY ROADS. SEE SHEET 16 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 DEVELOPEMENTS 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 DEVELOPEMENT 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 DEVELOPEMENT, 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	
	_____
BOB LINDLEY, P.E.	DATE