



City of Abilene City Council Agenda

Shane Price, Mayor Pro-tem
Lynn Beard, Deputy Mayor Pro-tem
Blaise Regan, Council Member
Robert Hanna, City Manager

Weldon Hurt, Mayor

Brian Yates, Council Member
Kyle McAlister, Council Member
Travis Craver, Council Member
Stanley Smith, City Attorney
Shawna Atkinson, City Secretary

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on December 7, 2023, at 8:30 a.m., at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

INVOCATION

1. Councilmember Travis Craver

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

2. Service Awards:

- Lesli Andrews - 20 Years - Parks and Recreation
- Leonardo "Leon" Herrera - 20 Years - Fire Department

3. Recognition:

- Michael Flores - Texas Recreation and Parks Society 2023 West Region Parks Professional of the Year
- Dr. John Kelley presents 99.03% Customer Satisfaction Rate for the Abilene Veteran's Cemetery

CONSENT AGENDA AND PUBLIC COMMENTS

All items listed in the Consent Agenda are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion or presentation of these items unless otherwise

requested by a Council Member. In the event one or more Council Members remove an item from the consent Agenda for separate discussion or presentation, the item or items removed will be considered in numerical order as part of the Regular Agenda and shall include a public hearing.

After the Council Members have requested any item on the consent Agenda be considered separately, the public comment period will be held. The public comment section of the consent agenda allows members of the public to present any ideas or information to the City Council and staff, and also allows for public comment on the consent agenda items not otherwise pulled for separate consideration. Neither the City Council nor staff will engage in discussion with the public during the public comments unless the item is listed on the Council agenda.

Members of the public will have a total time limit of three (3) minutes to speak during the public comments section.

4. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on November 16, 2023 **(Shawna Atkinson)**
5. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter **(Shawna Atkinson)**
 - Abilene-Taylor County Child Advocacy Center Board
 - Airport Development Board
 - Board of Adjustments
 - Board of Building Standards
 - Civil Service Commission
 - Keep Abilene Beautiful
 - Landmarks Commission
 - Library Advisory Board
 - Neighborhood Services Advisory Board
 - Planning & Zoning Commission
6. **Resolution:** Receive a Report, Hold a Discussion and Take Action on the purchase of one (1) 2023 Komatsu WA200-8 Wheel Loader for Water Utilities from Kirby-Smith Machinery using BuyBoard Contract # 687-22 **(Don Green)**
7. **Resolution:** Receive a Report, Hold a Discussion and Take Action on the purchase of one (1) 2025 Autocar ACX64 with Heil Front Load Refuse truck for Solid Waste Services from Chastang Autocar through BuyBoard Cooperative #601-19. **(Don Green)**
8. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving Change Order No.1 to the Contract with Advanced Water Well Technologies for the Repair of NEWTP High Service Pump No. 4 **(Rodney Taylor)**
9. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Awarding the Bid to Horseshoe Construction, Inc. for the South 14th Street Water Line Replacement Project **(Rodney Taylor)**
10. **Resolution:** Receive a Report, Hold a Discussion and Take Action to Approve the Purchase Of Traffic Signal Equipment from Iteris, Inc. for the S. 27th Traffic Signal Improvement Project Through BuyBoard. **(Max Johnson)**
11. **Resolution:** Receive a Report, Hold a Discussion and Take Action on a Rebuild ABI Chapter 380 Economic Development Agreement between the City of Abilene and Thornton Custom Homes for 2634 N Willis St. **(Tim Littlejohn)**

12. **Resolution:** Receive a Report, Hold a Discussion and Take Action on a Rebuild ABI Chapter 380 Economic Development Agreement between the City of Abilene and Thornton Custom Homes for 2633 N Willis St. **(Tim Littlejohn)**
13. **Resolution:** Receive a Report, Hold a Discussion and Take Action on a Rebuild ABI Chapter 380 Economic Development Agreement between the City of Abilene and Thornton Custom Homes for 2641 N Willis St. **(Tim Littlejohn)**
14. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action, regarding recommendations from the Sanctuary City for the Unborn Ordinance Amendment Committee, to Amend Chapter 20, "Offenses," Article VIII, "Abortion," Section 20-86, "Definitions," and Section 20-87, "Abortion Prohibited," Code of Ordinances **(Stanley Smith)**
15. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on approving an Ordinance establishing the 2024 Standards of Care and Setting a Public Hearing for December 21, 2023 **(Lesli Andrews)**

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

16. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Enter Into an Agreement with Freese and Nichols, Inc for a Comprehensive Land Development Code Rewrite **(Robert Hanna)**
17. **Ordinance (Final Reading) HOZ-2023-02:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Robert Hoemke To Apply Historic Overlay Zoning To Approximately 0.44 Acres Zoned Central Business (CB). Located At 1201 South 1st Street. **(Tim Littlejohn)**
18. **Ordinance (Final Reading) HOZ-2023-03:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Matthew Meador To Apply Historic Overlay Zoning To Approximately 0.69 Acres Zoned Medium Density (MD). Located At 1941 North 3rd Street. **(Tim Littlejohn)**
19. **Ordinance (Final Reading) Z-2023-31:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Abilene Christian University, Represented By TJC Development And McMahon Surovik Suttle, To Amend The Terms And Conditions And Concept Plan Of Planned Development District 157 To Allow Single Family Residential Uses West Of Judge Ely Boulevard, To Reduce The Setback Requirement For Single Family Residential Uses, And To Provide A New Concept Plan. Located On The West Side 2500 Block Of Judge Ely Blvd. **(Tim Littlejohn)**
20. **Ordinance (Final Reading) Z-2023-35:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Hoemke Property LLC Represented By Seth Merritt, To Change The Zoning Of Approximately 0.33 Acres From Heavy Industrial To Light Industrial. Located At 409 S Treadaway Blvd. **(Tim Littlejohn)**
21. **Ordinance (Final Reading) Z-2023-38:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Nathan Hathorn, Represented By Jacob & Martin, To Change The Zoning Of Approximately 12.97 Acres From Agricultural Open And General Commercial To General Commercial. Located at 1209 Spur 707. **(Tim Littlejohn)**

EXECUTIVE SESSION

22. **The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:**
 - A. **551.071 (Consultation with Attorney)**
 1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016

2. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
3. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
4. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
5. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
6. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
7. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
8. Richard Scheriger, et al. v. City of Abilene; Cause No. CV33253, In the 90th Judicial District Court, Stephens County, Texas, filed April 21, 2023
9. The Woodlands Pride, Inc., et al. v. Angela Colmenero, Interim Attorney General of Texas, et al., Case No. 4:23-cv-02847, In the United States District Court, Southern District of Texas, Houston Division, filed August 2, 2023
10. City of Abilene, Texas v. 3W Brands, LLC; Cause No. 7820, In the County Court at Law #2, Taylor County, Texas; filed August 11, 2023
11. Abilene Apartments, LLC v. City of Abilene, Texas; Cause No. 51762-A, In the 42nd Judicial District Court, Taylor County, Texas; filed October 26, 2023

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members
2. City of Abilene Boards & Commissions May be Discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

1. 718 Mulberry Development
2. Old Abilene Reporter News Building Site

RECONVENE

ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Abilene will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please call 325-676-6208.

CERTIFICATION

I hereby certify the above meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 1st day of December, 2023, at 3:00 p.m.

Shawna Atkinson, City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 4. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on November 16, 2023 (*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting Held on November 16, 2023

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 11-16-2023 Minutes - Regular - Morning

CITY COUNCIL MEETING
November 16, 2023 at 8:30 a.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL

The City Council of the City of Abilene, Texas met in Regular Session on November 16, 2023, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Weldon Hurt was present and presiding, along with Mayor Pro-tem Shane Price, Deputy Mayor Pro-tem Lynn Beard, and Councilmembers Blaise Regan, Brian Yates, Kyle McAlister, and Travis Craver. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Mayor Pro-tem Shane Price delivered the invocation.

Kade Lomax and Luke Martinez, both 5th Graders from Dyess Elementary, led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 2-12. Item 7 was pulled for individual consideration.

Item pulled for individual consideration:

- Item 7: Councilmember Regan

PUBLIC COMMENTS

Mayor Hurt opened the public comment period. The following addressed the city council:

- Eddie Pugh
- Dale Cartee
- Barbara Berry
- John Berry
- Mike Murry - did not wish to speak, but indicated support of item 10 on card
- Cynthia Alvidrez

With no other speakers coming forward, the public comment period was closed.

CONSENT AGENDA

Councilmember Regan moved to approve the consent agenda consisting of items 2-6 and 8-12. Deputy Mayor Pro-tem Beard seconded the motion. Motion carried.

AYES (7): Mayor Hurt, Mayor Pro-tem Price, Deputy Mayor Pro-tem Beard, and Councilmembers Regan, Yates, McAlister and Craver
NAYS (0): None

Mayor Pro-tem Price and Councilmember McAlister had a conflict of interest on item 10 and abstained from voting on that item. Conflict of Interest Affidavits were filled out before the meeting and filed with the City Secretary's office. The vote for item 10 alone was:

AYES (5): Mayor Hurt, Deputy Mayor Pro-tem Beard, and Councilmembers Regan, Yates and Craver
NAYS (0): None

ABSTAIN (2): Mayor Pro-tem Price and Councilmember McAlister

2. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on October 26, 2023, and the Regular Meeting Held on November 2, 2023
3. Resolution: Receive a Report, Hold a Discussion, and Take Action on Canvassing the Returns and Declaring the Results of Bond Election Held in the City of Abilene on November 7, 2023
[ASSIGNED RESOLUTION NO. 209-2023]
4. Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding Bid #CB- 2409 Concrete Intersection Construction Project N. 14th St. at Westwood St. to Bontke Brothers Construction Co, Inc.
[ASSIGNED RESOLUTION NO. 210-2023]
5. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Professional Services Contract with Signature Automation, LLC for the Grimes WTP Programmable Logic Controller Replacement Project
[ASSIGNED RESOLUTION NO. 211-2023]
6. Resolution: Receive a Report, Hold a Discussion and Take Action on approving a Construction Manager at Risk (CMAR) Agreement with Tienert Construction for the City of Abilene Cypress Street Streetscape Improvements
[ASSIGNED RESOLUTION NO. 212-2023]
8. Ordinance (First Reading) HOZ-2023-02: Receive a Report, Hold a Discussion and Take Action on A Request From Robert Hoemke To Apply Historic Overlay Zoning To Approximately 0.44 Acres Zoned Central Business (CB). Located At 1201 South 1st Street.
9. Ordinance (First Reading) HOZ-2023-03: Receive a Report, Hold a Discussion and Take Action on A Request From Matthew Meador To Apply Historic Overlay Zoning To Approximately 0.69 Acres Zoned Medium Density (MD). Located At 1941 North 3rd Street.
10. Ordinance (First Reading) Z-2023-31: Receive a Report, Hold a Discussion and Take Action on A Request From Abilene Christian University, Represented By TJC Development And McMahon Surovik Suttle, To Amend The Terms And Conditions And Concept Plan Of Planned Development District 157 To Allow Single Family Residential Uses West Of Judge Ely Boulevard, To Reduce The Setback Requirement For Single Family Residential Uses, And To Provide A New Concept Plan. Located On The West Side 2500 Block Of Judge Ely Blvd.
11. Ordinance (First Reading) Z-2023-35: Receive a Report, Hold a Discussion and Take Action on A Request From Hoemke Property LLC Represented By Seth Merritt, To Change The Zoning Of Approximately 0.33 Acres From Heavy Industrial To Light Industrial. Located At 409 S Treadaway Blvd.
12. Ordinance (First Reading) Z-2023-38: Receive a Report, Hold a Discussion and Take Action on A Request From Nathan Hathorn, Represented By Jacob & Martin, To Change The Zoning Of Approximately 12.97 Acres From Agricultural Open And General Commercial To General Commercial. Located At 1209 Spur 707.

ITEMS PULLED FOR INDIVIDUAL CONSIDERATION

7. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorization of a Downtown Coordinator Staff Position
[ASSIGNED RESOLUTION NO. 213-2023]

Having pulled the item, Councilmember Regan wanted clarification on what role and responsibility this position would have.

Mayor Hurt opened the public hearing. With no speakers coming forward, the public hearing was closed.

Councilmember McAlister moved to approve the item as presented. Councilmember Regan seconded the motion; motion carried.

AYES (7): Mayor Hurt, Mayor Pro-tem Price, Deputy Mayor Pro-tem Beard, and Councilmembers Regan, Yates, McAlister and Craver

NAYS (0): None

REGULAR AGENDA

13. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on awarding a bid to The Crowe Group, Inc. for the Fallen Hero Memorial Plaza
[ASSIGNED RESOLUTION NO. 214-2023]

Lesli Andrews, Director of Parks and Recreation, presented the item. Adoption of the item would award the bid to The Crowe Group, Inc. for the Fallen Hero Memorial Plaza project, located at the Convention Center.

Mayor Hurt opened the public hearing. The following spoke in favor of the item:

- Drew Elliott
- Eddie Pugh
- Tim Rice McClarty
- Jackie Parker

With no other speakers coming forward, the public hearing was closed.

Deputy Mayor Pro-tem Beard moved to approve the item as presented. Councilmember Regan seconded the motion; motion carried.

AYES (7): Mayor Hurt, Mayor Pro-tem Price, Deputy Mayor Pro-tem Beard, and Councilmembers Regan, Yates, McAlister and Craver

NAYS (0): None

EXECUTIVE SESSION

Mayor Hurt recessed into Executive Session at 9:15 a.m., pursuant to the following of the Open Meetings Act, with the following issues discussed during this session, as listed on the agenda and authorized by the noted Texas Government Code Section:

- 14. A. 551.071 (Consultation with Attorney)
 - 1. Robert Steven Reitz v. City of Abilene, Texas et al., Case No. 1:16-cv-00181-BL
 - 2. City of Abilene, Texas v. 3W Brands, LLC; cause No 7820
 - 3. Abilene Apartments LLC v. City of Abilene, Texas; Cause No. 51762-A
 - 4. Amendments to the Sanctuary City for the Unborn Ordinance
- 12. F. 551.74 (Personnel Matters)
 - 1. City Manager
 - 2. City Boards & Commissions Appointments & Reappointments

The Executive Session ended at 10:13 a.m. and reconvened to Open Session. Mayor Hurt reported no votes or action were taken in Executive Session.

REGULAR AGENDA

- 15. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving an Economic Development Agreement and a Lease Agreement with Abilene Youth Sports Authority (AYSA) for Flat Fields at Grover Nelson Park
[ASSIGNED RESOLUTION NO. 215-2023]

Robert Hanna, City Manager, presented the item. Adoption of the item would approve an Economic Development Agreement and a lease agreement with Abilene Youth Sports Authority for Flat Fields at Grover Nelson Park.

Mayor Hurt opened the public hearing. With no speakers coming forward, the public hearing was closed.

Councilmember McAlister moved to approve the item as presented. Mayor Pro-tem Price seconded the motion; motion carried.

AYES (7): Mayor Hurt, Mayor Pro-tem Price, Deputy Mayor Pro-tem Beard, and Councilmembers Regan, Yates, McAlister and Craver
NAYS (0): None

ADJOURNMENT

There being no further business, the meeting adjourned at 10:21 a.m.

Shawna Atkinson
City Secretary

Weldon Hurt
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 5.

**Resolution: Receive a Report, Hold a Discussion and Take Action on
Appointing Members to Various Boards and Commissions per the City Charter
(Shawna Atkinson)**

- Abilene-Taylor County Child Advocacy Center Board
- Airport Development Board
- Board of Adjustments
- Board of Building Standards
- Civil Service Commission
- Keep Abilene Beautiful
- Landmarks Commission
- Library Advisory Board
- Neighborhood Services Advisory Board
- Planning & Zoning Commission

GENERAL INFORMATION

The item provides for reappointment of members as well as appointing members to certain boards and commissions.

SPECIAL CONSIDERATIONS

Member terms vary per board and commission and are outlined in Exhibit A of the resolution.

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. B&C Resolution
2. Exhibit A
3. B&C Presentation Slide

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMISSIONS AS REQUIRED BY THE CHARTER OF THE CITY OF ABILENE AND STATUTES OF THE STATE OF TEXAS

WHEREAS, the Charter of the City of Abilene and the Statutes of the State of Texas require that certain Boards and Commissions be established with a portion of the memberships thereof to be filled by appointment each year; and

WHEREAS, the City Council is of the opinion that the following members should be appointed to the designated Boards and Commissions, and has requested the Mayor to appoint same with the approval of the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the list of Members is attached hereto as Exhibit A, shall be in all things, approved.

PART 2: That this resolution shall take effect immediately from and after its passage.

PASSED this 7th day of December, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____ EXHIBIT "A"	
Board	Term End Date
<i>Abilene-Taylor County Child Advocacy Center Advisory Board</i>	
Karon Hall [Reappointment]	December 2026
Craig Shaw [Reappointment]	December 2026
Sherita Nickerson [Reappointment]	December 2026
Kari Leong [Reappointment]	December 2026
Becky Poindexter [Reappointment]	December 2026
Casey Wasson [Reappointment]	December 2026
<i>Airport Development Board</i>	
James Boone [Reappointment]	November 2026
Gray Bridwell [Reappointment]	November 2026
Steve Krazer [New]	November 2026
Lori Dodd [Reappointment]	November 2026
<i>Board of Adjustment</i>	
Melissa Sparks [Alternate] [New]	November 2025
<i>Board of Building Standards</i>	
David Beard [Regular] [Chair] [Reappointment]	November 2025
Lloyd Turner [Regular] [Reappointment]	November 2025
Jeremy McBrayer [Regular] [Reappointment]	November 2025
JD Coffee [Alternate] [Reappointment]	November 2025
David Brosig [Alternate] [Reappointment]	November 2024
<i>Civil Service Commission</i>	
Gary Bone [New]	November 2026
<i>Keep Abilene Beautiful</i>	
Johnna Partain [New]	September 2026
Allicyn Evans [New]	September 2026
<i>Landmarks Commission</i>	
Johnna Partain [New] [Alternate]	November 2024 [unexpired term]
Pebbles Lee [Reappointment]	November 2026
Josh Black [Reappointment]	November 2026
<i>Library Advisory Board</i>	
Kathryn New [New]	November 2026
<i>Neighborhood Services Advisory Board</i>	
Rachel Slaymaker [Reappointment]	November 2025
Jeff Scott [New]	November 2025
Bill Enriquez [Reappointment]	November 2025
Lauren Cantrell [Reappointment]	November 2025
Kenneth Bowles [Reappointment]	November 2025
<i>Planning and Zoning Commission</i>	
Shawnte Fleming [Reappointment]	November 2026



Resolution: Appointing Member(s) to various Boards and Commissions per the City Charter

- Abilene-Taylor County Child Advocacy Center Board
- Airport Development Board
- Board of Adjustment
- Board of Building Standards
- Civil Service Commission
- Keep Abilene Beautiful
- Landmarks Commission
- Library Advisory Board
- Neighborhood Services Advisory Board
- Planning & Zoning Commission





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Take Action on the purchase of one (1) 2023 Komatsu WA200-8 Wheel Loader for Water Utilities from Kirby-Smith Machinery using BuyBoard Contract # 687-22 (Don Green)

GENERAL INFORMATION

Fleet Services seeks to purchase one (1) 2023 Komatsu WA200-8 from Kirby-Smith Machinery for Water Utilities through BuyBoard CO-OP Contract # 687-22. This is to replace a unit that was deemed a total loss by Fleet Services.

