

ORDINANCE NO. 17-2009

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-128 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 14th day of May A.D. 2009.

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 17th day of April, 2009, 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 28th day of May, 2009, 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 28th day of May, A.D. 2009.

ATTEST:


CITY SECRETARY


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 "O" (Office District) and "AO" (Agricultural Open Space) to "PDD-128" (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.

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EXHIBIT "A"

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

EAST HORIZON SEC 2, BLOCK 8, LOT 1, REPLAT, CONT
EAST HORIZON SEC 2, BLOCK 8, LOT 2, REPLAT, CONT
EAST HORIZON SEC 2, BLOCK 8, LOT 3, REPLAT, CONT
A0795 SUR 47 B A L NW/4, ACRES 1.1603

Location: 701, 709, 717, and 741 S. Judge Ely Blvd.

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

PART 7: Specific Modifications. The City of Abilene Zoning Ordinance provisions for the SC zoning district apply to the development of this property, except as modified below. The following regulations shall govern the use and development of this Planned Development District.

I. PERMITTED USES:

A. Uses permitted in the Shopping Center district except the following uses:

1. Grocery Store (Convenience Type)
2. A drive-in use or any use with a drive-thru within a distance of 200 feet from Friars St
3. Tobacco Products
4. Bowling Alley
5. Temporary Amusement Facility
6. Pool or Billiard Halls
7. Skating Rinks
8. Theaters and Playhouses
9. Bait and Live Bait Sales
10. Farm Products (open-air)
11. Gifts, Novelties, Souvenirs
12. Liquor Store On-Premise Consumption
13. Liquor Store Off-Premise Consumption (unrestricted)
14. Liquor Store Off-Premise Consumption (beer/wine)
15. Gasoline
16. Gasoline (with and including automobile service)
17. Veterinary Services

II. SITE DEVELOPMENT

A. Minimum Building Setbacks:

- 1) Setbacks shall comply with the Shopping Center district. A setback of 15 feet shall be permitted along streets with only landscaping between buildings and street.

B. Maximum Structure Height:

- 1) The maximum height shall be 40 feet and no more than 2 stories, excluding architectural details.

C. Building Materials & Design:

- 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 except as modified in item 4 below.

- 3) The remaining area of building facades shall be limited to glass, EIFS, stucco, stucco-like finishes, or other similar materials except as modified in item 4 below.
- 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) Three (3) drives shall be allowed onto S. Judge Ely Boulevard, however no drive shall be allowed between Friars Street and the school crosswalk. One (1) drive shall be allowed onto Friars Street. Two (2) drives shall be allowed onto Clarks Drive. Common access easements shall be utilized to provide connectivity to all properties within the PDD boundary.
- 3) All drives shall have a minimum separation from a street intersection of 100 feet and each drive shall be spaced a minimum of 175 feet from other drives. Spacing between drives shall be measured from the drive centerline to centerline and separation from and intersection shall be measured from the driveway centerline to the intersecting Street ROW line.
- 4) Additional signage and traffic control measures, including but not limited to painted stop bars, warning signs, rumble strips, increased visibility triangles or other measures, may be required by City staff at the time of site plan review for any drive accessing Judge Ely Boulevard to ensure compatibility of this site and the operation of the Hike and Bike Trail located along this thoroughfare.

E. Signage:

- 1) Signage within the PDD must comply with the requirements of the City's Sign Ordinance, except as modified by the following:
 - a. Freestanding signs:
 - i. One (1) pole sign per 600' of street frontage along Judge Ely Blvd shall be permitted within the PDD with a maximum height of 20' and a maximum area of 100 square feet per sign. Size limits may be increased to 25' in height and 200 square feet in area for a multi-tenant group sign, but in no case shall an individual tenant exceed 100 square feet of signage. Such a multi-tenant group sign may be a monument-style sign instead of a pole sign subject to the same size limits.
 - ii. One (1) monument sign per building shall be permitted with a maximum height of 8' and a maximum area of 96 square feet. Size limits may be increased to 10' in height and 150 square feet in area for a multi-tenant group sign.

- b. Wall signs:
 - i. 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.
 - ii. Wall signage may only be attached to a principal structure.
- c. Banners: Banners shall only be located flat against the face of a building and shall count toward the maximum allowable wall signage.
- d. Electronic Message signs: Any size electronic message sign shall comply with the provisions specified in the Sign Ordinance for on-premise signs over 75 square feet in area or any off-premise sign during School Zone times.
- e. Prohibited signs:
 - i. Portable signs
 - ii. Offsite signage except for allowed group signs that advertise businesses or entities within the PDD.
 - iii. Streamers, pennants, balloons, and similar devices
 - iv. 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.

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.

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