SPECIAL CONSIDERATIONS

Texas law allows a municipality to purchase goods through a state or local cooperative purchasing program. Sourcewell is such a program, and the purchase meets the competitive bidding requirements.

This unit was damaged and deemed totaled by Fleet Services but will be traded in at a diminished price, which does offset the price. The City will also be retaining the bucket and coupler that were purchased with the original unit.

FUNDING/FISCAL IMPACT

The funds for this unit will be provided by Water Utilities, as this unit was not budgeted for or a planned replacement. The damage to this unit occurred after the replacement list for FY24 had already been approved. The total price for this purchase is \$159,599.55 less the trade in price of \$22,000.00, leaving the adjusted total prices of \$137,599.55.

STAFF RECOMMENDATION

Fleet Services and Water Utilities staff recommend the purchase of one (1) 2023 Komatsu WA200-8 Wheel Loader to replace the damaged unit.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. EXCEPTION FY24 CO-OP Wheel Loader Resolution
2. EXCEPTION FY24 Co-Op Wheel Loader Addtl Info
3. EXCEPTION FY24 CO-OP Wheel Loader Budget vs Actual
4. EXCEPTION FY24 Co-Op Wheel Loader Pricing Worksheet
5. EXCEPTION FY24 CO-OP Wheel Loader Presentation PiP

RESOLUTION NO _____

A RESOLUTION OF THE CITY OF ABILENE, TEXAS

**TO PURCHASE ONE 2023 KOMATSU WA200-8 WHEEL LOADER FROM KIRBY SMITH, ABILENE TX,
THROUGH BUYBOARD CO-OPERATIVE CONTRACT # 687-22**

WHEREAS, City of Abilene has a need for one replacement Wheel Loader; and

WHEREAS, City of Abilene did not budget this purchase for Fiscal Year 2024; and

WHEREAS, This unit was deemed total loss by Fleet Services; and

WHEREAS, City of Abilene received pricing for one 2023 Komatsu WA200-8 Wheel Loader through Buyboard Co-Operative Contract # 687-22; and

WHEREAS, Kirby Smith is the Buyboard approved vendor for the Backhoe Loader.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the City Council approves this purchase from Kirby Smith of Abilene, Texas in the amount of One Hundred Thirty Seven Thousand Five Hundred Ninety Nine Dollars and Fifty Five Cents (\$137,599.55) for one 2023 Komatsu WA200-8 Wheel Loader through Buyboard Co-Operative Contract # 687-22.

PART 2: That this resolution shall take effect immediately from and after passage

ADOPTED this 7nd day December, 2023

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

ADDITIONAL INFORMATION FOR COUNCIL MEETING ITEM**Wheel Loader**

Unit #	Assignment	Year	Make	Model	Mileage	Hours	Total Maintenance Costs	Disposal Method	Points	Replacement Reasoning
4983	Water Distribution	2021	Komatsu	WA200	-	390	\$3,716.54	Trade In	-	Total Loss Unit

BUDGET vs ACTUAL COSTS**Wheel Loader**

Repl For Unit #	Division #	Division Name	Type Equipment	Budgeted Cost	Actual Cost	Budgeted vs Actual Variance
4983	8050	Water Distribution	Wheel Loader	\$0.00	\$137,599.55	\$137,599.55
				\$0.00	\$137,599.55	\$137,599.55 OVER BUDGET

** This unit is a replacement due to a total loss. The ddepartment will be covering the cost of this unit.



11/8/2023

Quote #: swhitley-1315

Cassandra Lambert
CITY OF ABILENE
Po Box 60
Abilene, TX 79604

Dear Cassandra Lambert:

We are pleased to quote the following for your consideration:

KOMATSU WA200-8 2023 model w/ 0 hours, Unit # N.I.S., S/N Factory Order.

The following Factory and Dealer Options are included in the package:

- **KOMATSU WA200-8**

Additional Details:

Sales Price: \$159,599.55
Less Trade: (22,000.00)
Sub Total: \$137,599.55

Total Price: **\$137,599.55**

Subject to all applicable taxes. If taxes listed above, Total Price is Sales plus applicable taxes

To be purchased through BuyBoard. Contract # 687-22

Trade-in Description:

Manufacturer	Model	Serial #	Equip #	Year	Hours	Allowance	Balance
KOMATSU	WA200 -8 HL	Serial # 86423		2021	400	\$22,000.00	\$ 0.00

We believe the equipment as quoted will exceed your expectations. On behalf of Kirby-Smith Machinery, Inc., thank you for the opportunity to quote you this package.

Sincerely,

Shelby Whitley
Governmental Territory Manager
Kirby-Smith Machinery, Inc.
Phone: 432-333-7000
Cell: 432-241-2915
Email: swhitley@kirby-smith.com

www.kirby-smith.com | 888-861-0219

Oklahoma City * Tulsa * McAlester * Dallas * Fort Worth * Abilene * Amarillo * Lubbock
Waco * Odessa * St. Louis * Kansas City

City Council Meeting

12/07/23





WHEEL LOADER

- Replacing unit 4983 for Water Distribution
- Purchase for One 2023 Komatsu WA200-8 Wheel Loader
- Unit to be Purchased from Kirby Smith through Buyboard Co-operative contract number # 687-22





WHEEL LOADER



CITY OF
ABILENE
TEXAS



**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Take Action on the purchase of one (1) 2025 Autocar ACX64 with Heil Front Load Refuse truck for Solid Waste Services from Chastang Autocar through BuyBoard Cooperative #601-19. (*Don Green*)

GENERAL INFORMATION

Fleet Services seeks to purchase one (1) 2025 Chastang Autocar ACX64 with Heil Front Load Refuse body to replace an existing unit. This will be for Solid Waste Services and purchased through Chastang Autocar through the Buyboard contract # 601-19.

SPECIAL CONSIDERATIONS

Texas law allows a municipality to purchase goods through a state or local cooperative purchasing program. Buyboard is such a program, and the purchase meets the competitive bidding requirements.

FUNDING/FISCAL IMPACT

Funds for the purchase are to be provided by the Fleet Replacement Fund and total \$430,935.00. The funds for this purchase were planned and included in the FY24 Budget. This is \$19,065.00 under budget.

STAFF RECOMMENDATION

Fleet and Solid Waste staff recommend the purchase of one (1) 2025 Chastang Autocar ACX64 with Heil Front Load Refuse body for Solid Waste Services from Chastang Autocar of Houston.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. FY24 CO-OP Frontloader Resolution
2. FY24 CO-OP Frontloader Additional Info
3. FY24 CO-OP Frontloader Budget vs Actual
4. FY24 CO-OP Frontloader Pricing Worksheet
5. FY24 CO-OP Frontloader Refuse Truck Presentation PiP

RESOLUTION NO _____

A RESOLUTION OF THE CITY OF ABILENE, TEXAS

**TO PURCHASE ONE 2025 AUTOCAR ACX64 WITH HEIL FRONT LOAD REFUSE BODY FROM CHASTANG
AUTOCAR, HOUSTON TX, THROUGH BUY BOARD CO-OPERATIVE CONTRACT # 601-19**

WHEREAS, City of Abilene has a need for one Front Load Refuse Body; and

WHEREAS, City of Abilene budgeted this purchase for Fiscal Year 2024; and

WHEREAS, This unit will be replacing an existing unit that has met the end of its life; and

WHEREAS, City of Abilene received pricing for one 2025 Autocar ACX64 with Heil Front Load Refuse Body through Buy Board Co-Operative Contract # 601-19; and

WHEREAS, Chastang Autocar is the Buy Board approved vendor for the Front Load Refuse Truck.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the City Council approves this purchase from Chastang Autocar of Houston, Texas in the amount of Four Hundred Thirty Thousand Nine Hundred Thirty Five Dollars and Zero Cents (\$430,935.00) for one 2025 Autocar ACX64 with Heil Front Load Refuse Body through Buy Board Co-Operative Contract # 601-19..

PART 2: That this resolution shall take effect immediately from and after passage

ADOPTED this 7th day December, 2023

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

ADDITIONAL INFORMATION FOR COUNCIL MEETING ITEM**Frontloader Refuse Truck**

Unit #	Assignment	Year	Make	Model	Mileage	Hours	Total Maintenance Costs	Disposal Method	Points	Replacement Reasoning
4615	Solid Waste	2017	Autocar/Heil	ACX64 Half/Pack	85,981	13,069	\$271,758.77	Auction	3	3 out of 4 Replacement Points

BUDGET vs ACTUAL COSTS**Frontloader**

Repl For Unit #	Division #	Division Name	Type Equipment	Budgeted Cost	Actual Cost	Budgeted vs Actual Variance
4615	4060	Solid Waste	Frontloader	\$450,000.00	\$430,935.00	(\$19,065.00)
				\$450,000.00	\$430,935.00	(\$19,065.00) UNDER BUDGET

Chastang



Chastang Enterprises, Inc.
P.O.Box 21127
Houston, TX 77226-1127
713.678.5000



TEXAS LOCAL GOVERNMENT PUCHASING COOPERATIVE



CUSTOMER:	City of Abilene
CONTACT	Cassandra Lambert
PHONE:	325-437-4525
EMAIL:	Cassandra.Lambert@abilenetx.gov

QUOTE DATE:	11/16/2023
QUOTED BY:	John Chastang
PHONE:	Office: 713-678-5042 Cell: 281-460-7518
EMAIL:	inchastang@chastangford.com

ITEM DESCRIPTION:	2025 Autocar ACX64 with Heil Front Load Refuse Body
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CONTRACT:	BuyBoard	PROPOSAL NO.	601-19	ITEM NO.	3	ITEM PRICE:	51782
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CHASSIS EQUIPMENT

STANDARD EQUIPMENT
12 Month Chassis Warranty
Tilt/Telescope steering column; Integral Heat & A/C w/ defrost
5 Min. Engine idle shutdown

STANDARD EQUIPMENT
Technician Training
Service Manuals, Electrical & Air Schematics
Autocar Solutions 24/7 Tech Support

PUBLISHED OPTIONS
Front engine PTO adapter
Two Stage Air Cleaner
Allison 4500 Series Transmission
Pre-Engineered Chassis Layout
Double Frame
Cummins X12 350HP Diesel
46,000 Rear Axle
Black heated remote mirrors
Trans Auto Neutral
Steel front tow cable ,
8" Upper & lower convex mirrors
66,000 Gross Vehicle Weight Rating
Transmission retarder
Dual evaporator A/C with radiator mounted condenser
Central manifold air drain
Advanced diagnostic dash display w/ schematics
Front cab guard
Engine block heater

PUBLISHED OPTIONS	
22,000 # front suspension with auxiliary load cushions	
High back air ride driver's seat	
200 apm alternator	
4 Wheel axle lock	
RH Vertical Exhaust	
Synthetic Rear Axle Lube	
Overhang over 56"	
Integrated Body Control Compartment	
5 Year Transmission Warranty	
5 Year Cummins Warranty	
5 Year aftertreatment warranty	
46,000 # rear suspension	
1810 Series main driveshaft	
315/80R22.5 tires front & rear	
Thermal insulation package for cab	
Center console with wire basket storage container	
Keyed alike to fleet	
See attachments for complete details on chassis and body	
CHASSIS OPTIONS	183448
CHASSIS TOTAL	235230

BODY EQUIPMENT

BODY VENDOR:	Heil of Texas	PROPOSAL NO.		ITEM NO.		ITEM PRICE:	195305
BODY MFG:	Heil Environmental	MODEL:	Half Pack	TYPE:	Front load	CAPACITY:	40 yd

OPTIONAL EQUIPMENT	COST

OPTIONAL DISCOUNT INCLUDED	COST
Early pay discount of \$8000.00 per truck for paying approximately 90% the chassis when it is delivered to body company is included in this pricing. Pay balance after final delivery with body.	
BODY OPTIONS	0
BODY TOTAL	0

Submit Approved Quote to BuyBoard:
Fax: 800-211-5454 Email: info@buyboard.com

ESTIMATED DELIVERY	Currently 20-24 months
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UNIT PRICE	430535
QUANTITY	1
CONTRACT FEE (Per PO))	400
TOTAL PURCHASE	\$ 430,935.00

City Council Meeting

12/07/23





Front Loader Refuse Truck

- CO-OP Purchase for One Front Loader Refuse Truck assigned to Solid Waste.
- Unit to be replacements for 4615.
- Units to be 2025 Autocar ACX64 with Heil Half Pack Front Load Refuse Body.
- BuyBoard Cooperative purchase to coordinate the build and delivery process.





Front Loader Refuse Truck



CITY OF
ABILENE
TEXAS



**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 8. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving Change Order No.1 to the Contract with Advanced Water Well Technologies for the Repair of NEWTP High Service Pump No. 4 (Rodney Taylor)

GENERAL INFORMATION

Water Utilities staff is recommending that the Abilene City Council approve Change Order No. 1 to the Contract with Advanced Water Well Technologies, LLC (Advanced) for the repair of NEWTP HSP No. 4 in the amount of \$147,420.00. The Change Order No. 1 provides for repairs not included in the original scope of work, and which were identified after the pump was removed, transported to the Advanced shop, and disassembled. The Change Order provides for the replacement of the pump bowl assembly including bowl housing, stainless steel impellers and shaft, 2 new 20inch diameter column pipes, and various machining, parts, and labor for complete repair, including reinstallation and performance testing. The original contract cost for removing, transporting, and disassembly and inspection of the pump is \$23,500.00. The revised contract price for the total repair is now \$170,920.00, which exceeds the \$50,000 purchasing limit requiring City Council approval. Advanced is able to offer the contract for pump repair services through BuyBoard Cooperative Purchasing (BuyBoard Contract 589-19) at contract pricing in compliance with Texas Local Government Code Chapter 271.

SPECIAL CONSIDERATIONS

The Northeast Water Treatment Plant has five High Service Pumps supplying the 1st Pressure Plane, and two pumps and a booster pump supplying the 4th Pressure Plane that supplies the TDCJ prison units. Pump No. 4 is currently disassembled in the Advanced repair shop in accordance with the original contract. The pump repair is necessary due to excessive vibration and reduced pumping capacity related to worn internal parts. The original contract provides for Pump No. 4 to be pulled, inspected, and conducting a condition assessment. Change Order No. 1 provides for the repair and/or replacement of normal wear parts, and additional work for

replacing the pump bowl assembly including bowls, impellers and shaft, replacing two column sections due to corrosion, repairing and epoxy coating parts and pieces, and various machine work, and reinstallation and performance testing.

FUNDING/FISCAL IMPACT

The repair of Pump #4 will utilize Water Utilities Department funds designated for Capital Improvement Projects.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council approve change order No. 1 with Advanced Water Well Technologies, LLC through BuyBoard Cooperative Purchasing for the repair of NEWTP HSP No. 4 in the amount of \$147,420.00, resulting in a total expenditure of \$170,920.00, as described herein.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. WrittenResolution-WtrDpt-Advanced Water Well Technologies-Change Order No 1-NEWTP Pump 4 Repair-12-7-2023
2. Change Order No 1-Advanced Water Well Technologies-NEWTP HSP 4-12-7-2023
3. Quote-CO No 1-Advanced Water Well Technologies-NEWTP HWP No 4-12-7-2023
4. Presentation-Authorize Change Order No 1 to Contract-Advanced Water Well Technologies-Repair of NEWTP HS P4-12-7-2023

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING CHANGE ORDER NO. 1 TO CONTRACT WITH ADVANCED WATER WELL TECHNOLOGIES, LLC FOR REPAIR OF NEWTP HIGH SERVICE PUMP NO. 4.

WHEREAS, the City of Abilene (City) owns and operates a Public Water Supply System which includes the Northeast Water Treatment Plant (NEWTP); and

WHEREAS, the NEWTP includes five high service pumps for transferring treated water into the 1st Pressure Plane of the water distribution system; and

WHEREAS, NEWTP high service pump No. 4 is inoperable and in need of repairs and City staff was able to secure its repair through a contract with Advanced Water Well Technologies, LLC (Advanced); and

WHEREAS, the original contract provided for the removal, disassembly, and inspection, and assessment of Pump No. 4 by the Contractor for \$23,500.00, and Change Order No. 1 provides for the replacement of normal wear parts and additional work for replacement of pump bowl assembly, two new 20inch diameter column pipes, machine work, reinstallation and performance testing for an additional cost of \$147,420.00; and

WHEREAS, staff recommends approving Change Order No. 1 to the Contract with Advanced for the needed repairs to High Service Pump No. 4 in the amount of \$147,420.00, resulting in the revised contract price of \$170,920.00; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

That the City Manager is authorized to execute Change Order No. 1 to the Contract with Advanced Water Well Technologies, LLC for the needed repairs to the Northeast Water Treatment Plant High Service Pump No. 4 for \$147,420.00, resulting in the revised contract price of \$170,920.00.

ADOPTED this 7th day of December, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley E. Smith, City Attorney

CHANGE ORDER



CITY OF ABILENE

CHANGE ORDER NUMBER: 01

Project: NEWTP HSPS Pump #4
Street: 4210 E. Lake Rd, Abilene, TX
Contract Number:

1. CONTRACTOR: **Advanced Water Well Tech.**
2. Change Order Work Limits:
Sta. N/A to Sta. N/A
3. Type of Change (Major/Minor): **Minor**
4. Reasons: **After initial removal & inspection, repairs to the existing pump will be required to ensure the pump is operational and the city can meet water demands.**
5. Describe the work being revised: **600 hp pump to have the bowl and bowl housing, steel impellers, bowl shaft, column and line shaft.**
6. New or revised plan sheet(s), sketch(es), and estimates are attached. **Yes, attached quote and inspection report with images.**

Each signatory hereby warrants that each has the authority to execute this Change Order (CO).

The contractor must sign the Change Order and, by doing so, agrees to waive any and all claims for additional compensation due.

THE CONTRACTOR Date: 11-16-23

(Signature)

Typed/Printed Name: Dan Adams

Typed/Printed Title: COO

The following information must be provided:

Change in contract time: N/A

Original contract price: \$23,500.00

Existing contract price: \$23,500.00

Amount added or subtracted by this CO:
\$147,420.00

Revised Contract Price: **\$170,920.00**

* Includes previous COs

RECOMMENDED FOR EXECUTION:

City Engineer

Date

Director

Date



14394 E INTERSTATE HWY 10
CONVERSE, TX 78109
OFFICE: (830) 865-2362

QUOTATION

PROJECT NAME / NUMBER: NORTHEAST #4 PUMP / REPAIRS /INSTALL
QUOTATION NUMBER: 20241015-DA1
DATE: 10/15/23
CUSTOMER P.O. NUMBER: _____
CUSTOMER NAME: _____ CITY OF ABILENE
ADDRESS (LINE 1): _____
ADDRESS (LINE 2): _____
PHONE NUMBER: _____
EMAIL ADDRESS: _____

PRIMARY SCOPE OF WORK:		SALES REP: Chris Richey		
No.	DESCRIPTION	Unit	Price	Line Total
1	EXISTING 27 CC 2 STAGE PUMP BOWL REPAIRS TO INCLUDE QTY 1 - 27CC FLANGED TOP BOWL HOUSING, QTY 2 - 27 CC STAINLESS STEEL IMPELLERS, QTY 1 - 3.18 X 416SS BOWL SHAFT, AND REPLACEMENT BUSHINGS THROUGHOUT	1	\$ 64,950.00	\$ 64,950.00
2	QTY 1 - 20" X 18" X 60" SWAGE FLANGED X FLANGED COLUMN PIPE WITH BUILT IN SPIDER, QTY 1 - 20" X 16" X 120" WITH A 20" DISCHARGE FLANGE SWAGED FLANGED X FLANGED COLUMN PIPE EQUIP WITH BUILT IN SPIDER, BUILT IN SPIDERS EQUIP WITH RUBBER BUSHINGS AND NEW BOLTING AND HARDWARE	1	\$ 26,350.00	\$ 26,350.00
3	2 11/16" X 60" 8 THREAD 416 SS LINE SHAFT	1	\$ 2,545.00	\$ 2,545.00
4	2 11/16" X 120" 8 THREAD 416 SS LINE SHAFT	1	\$ 3,480.00	\$ 3,480.00
5	2 11/16" X 59 1/8" 8 THREAD 416 SS TOP SPECIAL LINE SHAFT (GROOVED AN KEYED ON OPPOSITE END OF SHAFT FOR COUPLING)	1	\$ 3,150.00	\$ 3,150.00
6	2 11/16" 8 THREAD 416 STAINLESS STEEL SHAFT COUPLINGS	3	\$ 700.00	\$ 2,100.00
7	BLAST INTERIOR AND EXTERIOR SURFACES OF EXISTING HEAD / MOTOR BASE AND QTY 1 EXISTING - 16" X 5' FLANGE X FLANGE COLUMN FURTHER INSPECT EXISTING PIPE AND DISCHARGE HEAD EQUIPMENT BEFORE EPOXY COATING. (ONCE BLASTED IF THE DISCHARGE HEAD OR FLANGED COLUMN PIPE IS DETERMINED TO NOT MEET OUR INSPECTION REQUIREMENTS, RECOMMENDATION TO REPAIR OR REPLACE WILL BE PROVIDED. A CHANGE ORDER WILL THEN BE PROVIDED FOR EITHER REPAIRS OR A NEW DISCHARGE HEAD AND FLANGED COLUMN PIPE)	1	\$ 2,400.00	\$ 2,400.00
8	EPOXY COAT INTERIOR AND EXTERIOR SURFACES OF EXISTING HEAD / MOTOR BASE AND QTY 1 - EXISTING 16" X 5' FLANGED COLUMN, BLAST AND EPOXY COAT INTERIOR AND EXTERIOR SURFACES OF NEW FLANGED COLUMN PIPE AND NEW FLANGED DISCHARGE PIPE	1	\$ 5,700.00	\$ 5,700.00
9	REBUSH AND REPACK EXISTING STUFFING BOX, REPLACEMENT SOLE PLATE ON EXISTING HEAD, MATERIALS TO INSTALL NEW FOUNDATION FOR PUMP TO SIT ON	1	\$ 4,950.00	\$ 4,950.00
10	TRUCKING AND FREIGHT FROM LOCAL AND NON LOCAL SUPPLIERS, INCLUDING FUEL SURCHARGE TO COMPLETE PROJECT	1	\$ 6,660.00	\$ 6,660.00
11	SHOP LABOR TO ASSEMBLE DISCHARGE HEAD PUMP BOWLS	12	\$ 225.00	\$ 2,700.00
12	LOAD OUT FOR TRANSPORT, MOBILIZE TO SITE WITH CRANE TRUCK, SUPPORT TRUCK, TRAILER AND CREW, INSTALL NEW PUMP FOUNDATION, INSTALL PUMP, AND START UP AND TESTING	42	\$ 300.00	\$ 12,600.00
13	PROJECT SUPERVISOR DAY RATE	4	\$ 650.00	\$ 2,600.00
14	3 MAN CREW PER DIEM PER DAY	4	\$ 550.00	\$ 2,200.00
15	1 MAN CREW PER DIEM PER DAY	4	\$ 185.00	\$ 740.00
	***** Based on city request BUYBOARD 672-22 is only being offered for shop labor, field labor, per diem and supervisor fees as outlined on Line items 11,12,13,14, and 15 of this quotation. NO other materials or fees as outlined in any and all other line items of this quotation will be offered or included utilizing Buyboard. With acceptance of this quotation the city of Abilene is aware and agrees to what is being offered utilizing Buyboard 672-22.			\$ -

Taxable (Yes/No): TBD Tax Rate: TBD % Applicable sales tax will be charged when invoiced.

Subtotal: \$ 143,125.00
Sales Tax: \$ -
Total: \$ 143,125.00

AT TIME OF QUOTE LEAD TIMES ON MATERIALS ARE ESTIMATED AT 20 TO 24 WEEKS. ONCE MATERIALS ARE RECEIVED FROM ALL SUPPLIERS CONTRACTOR WILL THEN REQUIRE A MINIMUM OF AN ADDITIONAL 2 TO 5 WEEKS TO ASSEMBLE AND INSTALL. LEAD TIMES ON MATERIALS ARE ALWAYS SUBJECT TO CHANGE AT TIME OF ACTUAL ORDER; ANY DELAYS OR DEFECTS OF MATERIALS COULD CREATE ADDITIONAL UNEXPECTED LEAD TIMES. AVAILABILITY OF MATERIALS AND INSTALLATION ARE ALWAYS SOLELY BASED ON PRODUCT AVAILABILITY AND WORK LOAD AT TIME OF ORDER.		\$ -	\$ -
IF REQUIRED ADDER FOR PERFORMANCE AND PAYMENT BOND	1	\$ 4,295.00	\$ 4,295.00

Subtotal with Alternate: \$ 147,420.00
Sales Tax with Alternate: \$ -
Total with Alternate: \$ 147,420.00

Regulated by:
Texas Department of Licensing and Regulation
PO Box 12157 Austin, TX 78157 1-800-803-9202

ALL LABOR HOURS OF SERVICE TO COMPLETE IS ESTIMATED, CUSTOMER TO BE INVOICED ACTUAL LABOR HOURS REQUIRED TO COMPLETE PER THE HOURLY RATES AS OUTLINED. CITY TO PROVIDE HIGH VOLTAGE ELECTRICIAN IF CONTROLS REPAIRS OR TESTING IS REQUIRED, OR CONTRACTOR TO PROVIDE A QUOTATION FOR ANY ELECTRICAL SERVICES OR REPAIRS DETERMINED NECESSARY TO COMPLETE.

SHIPMENT:

SHIPPING DETAILS:

Proposed Start Date:

All prices above are subject to Federal, State and Local Sales Taxes.
This quotation will automatically expire if Purchaser does not deliver a written acceptance to this contract by: 30 DAYS

Advanced Water Well Technologies
14394 E INTERSTATE HIGHWAY 10
CONVERSE, TX 78109
(Contractor)

ACCEPTANCE OF THIS CONTRACT: The above prices, specifications, and conditions are satisfactory to the purchaser and are hereby accepted with signature below, Fax, Email, or verbal confirmation. Purchaser authorizes Advanced Water Well Technologies ("AWWT") and its subcontractors to do the work as specified. All work is to be completed as specified and according to standard industry practices. Any additional work or materials required due to unknown well conditions will result in an extra charge over and above the estimate. Our workers are fully covered by Workman's Compensation Insurance. We warrant our craftsmanship against craftsmanship defects for one year; defects to be determined on a case by case basis by AWWT. There is a manufacturers warranty on equipment for one year. The manufacturer determines if the equipment will be warranted or not on a case by case basis. Payment is due upon receipt of invoice and balances past due after 30 days are subject to 15% interest per annum.

PURCHASER: _____

ADDRESS (LINE 1): _____

SIGNATURE: _____

ADDRESS (LINE 2): _____

DATE: _____

PHONE NUMBER: _____

Approve Change Order No. 1 to Contract with
Advanced Water Well Technologies, LLC
for the Repair of
Northeast Water Treatment Plant High Service Pump No. 4





NEWTP HSP NO. 4

- Approve Change Order No. 1 to contract with Advanced Water Well Technologies, Inc. for the repair of NEWTP HSP No. 4
- Change Order No. 1 provides for both repair of normal wear parts and additional work consisting of replacing the pump bowl assembly, two 20inch diameter column pipes, performing machine work, and reinstallation and performance testing costing \$147,420.00.
- The cost of Change Order No. 1 results in a revised contract value of \$170,920.00, which exceeds \$50,000 and requires approval of the Abilene City Council.





NEWTP HSP NO. 4

- The Northeast Water Treatment Plant has five High Service Pumps for transferring treated water into the 1st Pressure Plane of the water distribution system.
- NEWTP High Service Pump No. 4 is inoperable and in need of repairs.
- Advanced Water Well Technologies is contracted for the removal and inspection of Pump No. 4 and an assessment in the amount of \$23,500.00.
- After removal and disassembly by Advanced, it is apparent that routine and additional repairs are needed to return the pump to like-new condition.



CITY OF
ABILENE
T E X A S



NEWTP HSP NO. 4



NORTHEAST WATER TREATMENT PLANT HIGH SERVICE PUMP STATION



Approve Change Order No. 1 to Contract with
Advanced Water Well Technologies, LLC
for the Repair of
Northeast Water Treatment Plant High Service Pump No. 4

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 9. Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding the Bid to Horseshoe Construction, Inc. for the South 14th Street Water Line Replacement Project (Rodney Taylor)

GENERAL INFORMATION

Water Utilities staff is requesting that the Abilene City Council award the bid to Horseshoe Construction, Inc. (Horseshoe) of Bryan, Texas in the amount of \$582,585.00 for CB-2410 South 14th Street Water Line Replacement Project (Project). Bids were advertised in the Abilene Reporter News on October 29th and November 5th, 2023. Bids were opened on Wednesday, November 15th, 2023. A total of four bids were received. The project is for the use of trenchless pipe bursting technology to install approximately 3,455 linear feet of six inch HDPE water main along the north side of South 14th Street from near Sylvan Drive to S. Pioneer Drive.

The bid item includes an "Owners Allowance" in the amount of \$30,000.00 for work directed in writing by the City. The owner's allowance is for work not required within the Plans and Specifications and may be used in the event additional (or less) work from that shown on the Plans and Specifications is required.

SPECIAL CONSIDERATIONS

On October 12th, 2023 the Abilene City Council awarded the bid to Bontke Brothers Construction Co., Inc. for the S. 14th St. Pedestrian Improvements (Pioneer Dr. to Barrow St.). That project is for the installation of approximately 6,100 linear feet of pedestrian sidewalks along the north side of South 14th Street between South Pioneer Drive and Barrow Street. Along that sidewalk route there exists a cast iron water main that is aged and in need of replacement. The Project will provide for the replacement of the cast iron piping with HDPE plastic piping along that same route. The water line project will be scheduled for completion ahead of the sidewalk construction. The installation will utilize trenchless pipe bursting technology for the

majority of the water line replacement in order to minimize open cut excavation and to shorten the installation time. The section of cast iron pipe existing under Elm Creek will remain in service as is.

FUNDING/FISCAL IMPACT

The Project will utilize Water Utilities Funds designated for Capital Improvement Projects.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council award the bid for the South 14th Street Water Line Replacement to Horseshoe Construction, Inc. in the amount of \$582,585.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Written Resolution-Approve Contract-Horseshoe Construction-S 14th St Water Line Replacement-12-7-2023
2. Contract-Horseshoe Construction Inc-South 14th Street Water Line Replacement-12-7-2023
3. Supplement
4. Letter or Recommendation-S 14th Street Water Line Replacement-Horseshoe Construction Inc-12-7-2023
5. Bid Tabulation-S 14th Street Water Line Replacement-Horseshoe Construction Inc-12-7-2023
6. Presentation-Award Bid-Horseshoe Construction-South 14th Street Water Line Replacement-12-7-2023

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE CONTRACT WITH HORSESHOE CONSTRUCTION, INC. FOR
THE SOUTH 14TH STREET WATER LINE REPLACEMENT PROJECT.**

WHEREAS, On October 12th, 2023 the Abilene City Council approved a contract with Bontke Brothers Construction, Inc. for the S. 14th St. Pedestrian Improvements for the installation of approximately 6,100 linear feet of sidewalks along the north side of South 14th Street between South Pioneer Drive and Barrow Street; and

WHEREAS, along that sidewalk route there exists a cast iron water main that is aged and in need of replacement; and

WHEREAS, the City hired Enprotec/Hibbs & Todd, Inc. to provide design plans and specifications, bidding assistance, and general project supervision (not RPR) for a project to replace the cast iron water main, and the engineer recommends utilizing trenchless pipe bursting technology for the installation of HDPE plastic piping along the route of the existing cast iron piping in order to minimize open cut excavation and to shorten the installation time; and

WHEREAS, Horseshoe Construction, Inc. (Horseshoe) submitted the lowest price for the Bid for the South 14th Street Water Line Replacement Project, and the design engineer Enprotec/Hibbs & Todd, Inc. has evaluated the bids for best value criteria and for conformity with the advertisement for bids and does recommend awarding the bid to Horseshoe in the amount of \$582,585.00; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF ABILENE, TEXAS:**

That the Abilene City Council awards the bid to Horseshoe Construction, Inc. for the South 14th Street Water Line Replacement Project for the amount of \$582,585.00.

ADOPTED this 7th day of December, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley E. Smith, City Attorney

CONSTRUCTION CONTRACT

BACKGROUND

THIS CONTRACT, made December 7, 2023, is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and Horseshoe Construction, Inc. of the City of Bryan, State of Texas. ("Contractor").

The City recognizes a need for high quality construction work; the Contractor agrees to complete the project in return for payment.

THE AGREEMENT

1. Work and Consideration.

The Contractor hereby agrees to commence and complete the construction of Work described as
SOUTH 14th STREET WATER LINE REPLACEMENT

The Contractor must provide all Work required in the Contract Documents -- incorporated herein by reference -- labeled:

SOUTH 14th STREET WATER LINE REPLACEMENT

All work to be performed will be completed in conformance with (1) Part I of the City of Abilene's Standard Specifications for Construction adopted September, 2006 with the attached amendments in these Contract Documents, and (2) the Technical Specifications and Plans attached to these Contract Documents. Technical Specifications and Plans attached to these Contract Documents control in the event of a conflict.

In consideration of this Work, the City will pay the Contractor the sum of **\$582,585.00**

2. **Timely Work.** The Contractor must begin and fully complete Work in the days stated in the Notice to Proceed. The time allows for normal delays associated with weather conditions, crew coordination, etc. Time is of the essence, and liquidated damages as set forth in the General Conditions (Paragraph 16) apply for late Work.

3. **Payment.** If Performance and Payment Bonds are required, the City will pay Contractor according to the General Conditions (Paragraph 20). If Performance and Payment Bonds are not required, the City will pay Contractor according to the Instructions to Bidders.

4. **No liens.** No mechanic, contractor, subcontractor, supplier, or other person can or will contract for, or in any other manner have or acquire any lien upon the work of this Contract, or the land upon which it is situated. The laws of the State of Texas govern this Contract.

5. **Venue.** Venue for any legal proceeding is Taylor County, Texas.

6. **Indemnity.**

A. Definitions

For the purpose of this section the following definitions apply:

"City" shall mean all officers, agents and employees of the City of Abilene.

"Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

"Contractor" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

"Contractor's employees" shall mean any employees, officers, agents, subcontractors, licensee and invitees of Contractor.

"Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right
- (ii) injury, damage, or death to any person or entity
- (iii) attorney's fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

"Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

"Proven" shall mean that a court of competent jurisdiction has entered a final unappealable judgment on a claim adjudging an entity or person liable for a monetary judgment.

"Sole negligence" shall mean negligence of a party that is unmixed with the fault of any other person or entity.

B. Indemnity

The Contractor must indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Contractor's work and activities conducted in connection with this Contract.

The Contractor is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor's employees while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Contractor or Contractor's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Contractor.

The City and Contractor must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Contractor or City. The City has the right to compromise and defend the same to the extent of its own interests.

BOTH CITY AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE

THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

7. **Insurance.** The Special Conditions found the City of Abilene's Standard Specifications for Construction adopted September, 2006, Part I, Division I, Item 3, contain the insurance requirements of this Contract.

8. **Overcharges.** The Contractor assigns to City any claims for overcharges related to this Contract which arise under antitrust laws of the United States, 15 U.S.C.A. Sec. 1 et seq, as amended.

9. **Contract Interpretation.** Any dispute about the Contract's meaning or application will be interpreted fairly and reasonably, and neither more strongly for or against either party.

10. **Indebtedness to City.** Contractor agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any Bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty or interest. Contractor is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty or interest.

11. **Boycott of Israel.** In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees, and (b) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. Additionally, "company" does not include a sole proprietorship.

If this section is applicable, the signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

12. **Contract Execution.** The Contractor must sign the Contract first, with any necessary attestation and seal. The City Attorney or designee must review the Contract, and approve or disapprove it. If approved, the City's authorized agent will then sign. The City Secretary must keep a signed original in the City Secretary's Office.

13. **Contract Copies.** Each of the two executed copies is an original.

IN WITNESS WHERE OF, the parties hereto have executed this contract:

CONTRACTOR

Name of Contractor:

Horseshoe Construction, Inc.

Business Address:

853 INNOVATION DR.
BYRAN, TX 77808

James R. Holt
Signature

James R. Holt

Name - Typed or Printed

President

Title - Typed or Printed

281-478-5477

Business Phone No.

76-0389648

Federal Tax I.D.#

ATTEST: (If Corporation)

[Signature]
Corporate Secretary's Signature

Corporate Seal
(if none, write "None")



CITY OF ABILENE

Authorized Signature

APPROVED:

City Attorney

ATTEST:

City Secretary

Seal:

SUPPLEMENT TO AGREEMENT BETWEEN THE CITY OF ABILENE, TEXAS AND
HORSESHOE Construction, Inc ("Company")

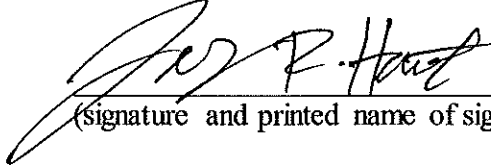
- (1) **Verification Against Boycott of Israel Provision.** In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a company for the provision of goods or services unless the agreement contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. The term "company" does not include a sole proprietorship. Chapter 2271 of the Texas Government Code only applies to an agreement that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000.00 or more that is paid wholly or partly from public funds of the governmental entity.
- (2) **Verification Against Discrimination of Firearm or Ammunition Industries Provision.** Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the company employs at least 10 full-time employees, and this agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company verifies that: (1) the company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the company will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. The term "company" does not include a sole proprietorship. This provision does not apply to a governmental entity that contracts with a sole-source provider, or does not receive any bids from a company that is able to provide the written verification required.
- (3) **Verification Against Boycott of Energy Companies Provision.** Pursuant to Texas Government Code Chapter 2276, unless otherwise exempt, if the company employs at least 10 full-time employees, and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company represents that: (1) the company does not boycott energy companies; and (2) the company will not boycott energy companies during the term of this Agreement. The term "company" does not include a sole proprietorship. This provision does not apply to a governmental entity that determines the requirements are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.
- (4) **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the company verifies that company is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

Unless the company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company: (1) does not boycott Israel and will not boycott Israel during the term of this Agreement; (2) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade

association, and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association; (3) does not boycott energy companies, and will not boycott energy companies during the term of this Agreement; and (4) is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

Horseshoe Construction, Inc.

(printed name of company)

 James R. Holt

(signature and printed name of signatory)

12/4/23

(date of signature)



November 27, 2023

City of Abilene
209 East Highway 80
Abilene, TX 79601
Attn: Mr. Rodney Taylor, Water Utilities Director

**Re: Recommendation of Award
S. 14th Water Line Replacement Project**

Dear Mr. Taylor:

Bids for the referenced project were opened on Tuesday, November 15, 2023. Four (4) bids were received. The lowest qualified bid was submitted by Horseshoe Construction, Inc., of Bryan, Texas. See attached Bid Tabulation and Best Value Worksheet.

The responsiveness and responsibility of the bidder has been evaluated for conformity with all material conditions of the Advertisement to Bid and the Information for Bidders. Additionally, the contractor's ability to perform the project successfully and the qualifications submitted by the bidder have been evaluated in accordance with the Contract Documents.

Based on the criteria set forth in the City of Abilene's Invitation for Bids, eHT believes the bid submitted by Horseshoe Construction, Inc., represents the Best Value for the S. 14th Water Line Replacement Project. The amount includes the Owner's Allowance listed in the base bid. eHT recommends the project be awarded to Horseshoe Construction, Inc., in the amount of \$582,585.00.

We look forward to working with the City of Abilene as this project moves into the construction phase.

Sincerely,

Enprotec / Hibbs & Todd, Inc.

Sage Diller, P.E.
Associate Vice President

SD/jd

Attachment: Bid Tabulation

c: Project File: 8664 P:\Projects\Abilene, City of\8664 - S. 14th Water Line Relocation\5. Bidding Phase\Bidder Evaluation\Recommendation of Award.docx

TABULATION OF BIDS FOR: South 14th Street Water Line Replacement, City of Abilene, Texas

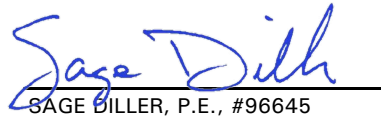
BIDS RECEIVED: 11/15/2023

PE Firm Registration No. 1151

BASE BID				Horseshoe Construction, Inc.		Capital Underground Utilities, LLC		Coppera, LLC		Murphy Pipeline Contractors, LLC	
Item No.	Quantity	Unit	Item	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount
1	1	LS	Mobilization, Bonds & Insurance	\$ 30,000.00	\$ 30,000.00	\$ 50,000.00	\$ 50,000.00	\$ 20,334.39	\$ 20,334.39	\$ 100,000.00	\$ 100,000.00
2	1	LS	Traffic Control and Implementation	\$ 25,000.00	\$ 25,000.00	\$ 4,035.00	\$ 4,035.00	\$ 124,415.28	\$ 124,415.28	\$ 10,000.00	\$ 10,000.00
3	1	LS	Erosion ad Sediment Control	\$ 500.00	\$ 500.00	\$ 657.00	\$ 657.00	\$ 3,625.19	\$ 3,625.19	\$ 2,500.00	\$ 2,500.00
4	1	LS	Trench Excavation and Safety Plan	\$ 500.00	\$ 500.00	\$ 2,147.00	\$ 2,147.00	\$ 1,061.68	\$ 1,061.68	\$ 5,000.00	\$ 5,000.00
5	1	LS	Disinfection and Testing	\$ 10,000.00	\$ 10,000.00	\$ 4,382.00	\$ 4,382.00	\$ 3,605.76	\$ 3,605.76	\$ 5,000.00	\$ 5,000.00
6	3,455	LF	6" DR11 DIPS HDPE Water Line (Pipe Bursting)	\$ 95.00	\$ 328,225.00	\$ 137.00	\$ 473,335.00	\$ 107.57	\$ 371,654.35	\$ 185.00	\$ 639,175.00
7	9	EA	6" Gate Valves with Valve Box and Fittings	\$ 3,500.00	\$ 31,500.00	\$ 2,000.00	\$ 18,000.00	\$ 6,246.61	\$ 56,219.49	\$ 2,500.00	\$ 22,500.00
8	1	EA	Main Line Reconnection (3")	\$ 2,000.00	\$ 2,000.00	\$ 1,140.00	\$ 1,140.00	\$ 2,476.16	\$ 2,476.16	\$ 2,000.00	\$ 2,000.00
9	1	EA	Main Line Reconnection (4")	\$ 2,100.00	\$ 2,100.00	\$ 1,188.00	\$ 1,188.00	\$ 2,792.67	\$ 2,792.67	\$ 2,500.00	\$ 2,500.00
10	5	EA	Main Line Reconnection (6")	\$ 2,750.00	\$ 13,750.00	\$ 1,472.00	\$ 7,360.00	\$ 3,416.67	\$ 17,083.35	\$ 3,000.00	\$ 15,000.00
11	6	EA	Main Line Reconnection (8")	\$ 2,900.00	\$ 17,400.00	\$ 1,593.00	\$ 9,558.00	\$ 4,064.71	\$ 24,388.26	\$ 4,000.00	\$ 24,000.00
12	2	EA	6" Tapping Sleeve, Cut and Plug Existing Water Line	\$ 3,500.00	\$ 7,000.00	\$ 4,726.00	\$ 9,452.00	\$ 5,705.79	\$ 11,411.58	\$ 4,500.00	\$ 9,000.00
13	2	EA	Fire Hydrant Assembly	\$ 7,500.00	\$ 15,000.00	\$ 7,500.00	\$ 15,000.00	\$ 3,904.60	\$ 7,809.20	\$ 6,000.00	\$ 12,000.00
14	2	EA	Remove Existing Fire Hydrant Assembly	\$ 1,000.00	\$ 2,000.00	\$ 500.00	\$ 1,000.00	\$ 1,276.13	\$ 2,552.26	\$ 500.00	\$ 1,000.00
15	9	EA	Remove and Dispose of Existing Valve	\$ 1,500.00	\$ 13,500.00	\$ 417.00	\$ 3,753.00	\$ 817.90	\$ 7,361.10	\$ 50.00	\$ 450.00
16	8	EA	Service Line Reconnection	\$ 2,500.00	\$ 20,000.00	\$ 1,490.00	\$ 11,920.00	\$ 632.29	\$ 5,058.32	\$ 900.00	\$ 7,200.00
17	8	EA	Temporary Service Connections	\$ 1,500.00	\$ 12,000.00	\$ 1,768.00	\$ 14,144.00	\$ 565.94	\$ 4,527.52	\$ 250.00	\$ 2,000.00
18	31	LF	Gravel Pavement Repair	\$ 65.00	\$ 2,015.00	\$ 54.00	\$ 1,674.00	\$ 77.87	\$ 2,413.97	\$ 100.00	\$ 3,100.00
19	75	LF	Cold-Mix Asphalt Pavement Repair	\$ 120.00	\$ 9,000.00	\$ 27.00	\$ 2,025.00	\$ 257.81	\$ 19,335.75	\$ 150.00	\$ 11,250.00
20	4	LF	Concrete Sidewalk Repair	\$ 235.00	\$ 940.00	\$ 200.00	\$ 800.00	\$ 1,325.29	\$ 5,301.16	\$ 15.00	\$ 60.00
21	20	LF	Concrete Apron Repair	\$ 335.00	\$ 6,700.00	\$ 225.00	\$ 4,500.00	\$ 397.74	\$ 7,954.80	\$ 45.00	\$ 900.00
22	3,455	LF	Tracer Wire	\$ 1.00	\$ 3,455.00	\$ 1.00	\$ 3,455.00	\$ 1.76	\$ 6,080.80	\$ 5.00	\$ 17,275.00
23	1	LS	Allowance directed by City	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00
TOTAL BASE BID PRICE (Items 1 thru 23)					\$ 582,585.00		\$ 669,525.00	**	\$ 737,463.04		\$ 921,910.00

** Due to a calculation error, Coppera, LLC's Bid is lower than what was read aloud at the Bid Opening.

I, SAGE DILLER, P.E., #96645, DO HEREBY CERTIFY THAT THE ABOVE REFERENCED BIDS WERE RECEIVED, IN ACCORDANCE WITH THE ADVERTISED PROCEDURES, OPENED, AND READ ALOUD.
THE BID TABULATION HEREIN IS A TRUE AND ACCURATE REPRESENTATION OF THE BIDS READ ALOUD.


SAGE DILLER, P.E., #96645



11/15/2023

Award the Bid to Horseshoe Construction, Inc.
for the
South 14th Street Water Line Replacement Project





Award Bid to Horseshoe Construction

- Award the bid to Horseshoe Construction, Inc. for the South 14th Water Line Replacement Project.
- Contract value of \$582,585.00.
- Contract provides for the use of trenchless pipe bursting technology for installing HDPE pipe within the existing cast iron pipe.
- The bid item includes an "Owners Allowance" in the amount of \$30,000.00 for work directed in writing by the City. The owner's allowance is for work not required within the Plans and Specifications and may be used in the event additional (or less) work from that shown on the Plans and Specifications is required.





Award Bid to Horseshoe Construction

- On October 12th, 2023 the Abilene City Council approved a contract with Bontke Brothers Construction, Inc. for the S. 14th St. Pedestrian Improvements for the installation of approximately 6,100 linear feet of sidewalks along the north side of South 14th Street between South Pioneer Drive and Barrow Street
- Along that sidewalk route there exists a cast iron water main that is aged and in need of replacement
- The City hired Enprotec/Hibbs & Todd, Inc. to provide design plans and specifications, bidding assistance, and general project supervision (not RPR) for a project to replace the cast iron water main, and the engineer recommends utilizing trenchless pipe bursting technology for the installation of HDPE plastic piping within the existing cast iron pipe.





Award Bid to Horseshoe Construction



**UTILIZE PIPEBURSTING TECHNOLOGY TO
INSTALL HDPE WATER LINE WITHIN THE
CAST IRON WATER MAIN EXISTING
ALONG THE NORTH SIDE OF SOUTH 14TH
STREET FROM NEAR SYLVAN DR TO
SOUTH PIONEER DR.**

*The section of existing 8inch cast iron
pipe under Elm Creek will remain in
service.*



**CITY OF
ABILENE
TEXAS**

Award the Bid to Horseshoe Construction, Inc.
for the
South 14th Street Water Line Replacement Project

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: 10. Resolution: Receive a Report, Hold a Discussion and Take Action to Approve the Purchase Of Traffic Signal Equipment from Iteris, Inc. for the S. 27th Traffic Signal Improvement Project Through BuyBoard. (Max Johnson)

GENERAL INFORMATION

This equipment quote includes miscellaneous traffic signal equipment that will be part of a construction project (which will bid at a later date). This will allow for purchase of equipment that typically has long lead times allowing the City of Abilene to bid for the actual construction project at a later date. Once the construction contract has been bid the contractor will have access to the equipment sooner allowing for a more expedient construction turnaround time. Equipment Quote include items such as a Controller Cabinet, Camera Systems, Cable, etc.

SPECIAL CONSIDERATIONS

This will be for purchasing some of the necessary equipment that will be utilized on a construction contract that will be bid at a later date for signal improvements from Catclaw Dr. to Treadaway Blvd. on S. 27th St./Southwest Dr.

FUNDING/FISCAL IMPACT

Funding for this equipment is allocated through the Streets Maintenance Fee fund.

STAFF RECOMMENDATION

Staff recommends approval for purchase through BuyBoard from Iteris Inc. in the amount of \$118,463.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. S. 27th St. Traffic Signal Improvements BuyBoard Contract 10272023-8-JGD REV A
2. 10272023-8-JGD-A ABILENE TRAFFIC SIGNAL COMPONENTS (2)
3. S. 27th_Southwest Dr. Traffic Signal Improvements BuyBoard Items 11-29-2023

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, TO PURCHASE MISCELLANEOUS TRAFFIC SIGNAL EQUIPMENT FOR THE S. 27TH ST. TRAFFIC SIGNAL IMPROVEMENTS PROJECT FROM ITERIS, INC. – SANTA ANA, CALIFORNIA BUYBOARD EQUIPMENT QUOTE 10272023-8-JGD REV A

WHEREAS, the City of Abilene needs miscellaneous traffic signal equipment for the South 27th St. Traffic Signal Project; and,

WHEREAS, the City of Abilene has received pricing to purchase the equipment shown below from Iteris, Inc.

Item description	QTY	Unit Price	Total Price
M60 NEMA LINUX 5.4	3	\$2,460.00	\$7,380.00
TXDOT NEMA TS2 16 POSITION GROUND MOUNT CONTROLLER CABINET (W/SIEMENS CONTROLLER)	1	\$17,375.00	\$17,375.00
VANTAGE NEXT CCU, SHELF- MOUNT UNIT	6	\$8,990.00	\$53,940.00
VANTAGE NEXT WDR CAMERA	24	\$1,315.00	\$31,560.00
OUTDOOR, UV RESISTANT, CAT5E BULK CABLE 1,000 FT	6	\$385.00	\$2,310.00
8" COLOR LCD MONITOR	6	\$195.00	\$1,170.00
CAMERA BRACKET	24	\$197.00	\$4,728.00

WHEREAS, Iteris Inc. – Santa Ana, CA is the BuyBoard approved vendor for the miscellaneous equipment listed.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS

PART 1: That the City of Abilene approved this purchase form Iteris Inc. – Santa Ana CA in the amount of One Hundred Eighteen Thousand Four Hundred and Sixty Three Dollars and No Cents (\$118,463.00) for miscellaneous traffic signal components listed.

PART 2: That this Resolution shall take effect immediately from and after passage.

ADOPTED this 7th day of December, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



JOHN DRAKE
1700 Carnegie Ave. Suite 100
Santa Ana, CA 92705-5551
Phone: (512)592-9567
email: jgd@iteris.com, web site: www.iteris.com

EQUIPMENT QUOTE
Quote #: 10272023-8-JGD
REV A

Iteris, Inc.
1700 Carnegie Ave, Suite 100,
Santa Ana, CA 92705-5551



Agency: ABILENE, TX
Project Name: TRAFFIC SIGNAL COMPONENTS
End User: ABILENE, TX

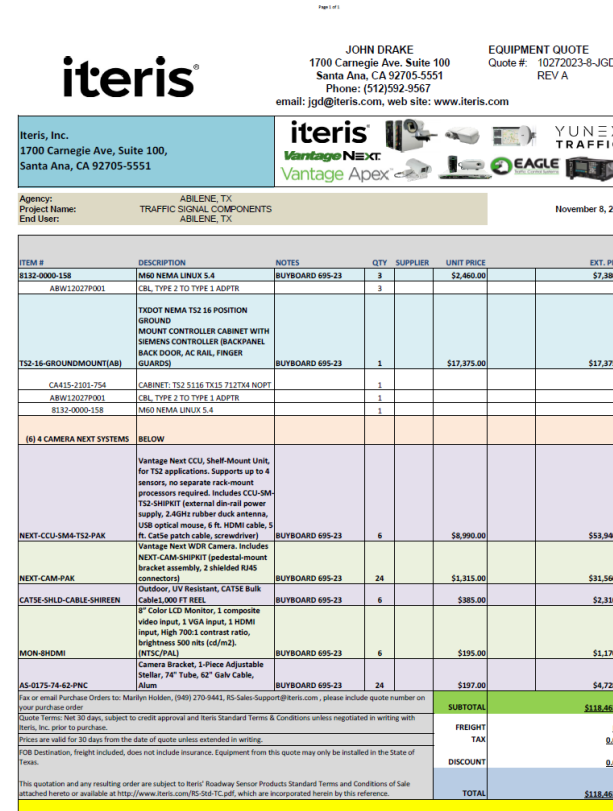
November 20, 2023

ITEM #	DESCRIPTION	NOTES	QTY	SUPPLIER	UNIT PRICE	EXT. PRICE
8132-0000-158	M60 NEMA LINUX 5.4	BUYBOARD 695-23	3		\$2,460.00	\$7,380.00
ABW12027P001	CBL, TYPE 2 TO TYPE 1 ADPTR		3			
TS2-16-GROUND MOUNT(AB)	TXDOT NEMA TS2 16 POSITION GROUND MOUNT CONTROLLER CABINET WITH SIEMENS CONTROLLER (BACKPANEL BACK DOOR, AC RAIL, FINGER GUARDS)	BUYBOARD 695-23	1		\$17,375.00	\$17,375.00
CA415-2101-754	CABINET: TS2 5116 TX15 712TX4 NOPT		1			
ABW12027P001	CBL, TYPE 2 TO TYPE 1 ADPTR		1			
8132-0000-158	M60 NEMA LINUX 5.4		1			
(6) 4 CAMERA NEXT SYSTEMS	BELOW					
NEXT-CCU-SM4-TS2-PAK	Vantage Next CCU, Shelf-Mount Unit, for TS2 applications. Supports up to 4 sensors, no separate rack-mount processors required. Includes CCU-SM-TS2-SHIPKIT (external din-rail power supply, 2.4GHz rubber duck antenna, USB optical mouse, 6 ft. HDMI cable, 5 ft. Cat5e patch cable, screwdriver)	BUYBOARD 695-23	6		\$8,990.00	\$53,940.00
NEXT-CAM-PAK	Vantage Next WDR Camera. Includes NEXT-CAM-SHIPKIT (pedestal-mount bracket assembly, 2 shielded RJ45 connectors)	BUYBOARD 695-23	24		\$1,315.00	\$31,560.00
CAT5E-SHLD-CABLE-SHIREEN	Outdoor, UV Resistant, CAT5E Bulk Cable 1,000 FT REEL	BUYBOARD 695-23	6		\$385.00	\$2,310.00
MON-8HDMI	8" Color LCD Monitor, 1 composite video input, 1 VGA input, 1 HDMI input, High 700:1 contrast ratio, brightness 500 nits (cd/m2). (NTSC/PAL)	BUYBOARD 695-23	6		\$195.00	\$1,170.00
AS-0175-74-62-PNC	Camera Bracket, 1-Piece Adjustable Stellar, 74" Tube, 62" Galv Cable, Alum	BUYBOARD 695-23	24		\$197.00	\$4,728.00
Fax or email Purchase Orders to: Marilyn Holden, (949) 270-9441, RS-Sales-Support@iteris.com , please include quote number on your purchase order					SUBTOTAL	\$118,463.00
Quote Terms: Net 30 days, subject to credit approval and Iteris Standard Terms & Conditions unless negotiated in writing with Iteris, Inc. prior to purchase.					FREIGHT	PPD
Prices are valid for 90 days from the date of quote unless extended in writing.					TAX	0.00%
FOB Destination, freight included, does not include insurance. Equipment from this quote may only be installed in the State of Texas.					DISCOUNT	0.00%
This quotation and any resulting order are subject to Iteris' Roadway Sensor Products Standard Terms and Conditions of Sale attached hereto or available at http://www.iteris.com/RS-Std-TC.pdf , which are incorporated herein by this reference.					TOTAL	\$118,463.00

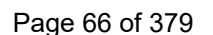
Purchase Of Traffic Signal Equipment For the S. 27th Traffic Signal Improvement Project Through BuyBoard

(Max Johnson)





South 27th St. from Catclaw Dr.
to Treadaway Blvd. (Signal
Improvement Project)





Purchase Of Traffic Signal Equipment For S. 27th Traffic Signal Improvement Project Through BuyBoard

- Equipment quote includes miscellaneous signal equipment for a construction project (to bid at a later date)
- Allows for purchase of equipment with long lead times allowing the City of Abilene to bid for the actual construction project at a later date
- Once construction contract is finalized the contractor will have access to the equipment, allowing an expedient construction turnaround time
- Project funded through The Street Maintenance Fee
- Staff recommends BuyBoard Purchase from Iteris Inc. in the amount of \$118,463.00





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: 11. Resolution: Receive a Report, Hold a Discussion and Take Action on a Rebuild ABI Chapter 380 Economic Development Agreement between the City of Abilene and Thornton Custom Homes for 2634 N Willis St. (Tim Littlejohn)

GENERAL INFORMATION

Thornton Custom Homes is constructing a new affordable home located at 2634 N Willis St.

SPECIAL CONSIDERATIONS

N/A

FUNDING/FISCAL IMPACT

Approximately \$30,450

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. RESOLUTION 2634 N Willis St
2. 2634 N Willis agreement
3. City Council Presentation 2634 N Willis

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING
A CHAPTER 380 AGREEMENT BETWEEN THE CITY OF ABILENE AND THORNTON
CUSTOM HOMES**

This Economic Development Agreement (“Agreement”) is effective as of the 7th day of December, 2023 (“Effective Date”), by and between Thornton Custom Homes, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

WHEREAS, the City of Abilene adopted Resolution 192-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the City has adopted Resolution No. 192-2023 which created the Rebuild ABI program; and

WHEREAS, the Developer intends to acquire, or has acquired, fee simple ownership of 2634 N Willis St, in Abilene, Taylor County, Texas (the “Project Area”); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192-2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City’s commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible “project” and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE TEXAS:

PART 1: That the City of Abilene approves the Rebuild ABI economic development agreement upon the terms and conditions as set forth in Exhibit A attached hereto.

PART 2: That this Resolution becomes effective immediately upon adoption.

ADOPTED on the 7th day of December, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

**NEW CONSTRUCTION ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ABILENE AND**

This Economic Development Agreement ("Agreement") is effective as of the 7th day of December, 2023 ("Effective Date"), by and between Thornton Custom Homes, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

RECITALS

WHEREAS, the Developer intends to acquire, or has acquired, fee simple ownership of 2634 N. Willis St., in Abilene, Taylor County, Texas (the "Project Area"); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192-2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City's commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible "project" and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City; and

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

I. AUTHORITY

- 1.01 The Agreement is authorized by state law, including but not limited Chapter 380 of the Texas Local Government Code, and is within the authority of the City and constitutes a legal and binding obligation of the City.
- 1.02 The Developer's execution and performance of this Agreement constitutes a valid and binding obligation of the Developer.
- 1.03 The factual recitals and findings set forth above are found to be true and correct for all purposes, and are incorporated into this Agreement.

II. DEFINITIONS

- 2.01. **Program** means the economic development program identified in Article IV herein and established by the City pursuant to this Agreement.
- 2.02. **Developer** means Thurston Custom Homes, its successors or assigns.

III. TERM

- 3.01 This Agreement shall be effective as of the date of execution of both parties. This Agreement shall remain in full force and effect until the earlier of: (A) each party hereto has completed their respective obligations hereunder; or (B) twelve months from the Effective Date ("Term").

IV. ECONOMIC DEVELOPMENT PROGRAM

- 4.01 Upon Developer's completion of its obligations and duties set forth in this Agreement, the City shall pay the Developer the following incentives:
 - a. Payable at the time of closing of the interim construction financing to the participating eligible lender, on behalf of the Developer, a ten (10%) percent equity contribution of the total interim financing needed for the single-family construction. Lender eligibility is based solely on City accepting the lender into the Rebuild ABI program.
 - b. Payable at the time of closing of the final buyer, a five (5%) percent completion grant will be paid to the Developer, such grant being equal to five(5%) percent of the amount

of the sales price of the home, and the home sales price shall not exceed a maximum price of \$203,000.00.

- c. In addition to the equity contribution and completion grant authorized above, the City shall provide without cost to the Developer, at the sole discretion of the City, one or more the following: (1) waiver of construction related City permits and fees, (2) utility taps, (3) sidewalks, (4) roll-off containers and two tips, and (4) demolition of existing structures.

- 4.02 In the event the Developer chooses not to use a participating eligible lender, the Developer is eligible to receive a fifteen (15%) percent incentive, payable at the time of closing of the final buyer. Additionally, the Developer is eligible to receive the incentives listed in 4.01(c).

V. DEVELOPER'S OBLIGATIONS AND DUTIES

The Developer shall perform, or cause to be performed, the construction of the improvements set forth in **Exhibit A – "Public and Private Improvements"** on or before the expiration of this agreement. Additionally::

- 5.01 The Developer shall be a member of the Big Country Home Builder's Association as of the effective date of this Agreement, and during the term of this Agreement.
- 5.02 The Developer shall construct, at its expense, the improvements identified on **Exhibit A – "Public and Private Improvements"** in accordance with all applicable laws and regulations, including but not limited to the City's current residential building code and residential energy code.
- 5.03 The Developer shall purchase all building materials from a business located within the corporate boundaries of the City of Abilene, and pay all applicable local sales and use taxes to the City of Abilene. Upon request of the City, Developer shall promptly provide written documentation of compliance with this requirement, such written documentation being receipts or other documentation as agreed to by the City.
- 5.04 The Developer shall require the final buyer of the residence to sign an affidavit at closing that the buyer intends to occupy the residence as their legal homestead in the State of Texas and that it shall serve as their primary residence for a period of 2 (two) years following closing.

- 5.05 The Developer shall construct the new construction within the existing Neighborhood Empowerment Zones of the City, or shall receive written approval from the City Manager, or his or her designee to build the home on a specific lot north of South 27th Street.

VI. CITY OBLIGATIONS AND DUTIES

- 6.01 Pay the Economic Incentives to Developer pursuant to the terms and conditions of this Agreement.

VII. DEFAULT

- 7.01 If any party should default upon any terms or obligations with respect to this Agreement (“Defaulting Party”), the other party (“Complaining Party”) shall provide written notice of the default and shall reasonably include the actions required to cure such default. If the Defaulting Party cures the default within thirty (30) days after notice of default is received (“Cure Period”), or commences to cure default within said thirty (30) days and diligently pursues the cure to its conclusion, then this Agreement shall continue as if no default occurred.
- 7.02 In the event that the Defaulting Party fails to cure the default as required by Section 7.01 above, the Complaining Party may, by action or proceeding at law or in equity, be awarded damages and/or specific performance for such default, including reasonable attorney’s fees and costs.

VIII. GENERAL PROVISIONS

- 8.01 **DEVELOPER COVENANTS AND AGREES TO AND DOES HEREBY FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY, INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE CONSTRUCTION OF THE PUBLIC IMPROVEMENTS. IN ADDITION, DEVELOPER COVENANTS TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF INJURIES OR DAMAGES TO PERSONS OR PROPERTY,**

INCLUDING DEATH, RESULTING FROM THE FAILURE OF DEVELOPER OR ITS CONTRACTORS AND SUBCONTRACTORS TO PROPERLY SAFEGUARD THE WORK, ON ACCOUNT OF ANY ACTS, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF DEVELOPER, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS, SERVANTS OR EMPLOYEES.

- 8.02 If any provision of this Agreement, or a portion thereof, or the application thereof to any person or circumstances shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Agreement, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 8.03 This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Taylor County, Texas.
- 8.04 Developer shall not assign this Agreement without the express written consent of the City.
- 8.05 Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render any of said parties liable for the debts or obligations of any other of said parties.
- 8.06 Except as otherwise expressly provided herein, this Agreement may only be amended, modified or terminated by a declaration in writing, executed and acknowledged by all the parties to this Agreement.
- 8.07 This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein, and supersedes all prior discussions and agreements between the parties.
- 8.08 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.09 In the event any legal proceeding is commenced to enforce or interpret provisions of this Agreement, the prevailing party in any such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE
FOLLOWS.]

AGREED:

DEVELOPER

Thornton Custom Homes
60 Pinehurst
Abilene, TX 79606

By: Trey Thornton

Name: Trey Thornton

Its: owner

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

STATE OF TEXAS

)

ACKNOWLEDGEMENT

COUNTY OF Taylor

)

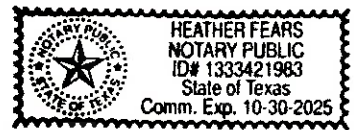
This instrument was acknowledged before me on the 20th day of November, 2023, by
Tim Littlejohn, in his or her capacity as Director of
Planning and Dev. Services.

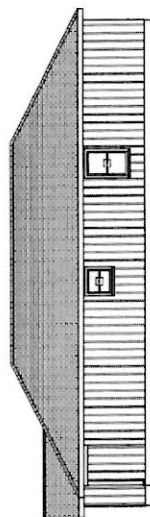
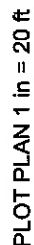
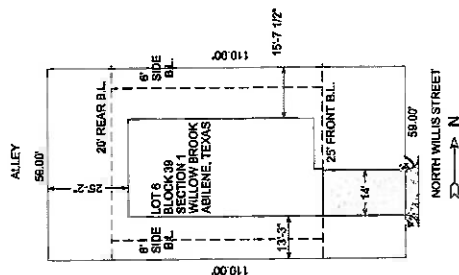
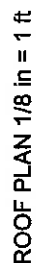
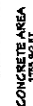
Heather Fears
Notary Public in and for
the State of Texas

Exhibit "A" – Public and Private Improvements

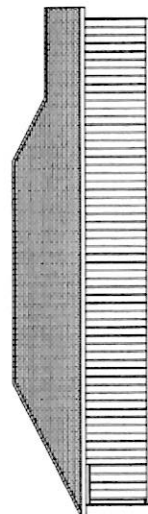
Project:

See attachment – building plans and building permit submittal requirements.

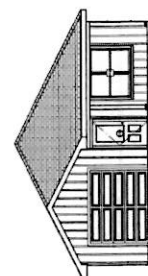




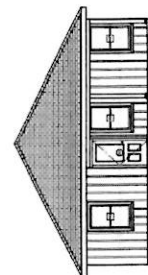
RIGHT ELEVATION



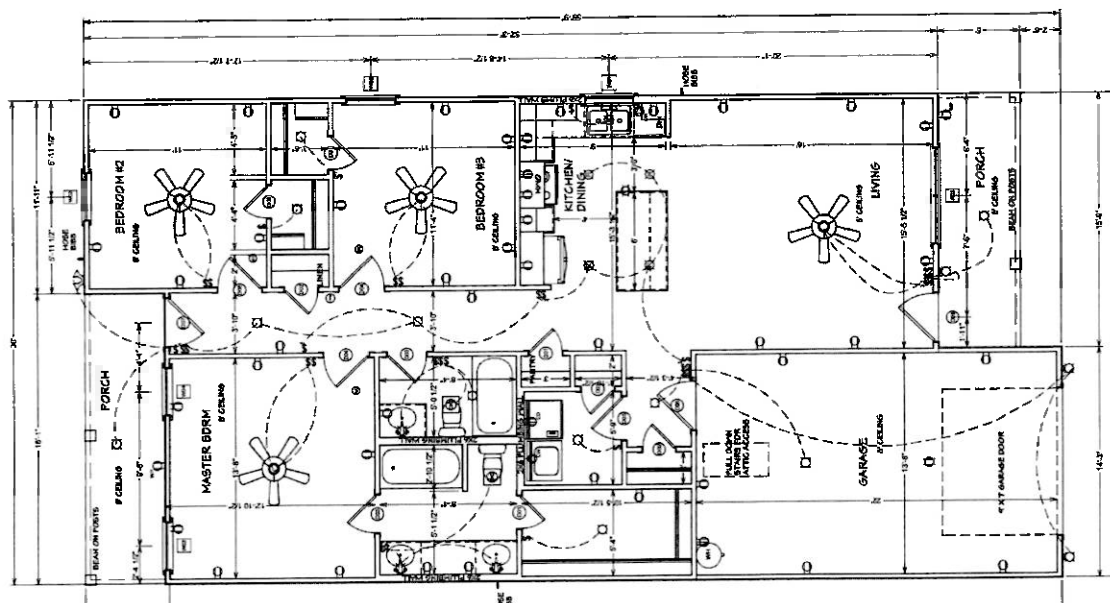
LEFT ELEVATION



FRONT ELEVATION 1/8 in = 1 ft



REAR ELEVATION



NOTES:

1. ALL 8' PLATES.
2. HVAC IN ATTIC.
3. VERIFY ALL DIMENSIONS, NOTATIONS, AND DESIGN FOR ACCURACY BEFORE BEGINNING CONSTRUCTION.
4. STUD WALLS DIMENSIONED AT 3-1/2".

1. STUD WALLS DIMENSIONED AT 3-1/2".

WING CO ET: 1370

PORCHES: 169

GARAGE: 314
TOTAL SIAB SQ FT: 1751

TOTAL SLAB SQ FT: 1753

[illegible]

WINDOW SCHEDULE	
TY	SIZE X HP COMMENTS TYPE
1	3000 E4 SINGLE HUNG
2	3000 E4 SINGLE HUNG
3	3000 E4 SINGLE HUNG
4	3000 E4 SINGLE HUNG
5	3000 E4 SINGLE HUNG
6	3000 E4 SINGLE HUNG
7	3000 E4 SINGLE HUNG
8	3000 E4 SINGLE HUNG
9	3000 E4 SINGLE HUNG
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96	3000 E4 SINGLE HUNG
97	3000 E4 SINGLE HUNG
98	3000 E4 SINGLE HUNG
99	3000 E4 SINGLE HUNG
100	3000 E4 SINGLE HUNG

DOOR PLAN 1/4 in = 1 ft

City of Abilene, TX

555 Walnut St
Abilene, TX 79604

Ph: (325) 676-6273

New Single Family Residence

#23-006905

Project Description: new home construction *empowerment zone



Issued on: 11/01/2023 at 3:55 PM by: Marissa Gonzalez

ADDRESS

2634 N Willis St
Abilene, TX 79603

LEGAL

Willow Brook Sec 1 Blk
Block 39 Lot Lot 6
Willow Brook Sec 1,
Block 39, Lot 6

PERMIT HOLDER

Trey Thornton
Thornton Custom Homes
(325) 669-4227

COLLABORATORS

- Gregory Bradley
Bradley Company
(325) 668-1157
- Henry R Sanchez
HRS Business Inc
(325) 690-1818
- TOVIA Grynewicz
T&T Plumbing
(325) 529-3162
- Trey Thornton
Thornton Custom
Homes
(325) 669-4227

OWNERS

- Tlc Condos Llc

INSPECTIONS**16**

- | | |
|--|--|
| 1. Building-Electrical Temporary Pole (R) | 9. Building Permit - Plumbing Top-Out (R) |
| 2. Building- Plumbing Rough-In (R) | 10. Building Framing (R) |
| 3. Driveway Approach (R) | 11. Insulation Inspection |
| 4. Electrical Ufer-Under slab rough | 12. Building-Electrical Meter Release (R) |
| 5. Form Board Survey / Elevation Certificate (R) | 13. Building-Electrical Final (R) |
| 6. Building Foundation (R) | 14. Building Permit - Mechanical Final (R) |
| 7. Building-Electrical Rough-In (R) | 15. Building Permit - Plumbing Final (R) |
| 8. Building Permit - Mechanical Rough-In (R) | 16. Building / Energy Final |

INFORMATION FIELDS

Plasticity Index	25
18" Above Gutter, Grade:	na
Water Meter Existing?	NO
Supplier	City
Residential Water Meter	3/4"
Sanitary Sewer	City
GAS Service	NO
Supplier	AEP
Building - Spray Foam	NO (Using Prescriptive Method)
Square Feet - 1st Floor: Living	1270
Square Feet - 1st Floor: Porch	169
Square Feet - Garage	314
Total Square Footage	1584
Declared Value	\$ 199,000.00
Structure (R) Type	One-Two Family
Structure Setback: Front (curb)	35
Structure Setback: Front (property line)	25
Structure Setback: Rear	20' Minimum

**INFORMATION FIELDS**

Structure Setback: Side (N S W E)	6' Minimum
Structure Setback: Side (N S E W)	6' Minimum
Building Permit. - Agree to Terms	Yes
Total length of sidewalk?	59'
Amount of Fee Waived	\$ 1,159.40
Located within the Empowerment Zone?	NO
Building. - Flood Plain	Yes (Elevation Certificate Required)
Address correction needed?	Yes
Parkway Width	10' Minimum
Building Height	35' Maximum
Zoning	RS-6
Sidewalks requirement	YES

Zoning Plan Review Comments

(1) Max lot coverage 3245 sq. ft. (2) A paved parking apron (may require curb cut permit from public works dept.) must be installed on-site big enough to fit two automobiles parked side by side (18' W x 20' L) or end to end (10' W x 36' L), and connect with the street. BE ADVISED: The MINIMUM driveway approach width is 10-feet and the MAXIMUM driveway approach width is 20-feet. (3) Additional Engineering requirements may be needed for the driveway. KH

Building - Flood Plain	Yes
Elevation Certificate needed?	YES

Plan Review Comments

Minimum bottom floor elevation is 1686.6', elevation certificate is required prior to CO 1) Form board survey inspection will be required prior to foundation inspection. Foundation inspection required prior to pouring any concrete. 2) At least one Emergency Escape and Rescue Opening Required in every sleeping room. See R310 3) Energy- All exterior walls shall have a minimum R-13 insulation; Ceiling shall have a minimum of R-38 Windows shall have a u-value .30; SHGC .30; See Table R402.1.4 IECC 4) All other requirements to meet the City of Abilene Residential building code. -MG

The granting of this permit does not presume to give authority to violate or cancel the provisions of City, State, or other local laws regulating construction or the performance of construction. All provisions, laws, and ordinances governing this type of work shall be complied with, whether specified or not and shall be enforced at any and all times.

City Council Meeting

Economic Development Agreement

2634 N Willis St





- Thornton Custom Homes is proposing to build a newly constructed affordable home located at 2634 N Willis St
- Home is approximately 1584 sq.ft.
- 3 bedroom, 2 bathroom, and 1 car garage
- Estimated sales price will not be above \$203,000





QUESTIONS





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: 12. Resolution: Receive a Report, Hold a Discussion and Take Action on a Rebuild ABI Chapter 380 Economic Development Agreement between the City of Abilene and Thornton Custom Homes for 2633 N Willis St. (Tim Littlejohn)

GENERAL INFORMATION

Thornton Custom Homes is constructing a new affordable home located at 2633 N Willis St.

SPECIAL CONSIDERATIONS

N/A

FUNDING/FISCAL IMPACT

Approximately \$30,450

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. RESOLUTION 2633 N Willis St
2. 2633 N Willis agreement
3. City Council Presentation 2633 N Willis St

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING
A CHAPTER 380 AGREEMENT BETWEEN THE CITY OF ABILENE AND THORNTON
CUSTOM HOMES**

This Economic Development Agreement (“Agreement”) is effective as of the 7th day of December, 2023 (“Effective Date”), by and between Thornton Custom Homes, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

WHEREAS, the City of Abilene adopted Resolution 192-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the City has adopted Resolution No. 192-2023 which created the Rebuild ABI program; and

WHEREAS, the Developer intends to acquire, or has acquired, fee simple ownership of 2633 N Willis St, in Abilene, Taylor County, Texas (the “Project Area”); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

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PART 2: That this Resolution becomes effective immediately upon adoption.

ADOPTED on the 7th day of December, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

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IV. ECONOMIC DEVELOPMENT PROGRAM

- 4.01 Upon Developer's completion of its obligations and duties set forth in this Agreement, the City shall pay the Developer the following incentives:
 - a. Payable at the time of closing of the interim construction financing to the participating eligible lender, on behalf of the Developer, a ten (10%) percent equity contribution of the total interim financing needed for the single-family construction. Lender eligibility is based solely on City accepting the lender into the Rebuild ABI program.
 - b. Payable at the time of closing of the final buyer, a five (5%) percent completion grant will be paid to the Developer, such grant being equal to five(5%) percent of the amount

of the sales price of the home, and the home sales price shall not exceed a maximum price of \$203,000.00.

- c. In addition to the equity contribution and completion grant authorized above, the City shall provide without cost to the Developer, at the sole discretion of the City, one or more the following: (1) waiver of construction related City permits and fees, (2) utility taps, (3) sidewalks, (4) roll-off containers and two tips, and (4) demolition of existing structures.

- 4.02 In the event the Developer chooses not to use a participating eligible lender, the Developer is eligible to receive a fifteen (15%) percent incentive, payable at the time of closing of the final buyer. Additionally, the Developer is eligible to receive the incentives listed in 4.01(c).

V. DEVELOPER'S OBLIGATIONS AND DUTIES

The Developer shall perform, or cause to be performed, the construction of the improvements set forth in **Exhibit A – "Public and Private Improvements"** on or before the expiration of this agreement. Additionally::

- 5.01 The Developer shall be a member of the Big Country Home Builder's Association as of the effective date of this Agreement, and during the term of this Agreement.
- 5.02 The Developer shall construct, at its expense, the improvements identified on **Exhibit A – "Public and Private Improvements"** in accordance with all applicable laws and regulations, including but not limited to the City's current residential building code and residential energy code.
- 5.03 The Developer shall purchase all building materials from a business located within the corporate boundaries of the City of Abilene, and pay all applicable local sales and use taxes to the City of Abilene. Upon request of the City, Developer shall promptly provide written documentation of compliance with this requirement, such written documentation being receipts or other documentation as agreed to by the City.
- 5.04 The Developer shall require the final buyer of the residence to sign an affidavit at closing that the buyer intends to occupy the residence as their legal homestead in the State of Texas and that it shall serve as their primary residence for a period of 2 (two) years following closing.

- 5.05 The Developer shall construct the new construction within the existing Neighborhood Empowerment Zones of the City, or shall receive written approval from the City Manager, or his or her designee to build the home on a specific lot north of South 27th Street.

VI. CITY OBLIGATIONS AND DUTIES

- 6.01 Pay the Economic Incentives to Developer pursuant to the terms and conditions of this Agreement.

VII. DEFAULT

- 7.01 If any party should default upon any terms or obligations with respect to this Agreement (“Defaulting Party”), the other party (“Complaining Party”) shall provide written notice of the default and shall reasonably include the actions required to cure such default. If the Defaulting Party cures the default within thirty (30) days after notice of default is received (“Cure Period”), or commences to cure default within said thirty (30) days and diligently pursues the cure to its conclusion, then this Agreement shall continue as if no default occurred.
- 7.02 In the event that the Defaulting Party fails to cure the default as required by Section 7.01 above, the Complaining Party may, by action or proceeding at law or in equity, be awarded damages and/or specific performance for such default, including reasonable attorney’s fees and costs.

VIII. GENERAL PROVISIONS

- 8.01 **DEVELOPER COVENANTS AND AGREES TO AND DOES HEREBY FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY, INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE CONSTRUCTION OF THE PUBLIC IMPROVEMENTS. IN ADDITION, DEVELOPER COVENANTS TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF INJURIES OR DAMAGES TO PERSONS OR PROPERTY,**

INCLUDING DEATH, RESULTING FROM THE FAILURE OF DEVELOPER OR ITS CONTRACTORS AND SUBCONTRACTORS TO PROPERLY SAFEGUARD THE WORK, ON ACCOUNT OF ANY ACTS, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF DEVELOPER, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS, SERVANTS OR EMPLOYEES.

- 8.02 If any provision of this Agreement, or a portion thereof, or the application thereof to any person or circumstances shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Agreement, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 8.03 This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Taylor County, Texas.
- 8.04 Developer shall not assign this Agreement without the express written consent of the City.
- 8.05 Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render any of said parties liable for the debts or obligations of any other of said parties.
- 8.06 Except as otherwise expressly provided herein, this Agreement may only be amended, modified or terminated by a declaration in writing, executed and acknowledged by all the parties to this Agreement.
- 8.07 This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein, and supersedes all prior discussions and agreements between the parties.
- 8.08 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.09 In the event any legal proceeding is commenced to enforce or interpret provisions of this Agreement, the prevailing party in any such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE
FOLLOWS.]

AGREED:

DEVELOPER

Thornton Custom Homes
60 Pinehurst
Abilene, TX 79606

By: Trey Thornton

Name: Trey Thornton

Its: owner

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

STATE OF TEXAS)
)
COUNTY OF Taylor) ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 26 day of November, 2023, by
Tim Livingston, in his or her capacity as Director of
Planning and Dev Services.

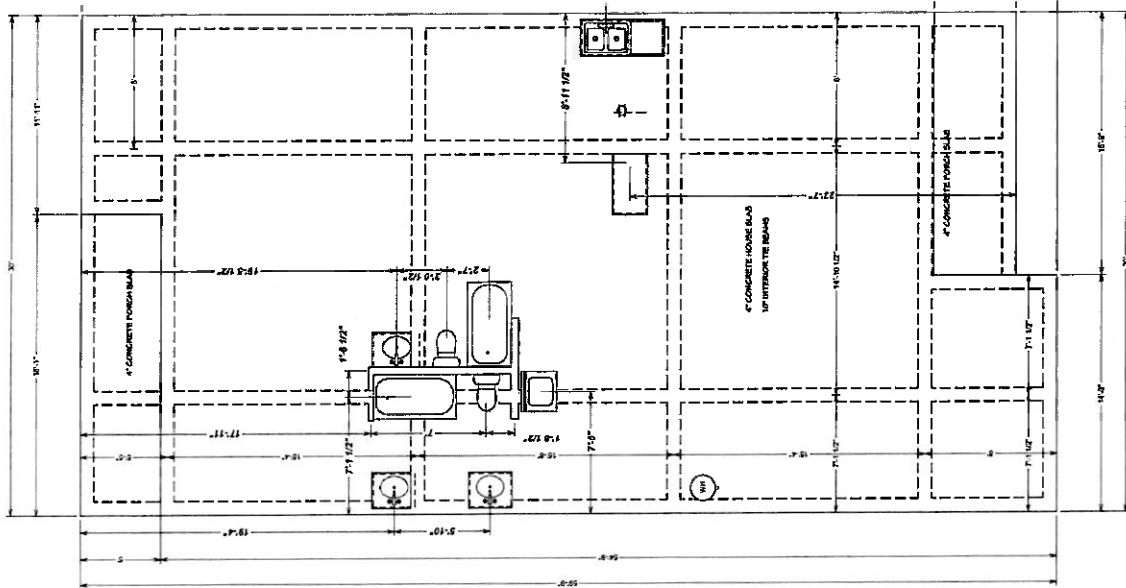
Heather Fears
Notary Public in and for
the State of Texas

Exhibit "A" – Public and Private Improvements

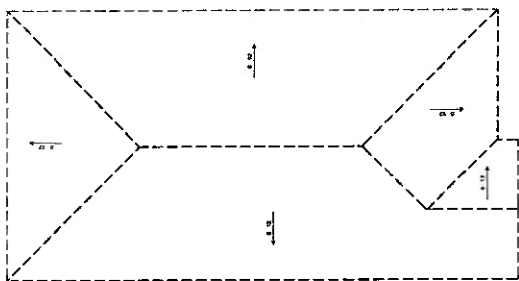
Project:

See attachment – building plans and building permit submittal requirements.

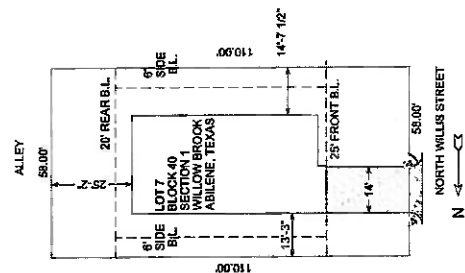




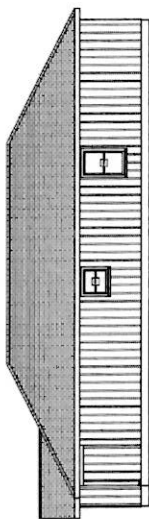
CONCRETE AREA
125 SQ. FT.



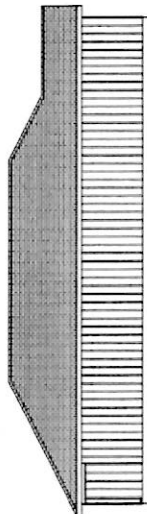
ROOF PLAN 1/8 in = 1 ft



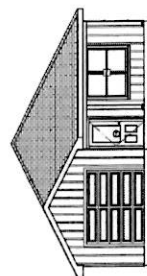
PLOT PLAN 1 in = 20 ft



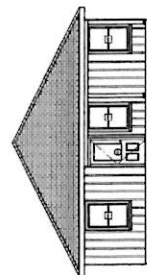
RIGHT ELEVATION



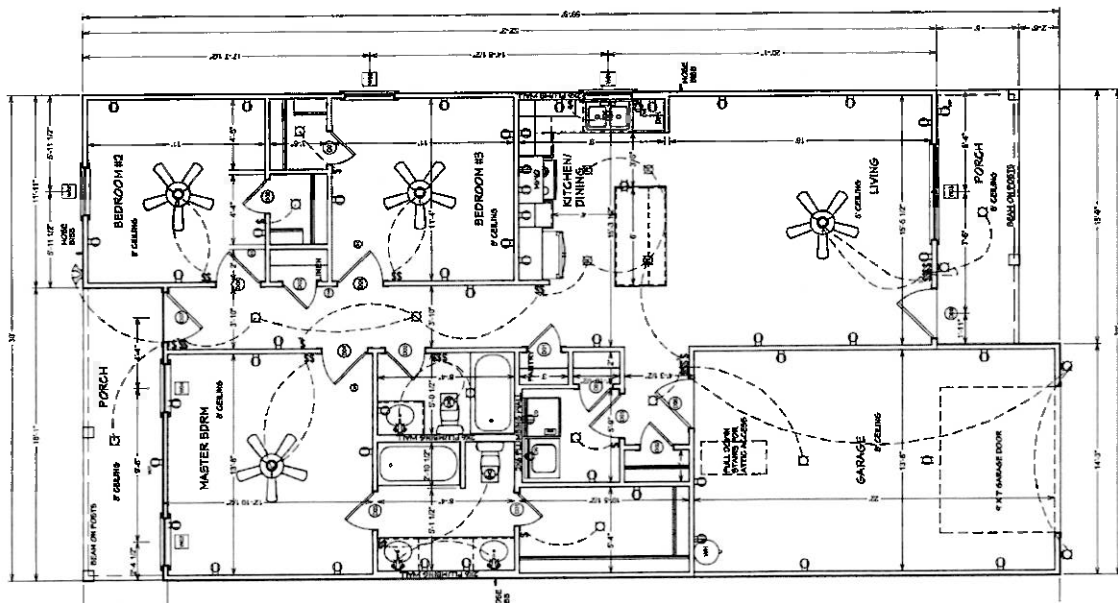
LEFT ELEVATION



FRONT ELEVATION 1/8 in = 1 ft



REAR ELEVATION



NOTES:

1. ALL 8" SLATES
2. HVAC IN ATTIC
3. VERIFY ALL DIMENSIONS, NOTATIONS, AND DESIGN FOR ACCURACY BEFORE BEGINNING CONSTRUCTION
4. STUD WALLS DIMENSIONED AT 3-1/2"

LIVING SQ FT: 1270
PORCHES: 169
TOTAL SQ. FT.: 1439

NO.	DESCRIPTION	QUANTITY	UNIT
1	8" SLATES	1270	SQ. FT.
2	8" SLATES	169	SQ. FT.
3	8" SLATES	1270	SQ. FT.
4	8" SLATES	169	SQ. FT.
5	8" SLATES	1270	SQ. FT.
6	8" SLATES	169	SQ. FT.
7	8" SLATES	1270	SQ. FT.
8	8" SLATES	169	SQ. FT.
9	8" SLATES	1270	SQ. FT.
10	8" SLATES	169	SQ. FT.

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9	8" SLATES	1270	SQ. FT.
10	8" SLATES	169	SQ. FT.

DOOR PLAN 1/4 in = 1 ft

City Council Meeting

Economic Development Agreement

2633 N Willis St





- Thornton Custom Homes is proposing to build a newly constructed affordable home located at 2633 N Willis St
- Home is approximately 1584 sq.ft.
- 3 bedroom, 2 bathroom, and 1 car garage
- Estimated sales price will not be above \$203,000





QUESTIONS





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: 13. Resolution: Receive a Report, Hold a Discussion and Take Action on a Rebuild ABI Chapter 380 Economic Development Agreement between the City of Abilene and Thornton Custom Homes for 2641 N Willis St. (Tim Littlejohn)

GENERAL INFORMATION

Economic Development agreement for RebuildABI located at 2641 N Willis St. where a new affordable house will be constructed

SPECIAL CONSIDERATIONS

N/A

FUNDING/FISCAL IMPACT

Approximately \$30,450

STAFF RECOMMENDATION

Approve

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. RESOLUTION 2641 N Willis St
2. 2641 N Willis agreement
3. City Council Presentation 2641 N Willis St

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING
A CHAPTER 380 AGREEMENT BETWEEN THE CITY OF ABILENE AND THORNTON
CUSTOM HOMES**

This Economic Development Agreement (“Agreement”) is effective as of the 7th day of December, 2023 (“Effective Date”), by and between Thornton Custom Homes, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

WHEREAS, the City of Abilene adopted Resolution 192-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the City has adopted Resolution No. 192-2023 which created the Rebuild ABI program; and

WHEREAS, the Developer intends to acquire, or has acquired, fee simple ownership of 2641 N Willis St, in Abilene, Taylor County, Texas (the “Project Area”); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192-2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City’s commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible “project” and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE TEXAS:

PART 1: That the City of Abilene approves the Rebuild ABI economic development agreement upon the terms and conditions as set forth in Exhibit A attached hereto.

PART 2: That this Resolution becomes effective immediately upon adoption.

ADOPTED on the 7th day of December, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

**NEW CONSTRUCTION ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ABILENE AND**

This Economic Development Agreement ("Agreement") is effective as of the 7th day of December, 2023 ("Effective Date"), by and between Thornton Custom Homes, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

RECITALS

WHEREAS, the Developer intends to acquire, or has acquired, fee simple ownership of 2641 N. Willis St., in Abilene, Taylor County, Texas (the "Project Area"); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192 - 2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City's commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible "project" and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City; and

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

I. AUTHORITY

- 1.01 The Agreement is authorized by state law, including but not limited Chapter 380 of the Texas Local Government Code, and is within the authority of the City and constitutes a legal and binding obligation of the City.
- 1.02 The Developer's execution and performance of this Agreement constitutes a valid and binding obligation of the Developer.
- 1.03 The factual recitals and findings set forth above are found to be true and correct for all purposes, and are incorporated into this Agreement.

II. DEFINITIONS

- 2.01. **Program** means the economic development program identified in Article IV herein and established by the City pursuant to this Agreement.
- 2.02. **Developer** means Thornston Custom Homes, its successors or assigns.

III. TERM

- 3.01 This Agreement shall be effective as of the date of execution of both parties. This Agreement shall remain in full force and effect until the earlier of: (A) each party hereto has completed their respective obligations hereunder; or (B) twelve months from the Effective Date ("Term").

IV. ECONOMIC DEVELOPMENT PROGRAM

- 4.01 Upon Developer's completion of its obligations and duties set forth in this Agreement, the City shall pay the Developer the following incentives:
 - a. Payable at the time of closing of the interim construction financing to the participating eligible lender, on behalf of the Developer, a ten (10%) percent equity contribution of the total interim financing needed for the single-family construction. Lender eligibility is based solely on City accepting the lender into the Rebuild ABI program.
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of the sales price of the home, and the home sales price shall not exceed a maximum price of \$203,000.00.

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V. DEVELOPER'S OBLIGATIONS AND DUTIES

The Developer shall perform, or cause to be performed, the construction of the improvements set forth in **Exhibit A – "Public and Private Improvements"** on or before the expiration of this agreement. Additionally::

- 5.01 The Developer shall be a member of the Big Country Home Builder's Association as of the effective date of this Agreement, and during the term of this Agreement.
- 5.02 The Developer shall construct, at its expense, the improvements identified on **Exhibit A – "Public and Private Improvements"** in accordance with all applicable laws and regulations, including but not limited to the City's current residential building code and residential energy code.
- 5.03 The Developer shall purchase all building materials from a business located within the corporate boundaries of the City of Abilene, and pay all applicable local sales and use taxes to the City of Abilene. Upon request of the City, Developer shall promptly provide written documentation of compliance with this requirement, such written documentation being receipts or other documentation as agreed to by the City.
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INCLUDING DEATH, RESULTING FROM THE FAILURE OF DEVELOPER OR ITS CONTRACTORS AND SUBCONTRACTORS TO PROPERLY SAFEGUARD THE WORK, ON ACCOUNT OF ANY ACTS, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF DEVELOPER, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS, SERVANTS OR EMPLOYEES.

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[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE
FOLLOWS.]

AGREED:

DEVELOPER

Thornton Custom Homes
60 Pinhurst St
Abilene, TX 79606

By: Trey Thornton

Name: Trey Thornton

Its: owner

CITY OF ABILENE

ATTEST:

City Manager City Secretary

APPROVED AS TO FORM:

City Attorney

STATE OF TEXAS

)

ACKNOWLEDGEMENT

)

COUNTY OF Taylor

)

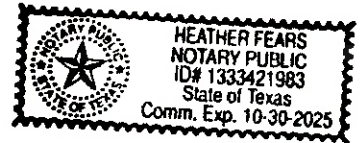
This instrument was acknowledged before me on the 20th day of November, 20213, by
Tim Lutzke, in his or her capacity as Director of
Planning & Dev Services.

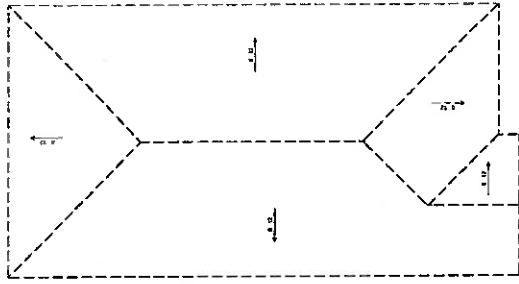
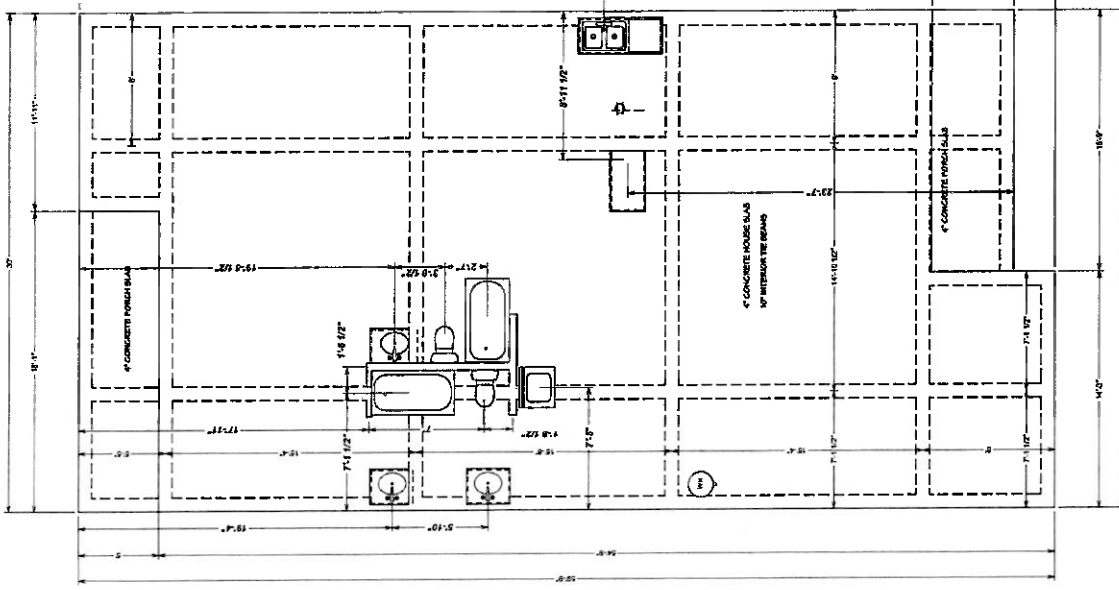
Heather Fears
Notary Public in and for
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Exhibit "A" – Public and Private Improvements

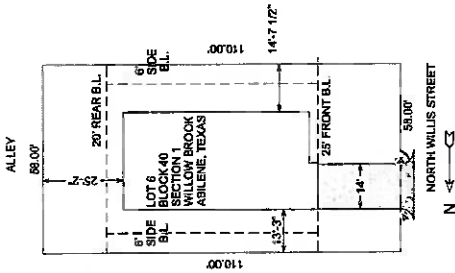
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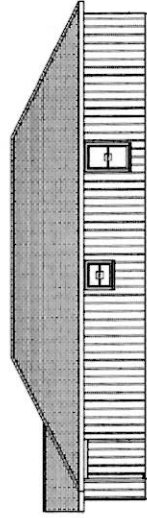




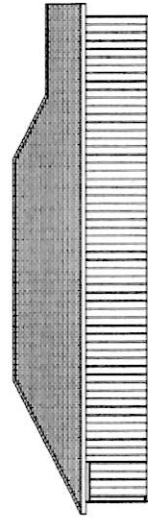
ROOF PLAN 1/8 in = 1 ft



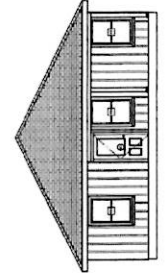
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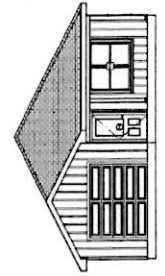
RIGHT ELEVATION



LEFT ELEVATION



REAR ELEVATION



FRONT ELEVATION 1/8 in = 1 ft

- NOTES:
1. ALL 8" PLATES.
 2. HVAC IN ATTIC.
 3. VERIFY ALL DIMENSIONS, NOTATIONS, AND DESIGN FOR ACCURACY BEFORE BEGINNING CONSTRUCTION.
 4. STUD WALLS DIMENSIONED AT 3'-4 1/2".

LIVING SQ. FT.: 1270
PORCHES: 169
GARAGE: 154
TOTAL SQ. FT.: 1593

DOOR SCHEDULE			
NO.	SIZE	TYPE	QTY.
1	36" X 80" IN	HINGED	1
2	36" X 80" IN	HINGED	1
3	36" X 80" IN	HINGED	1
4	36" X 80" IN	HINGED	1
5	36" X 80" IN	HINGED	1
6	36" X 80" IN	HINGED	1
7	36" X 80" IN	HINGED	1
8	36" X 80" IN	HINGED	1
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13	36" X 80" IN	HINGED	1
14	36" X 80" IN	HINGED	1
15	36" X 80" IN	HINGED	1
16	36" X 80" IN	HINGED	1
17	36" X 80" IN	HINGED	1
18	36" X 80" IN	HINGED	1
19	36" X 80" IN	HINGED	1
20	36" X 80" IN	HINGED	1
21	36" X 80" IN	HINGED	1
22	36" X 80" IN	HINGED	1
23	36" X 80" IN	HINGED	1
24	36" X 80" IN	HINGED	1
25	36" X 80" IN	HINGED	1
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40	36" X 80" IN	HINGED	1
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City Council Meeting

Economic Development Agreement

2641 N Willis St





- Thornton Custom Homes is proposing to build a newly constructed affordable home located at 2641 N Willis St
- Home is approximately 1584 sq.ft.
- 3 bedroom, 2 bathroom, and 1 car garage
- Estimated sales price will not be above \$203,000





QUESTIONS





City Council Agenda Memo

City Council Meeting Date: 12/7/2023

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: **14. Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action, regarding recommendations from the Sanctuary City for the Unborn Ordinance Amendment Committee, to Amend Chapter 20, "Offenses," Article VIII, "Abortion," Section 20-86, "Definitions," and Section 20-87, "Abortion Prohibited," Code of Ordinances *(Stanley Smith)*

GENERAL INFORMATION

On November 8, 2022, as part of a Special Election held by the City of Abilene, a majority of Abilene voters approved the Sanctuary City for the Unborn Ordinance. The Ordinance is codified as Chapter 20, Article VIII, of the Code of Ordinances, City of Abilene.

Since the adoption of the Ordinance, citizens within Abilene have discussed the effect of the Ordinance. Thereafter, the City Council held a public meeting regarding the possibility of amending the Ordinance to address questions raised by citizens. The Mayor appointed a five-member Committee to review the Ordinance and make any recommendations to the City Council to amend the Ordinance.

This Agenda item is to present the recommendations made by the Committee, and to consider amending the Ordinance based upon those recommendations of the Committee.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2023 Amend Sanctuary City for the Unborn Ordinance
2. SCFU Changes
3. Mark Dickson email - proposed changes 071123
4. 059-2022 - Outlawing Abortion, Declaring Abilene A Sanctuary City for the Unborn
5. Amend Sanctuary City for the Unborn Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 20, "OFFENSES," ARTICLE VIII. "ABORTION," SECTION 20-86, "DEFINITIONS," AND SECTION 20-87, "ABORTION PROHIBITED" OF THE ABILENE CODE OF ORDINANCES AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, on November 8, 2022, as part of a Special Election held by the City of Abilene, a majority of Abilene voters approved the Sanctuary City for the Unborn Ordinance; and

WHEREAS, the Ordinance is codified as Chapter 20, Article VIII, of the Code of Ordinances, City of Abilene; and

WHEREAS, since the adoption of the Ordinance, citizens within Abilene have discussed the effect of the Ordinance; and

WHEREAS, City Council held a public meeting regarding the possibility of amending the Ordinance to address questions raised by citizens, and the Mayor appointed a five-member Committee to review the Ordinance and make any recommendations to the City Council to amend the Ordinance; and

WHEREAS, the Committee is making a recommendation to amend some portions of the Ordinance.

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

- PART 1:** That Chapter 20, "Offenses," Article VIII, "Abortion," Section 20-86, "Definitions," and Section 20-87, "Abortion Prohibited: is hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this amended ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance, shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code

PART 4: 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, or as specifically provided for in this ordinance. That each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 7th day of December, 2023.

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 December, 2023, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 21st day of December, 2023, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 21st day of December, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

Declarations, B3:

~~(3) Abortion inducing drugs are declared to be contraband, and we declare the possession of abortion inducing drugs within city limits to be an unlawful act.~~

(3) Abortion-inducing drugs are declared to be contraband if used for the purpose of the termination of an unborn child, and we declare the possession of abortion-inducing drugs used for the purpose of the termination of an unborn child within city limits to be an unlawful act.

ARTICLE VIII. - ABORTION

Sec. 20-86. - Definitions.

(a) For the purposes of this article, the following definitions shall apply:

(1) "Abortion" means the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. An act is not an abortion if the act is done with the intent to:

- a. Save the life or preserve the health of an unborn child;
- b. Remove a dead, unborn child whose death was caused by ~~accidental~~ spontaneous miscarriage; or
- c. Remove an ectopic pregnancy.

(2) "Unborn child" means a natural person from the moment of conception who has not yet completely left the womb.

~~(3) "Abortion-inducing drugs" includes mifepristone, misoprostol, and any drug or medication that is used to terminate the life of an unborn child. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. The term also does not include drugs or medications that are possessed or distributed for a purpose that does not include the termination of a pregnancy.~~

(3) "Abortion-inducing drugs" includes any drug or medication, irrespective of medically intended use, either on or off label, that is used to terminate the life of an unborn child. The term does not include:

- (A) Plan B, morning-after pills, intrauterine devices, or any other type of contraception or emergency contraception; or
- (B) Drugs or medications that are possessed or distributed for a purpose other than the termination of a pregnancy.
- (C) For purpose of this section:
 1. "Medically intended use" refers to the mechanism of action and general purpose of the drug.

2. "On Label" refers to the prescription or use of a drug for the purpose approved by the United States' Food and Drug Administration.

3. "Off Label" refers to the prescription or use of a drug for a different purpose than what the United States' Food and Drug Administration approved.

(Ord. No. 59-2022, § C, 11-8-22)

Sec. 20-87. - Abortion prohibited.

(a) It shall be unlawful for any person to procure or perform an abortion of any type and at any stage of pregnancy in the City of Abilene, Texas.

(b) It shall be unlawful for any person to knowingly aid or abet an abortion that occurs in the City of Abilene, Texas. This section does not prohibit referring a patient to have an abortion which takes place outside the City limits of Abilene, Texas. The prohibition in this section includes, but is not limited to, the following acts:

- (1) Knowingly providing transportation to or from an abortion provider;
- (2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;
- (3) Providing money with the knowledge that it will be used to pay for an abortion or the costs associated with procuring an abortion;
- (4) Providing or arranging for insurance coverage of an abortion;
- (5) Providing "abortion doula" services; and
- (6) Coercing or pressuring a pregnant mother to have an abortion against her will.

(c) It shall be an affirmative defense to the unlawful acts described in subsections (a) and (b) if the abortion was in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

~~(d) It shall be unlawful for any person to possess or distribute abortion-inducing drugs in the City of Abilene, Texas.~~

(d) It shall be unlawful for any person to possess or distribute abortion-inducing drugs for the purpose of the termination of an unborn child in the city of Abilene, Texas.

(e) No provision of this section may be construed to prohibit any action which occurs outside of the jurisdiction of the City of Abilene, Texas.

(f) No provision of this section may be construed to prohibit any conduct protected by the First Amendment of the U.S. Constitution, as made applicable to state and local governments through the

Supreme Court's interpretation of the Fourteenth Amendment, or by Article 1, Section 8 of the Texas Constitution.

(g) Under no circumstance may the mother of the unborn child that has been aborted, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(h) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(i) Neither the City of Abilene, nor any of its officers or employees, nor any District or County Attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in subsection (h) unless and until:

(1) The Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in subsection (h) will not impose an "undue burden" on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in subsection (h) lacks third-party standing to assert the rights of women seeking abortions in court.

(j) The penalty provided in subsection (h) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(k) The non-imposition of the penalties described in subsection (h) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in section 20-91, or the criminal penalties for abortion set forth in article 4512.1 of the Revised Civil Statutes and V.T.C.A., Penal Code §§ 1.07 and 19.02(b). Abortion remains and is to be regarded as an illegal act under City law and a criminal act under state law, except when abortion is necessary to save the life of the mother. And abortion remains outlawed under both City and state law, despite the temporary and partial inability of City and state officials to punish those who violate the abortion laws on account of the Supreme Court's decision making.

(l) Mistake of law shall not be a defense to the penalty established subsection (h).

(Ord. No. 59-2022, § C, 11-8-22)

Sec. 20-88. - Abortion coverage prohibited in employer-provided health insurance or benefits.

(a) It shall be unlawful for any employer in the City of Abilene, Texas, and for any person acting on that employer's behalf, to offer, provide, or arrange for coverage of abortion in any health-insurance policy or

plan, flexible spending account, health savings account, or any other benefit provided to its employees, except for abortions performed in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

(b) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(c) Any official of the City of Abilene, Texas, who becomes aware that an employer is aiding or abetting abortions by providing coverage of abortions in an employee-benefits package shall report that employer to the District Attorneys of Taylor and Jones Counties, and to all other District Attorneys with jurisdiction over that employer, for criminal prosecution under article 4512.2 of the Revised Civil Statutes and V.T.C.A., Penal Code § 7.02.

(Ord. No. 59-2022, § C, 11-8-22)

Sec. 20-89. - Abortions performed outside Abilene, Texas.

(a) It is the policy of Abilene, Texas to protect its unborn residents from individuals and organizations that aid or abet the killing of unborn children, and to protect the unborn from those who seek to kill or otherwise harm them, to the maximum extent permissible under state and federal law.

(b) Except as provided by subsections (c), (d), (e), and (f), it shall be unlawful for any person to knowingly aid or abet an abortion performed on a resident of Abilene, Texas, or to attempt to aid or abet such an abortion, regardless of where the abortion is or will be performed. The prohibition in this subsection includes, but is not limited to:

- (1) Offering or knowingly providing transportation to or from an abortion provider;
- (2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;
- (3) Offering or providing money with the knowledge that it will be used to pay for, offset, or reimburse the costs of an abortion or the costs associated with procuring an abortion;
- (4) Providing or arranging for insurance coverage of an abortion;
- (5) Offering or providing "abortion doula" services;
- (6) Providing referrals to an abortion provider;
- (7) Coercing or pressuring a pregnant mother to have an abortion; and
- (8) Engaging in any of the conduct that would make one an accomplice to abortion under V.T.C.A., Penal Code § 7.02.

(c) This section may not be construed to impose civil or criminal liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states

through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution.

(d) This section may not be construed to prohibit conduct that Abilene, Texas, is forbidden to prohibit or regulate under state or federal law.

(e) It shall be an affirmative defense if the unlawful acts described in subsection (b) were taken in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(f) Under no circumstance may the woman upon whom the abortion was performed, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(g) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(h) Neither the City of Abilene, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in subsection (g) unless and until:

(1) The Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in subsection (g) will not impose an "undue burden" on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in subsection (g) lacks third-party standing to assert the rights of women seeking abortions in court.

(i) The penalty provided in subsection (g) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(j) The non-imposition of the penalties described in subsection (g) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in section 20-91. Abortion remains and is to be regarded as an illegal act under City law and a criminal act under state law, except when abortion is necessary to save the life of the mother.

(k) Mistake of law shall not be a defense to the penalty established subsection (g).

(l) Any official of the City of Abilene, Texas, who becomes aware that an individual or organization is aiding or abetting abortions performed in Texas by engaging in the conduct described in subsection (b)

shall report that individual or organization to the District Attorneys of Taylor and Jones Counties, or to the District Attorneys with jurisdiction over that individual or organization, for criminal prosecution under article 4512.2 of the Revised Civil Statutes and V.T.C.A., Penal Code § 7.02.

(Ord. No. 59-2022, § C, 11-8-22)

Sec. 20-90. - Abortions performed in violation of Texas law.

(a) It is the policy of the City of Abilene to ensure that the Texas abortion laws are enforced to the maximum possible extent consistent with the Constitution and existing Supreme Court doctrine.

(b) Except as provided by subsections (d), (e), (f), and (g), it shall be unlawful for any person to perform an abortion in violation of any statute enacted by the Texas legislature, including article 4512.1 of the Revised Civil Statutes, as well as V.T.C.A., Health and Safety Code §§ 171.0031(a)(1) and 245.010(a).

(c) Except as provided by subsections (d), (e), (f), and (g), it shall be unlawful for any person to knowingly aid or abet an abortion performed in violation of any statute enacted by the Texas legislature, including article 4512.1 of the Revised Civil Statutes, as well as V.T.C.A., Health and Safety Code §§ 171.0031(a)(1) and 245.010(a). The prohibition in this subsection includes, but is not limited to:

- (1) Offering or knowingly providing transportation to or from an abortion provider;
- (2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;
- (3) Offering or providing money with the knowledge that it will be used to pay for, offset, or reimburse the costs of an abortion or the costs associated with procuring an abortion;
- (4) Providing or arranging for insurance coverage of an abortion;
- (5) Offering or providing "abortion doula" services;
- (6) Providing referrals to an abortion provider;
- (7) Coercing or pressuring a pregnant mother to have an abortion; and
- (8) Engaging in conduct that makes one an accomplice to abortion under V.T.C.A., Penal Code § 7.02.

(d) This subsection may not be construed to impose civil or criminal liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution.

(e) This section may not be construed to prohibit conduct that Abilene, Texas, is forbidden to prohibit or regulate under state or federal law.

(f) It shall be an affirmative defense if the unlawful acts described in subsection (b) were taken in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial

impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(g) Under no circumstance may the woman upon whom the abortion was performed, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(h) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(i) Neither the City of Abilene, nor any of its officers or employees, nor any District or County Attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in subsection (h) unless and until:

(1) The Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition; or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in subsection (h) will not impose an "undue burden" on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in subsection (h) lacks third-party standing to assert the rights of women seeking abortions in court.

(j) The penalty provided in subsection (h) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(k) The non-imposition of the penalties described in subsection (h) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in section 20-91. Abortion remains and is to be regarded as an illegal act under City law and a criminal act under state law, except when abortion is necessary to save the life of the mother.

(l) Mistake of law shall not be a defense to the penalty established subsection (h).

(m) Any official of the City of Abilene, Texas, who becomes aware that an individual or organization is performing or aiding or abetting abortions in violation of in violation of any statute enacted by the Texas legislature, including articles 4512.1 and 4512.2 of the Revised Civil Statutes, as well as V.T.C.A., Health and Safety Code §§ 171.0031(a)(1) and 245.010(a), shall report that individual or organization to the District Attorneys of Taylor and Jones Counties, or to the District Attorneys with jurisdiction over that individual or organization, for criminal prosecution under articles 4512.1 and 4512.2 of the Revised Civil Statutes and V.T.C.A., Penal Code § 7.02.

(Ord. No. 59-2022, § C, 11-8-22)

Sec. 20-91. - Private right of action.

(a) Any person, other than an officer or employee of a state or local governmental entity in this state, may bring a civil action in state court against any person who violates or intends to violate sections 20-87, 20-88, 20-89, or 20-90.

(b) If a claimant prevails in an action brought under this section, the court shall award:

(1) Injunctive relief sufficient to prevent the defendant from violating section 20-87, 20-88, 20-89, or 20-90 in the future;

(2) Statutory damages in an amount of not less than ten thousand dollars (\$10,000.00) for each violation of section 20-87, 20-88, 20-89, or 20-90 that the defendant committed; and

(3) Costs and attorney's fees.

(c) Notwithstanding subsection (b), a court may not award relief under this section if the defendant demonstrates that the defendant previously paid statutory damages in a previous action for the particular conduct that violated section 20-87, 20-88, 20-89, or 20-90.

(d) There is no statute of limitations for an action brought under this section.

(e) The following are not a defense to an action brought under this section:

(1) Ignorance or mistake of law;

(2) A defendant's belief that the requirements of this section, or the requirements of section 20-87, 20-88, 20-89, or 20-90, are unconstitutional or were unconstitutional;

(3) A defendant's reliance on any court decision that has been overruled on appeal or by a subsequent court, even if that court decision had not been overruled when the defendant engaged in conduct that violates section 20-87, 20-88, 20-89, or 20-90;

(4) A defendant's reliance on any state or federal court decision that is not binding on the court in which the action has been brought;

(5) Nonmutual issue preclusion or nonmutual claim preclusion;

(6) The consent of the unborn child's mother to the abortion; or

(7) Any claim that the enforcement of section 20-87, 20-88, 20-89, or 20-90 or the imposition of civil liability against the defendant will violate the constitutional rights of third parties, except as provided by section 20-92.

(f) An action under this section must be brought in state court and not in the local or municipal courts.

(g) This section may not be construed to impose liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution.

(h) Neither the City of Abilene, Texas, nor any state or local official may intervene in an action brought under this section. This subsection does not prohibit a person or entity described by this subsection from filing an amicus curiae brief in the action.

(i) A civil action under this section may not be brought by any person who impregnated the abortion patient through an act of rape, sexual assault, incest, or any other unlawful act.

(j) Under no circumstance may a civil action under this section be brought against the mother of the unborn child that has been aborted, or the pregnant woman who seeks to abort her unborn child.

(Ord. No. 59-2022 , § C, 11-8-22)

Sec. 20-92. - Civil liability—Undue burden defense.

(a) A defendant against whom an action is brought under section 20-91 does not have standing to assert the rights of women seeking an abortion as a defense to liability under that section unless:

- (1) The United States Supreme Court or the Supreme Court of Texas holds that the courts of this state must confer standing on that defendant to assert the third-party rights of women seeking an abortion in state court as a matter of federal or state constitutional law; or
- (2) The defendant has standing to assert the rights of women seeking an abortion under the tests for third-party standing established by the United States Supreme Court.

(b) A defendant in an action brought under section 20-91 may assert an affirmative defense to liability under this section if:

- (1) The defendant has standing to assert the third-party rights of a woman or group of women seeking an abortion in accordance with subsection (a); and
- (2) The defendant demonstrates that the relief sought by the claimant will impose an undue burden on that woman or that group of women seeking an abortion, or otherwise violate the rights of women seeking abortions under the United States Constitution.

(c) A court may not find an "undue burden" under subsection (b) unless the defendant introduces evidence proving that:

- (1) An award of relief will prevent a woman or a group of women from obtaining an abortion; or
- (2) An award of relief will place a substantial obstacle in the path of a woman or a group of women who are seeking an abortion.

(d) A defendant may not establish an "undue burden" under this section by:

- (1) Merely demonstrating that an award of relief will prevent women from obtaining support or assistance, financial or otherwise, from others in their effort to obtain an abortion; or
- (2) Arguing or attempting to demonstrate that an award of relief against other defendants or other potential defendants will impose an undue burden on women seeking an abortion.

(e) The affirmative defense under subsection (b) is not available if the United States Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), or *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

(f) Nothing in this section shall in any way limit or preclude a defendant from asserting the defendant's personal constitutional rights as a defense to liability under section 20-91, and a court may not award

relief under section 20-91 if the conduct for which the defendant has been sued was an exercise of state or federal constitutional rights that personally belong to the defendant.

(Ord. No. 59-2022, § C, 11-8-22)

Sec. 20-93. - Severability.

(a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the United States Supreme Court held that an explicit statement of legislative intent is controlling, the provisions and applications of this article shall be severable as follows:

(1) It is the intent of the City that every section, provision, subsection, sentence, clause, phrase, or word in this article, and every application of the provisions in this article, are severable from each other. If any application of any provision in this article to any person, group of persons, or circumstances is found by a court to be invalid or unconstitutional, then the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected. All constitutionally valid applications of the provisions in this article shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the City's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this article to impose an undue burden in a large or substantial fraction of relevant cases, the applications that do not present an undue burden shall be severed from the remaining applications and shall remain in force, and shall be treated as if the City had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application do not present an undue burden. The City further declares that it would have enacted this article, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of this article, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this article were to be declared unconstitutional or to represent an undue burden.

(2) If any court declares or finds a provision in this article facially unconstitutional, when there are discrete applications of that provision that can be enforced against a person, group of persons, or circumstances without violating the Constitution, then those applications shall be severed from all remaining applications of the provision, and the provision shall be interpreted, as a matter of City law, as if the City had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate the Constitution.

(3) If any provision of this article is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the declarations of the City's intent in subsections (a)(1) and (a)(2), and the provision shall be interpreted, as a matter of City law, as if the City had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application do not present constitutional vagueness problems.

(4) No court may decline to enforce the severability requirements in subsections (a)(1), (a)(2), and (a)(3) on the ground that severance would "rewrite" the ordinance or involve the court in

legislative or lawmaking activity. A court that declines to enforce or enjoins a locality or government official from enforcing a subset of an ordinance's applications is never "rewriting" an ordinance, as the ordinance continues to say exactly what it said before. A judicial injunction or declaration of unconstitutionality is nothing more than a non-enforcement edict that can always be vacated by later courts if they have a different understanding of what the Constitution requires; it is not a formal amendment of the language in a statute or ordinance. A judicial injunction or declaration of unconstitutionality no more "rewrites" an ordinance than a decision by an executive official not to enforce a duly enacted statute or ordinance in a limited and defined set of circumstances.

(5) If any federal or state court ignores or declines to enforce the requirements of subsection (a)(1), (a)(2), (a)(3), or (a)(4), or holds a provision of this article invalid or unconstitutional on its face after failing to enforce the severability requirements of subsections (a)(1), (a)(2), (a)(3) and (a)(4), for any reason whatsoever, then the Mayor shall hold delegated authority to issue a saving construction of this article that avoids the constitutional problems or other problems identified by the federal or state court, while enforcing the provisions of this article to the maximum possible extent. The saving construction issued by the Mayor shall carry the same force of law as an ordinance; it shall represent the authoritative construction of this article in both federal and state judicial proceedings; and it shall remain in effect until the court ruling that declares invalid or enjoins the enforcement of the original provision in this article is overruled, vacated, or reversed.

(6) The Mayor must issue the saving construction described in subsection (a)(5) within twenty (20) days after a judicial ruling that declares invalid or enjoins the enforcement of a provision of this article after failing to enforce the severability requirements of subsections (a)(1), (a)(2), (a)(3), and (a)(4). If the Mayor fails to issue the saving construction required by subsection (a)(5) within twenty (20) days after a judicial ruling that declares invalid or enjoins the enforcement of a provision of this article after failing to enforce the severability requirements of subsections (a)(1), (a)(2), (a)(3), and (a)(4), or if the Mayor's saving construction fails to enforce the provisions of the article to the maximum possible extent permitted by the Constitution or other superseding legal requirements, as construed by the federal or state judiciaries, then any person may petition for a writ of mandamus requiring the Mayor to issue the saving construction described in subsection (a)(5).

(Ord. No. 59-2022, § C, 11-8-22)

Secs. 20-94—20-115. - Reserved.

----- Forwarded message -----

From: Mark Lee Dickson <[REDACTED]>
Date: Tue, Jul 11, 2023 at 3:52 PM
Subject: Sanctuary City for the Unborn Ordinance
To: Lynn Beard <lynn.beard@abilenetx.gov>, RYAN GOODWIN <[REDACTED]>

Councilman Lynn Beard,
Subcommittee Member Ryan Goodwin:

Thank you for attending the educational meeting on Sunday night. I wanted to send you an email expressing a good-faith effort on my part, to be a help and not a hindrance to the task which you have been assigned.

I wanted to provide the following notes for your consideration:

Currently the Abilene Ordinance, under Definitions, in regards to "Abortion-inducing drugs" reads:

(3). "Abortion-inducing drugs" includes mifepristone, misoprostol, and any drug or medication that is used to terminate the life of an unborn child. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. The term also does not include drugs or medications that are possessed or distributed for a purpose that does not include the termination of a pregnancy.

The definition in the Abilene Ordinance, in regards to "Abortion-inducing drugs" could be changed to read:

(3) "Abortion-inducing drugs" includes mifepristone, misoprostol, and any drug or medication that is used to terminate the life of an unborn child. The term does not include:

(A) Plan B, morning-after pills, intrauterine devices, or any other type of contraception or emergency contraception; or

(B) Drugs or medications that are possessed or distributed for a purpose that does not include the termination of a pregnancy, such as misoprostol that is possessed or distributed for the purpose of treating stomach ulcers.

If this change is made in the definitions, I would also encourage the following changes for extra clarity throughout the declarations and the ordinance:

Under Declarations, B3:

The current section reads:

(3) Abortion-inducing drugs are declared to be contraband, and we declare the possession of abortion-inducing drugs within city limits to be an unlawful act.

This is not law, but it could be changed to read:

(3) Abortion-inducing drugs are declared to be contraband if used for the purpose of the termination of an unborn child, and we declare the possession of abortion-inducing drugs used for the purpose of the termination of an unborn child within city limits to be an unlawful act.

Section 20.87, Abortion Prohibited currently states:

(d) It shall be unlawful for any person to possess or distribute abortion-inducing drugs in the city of Abilene, Texas

This could be changed to read,

(d) It shall be unlawful for any person to possess or distribute abortion-inducing drugs for the purpose of the termination of an unborn child in the city of Abilene, Texas.

If this is done, in this way, this would not negatively impact Jonathan F. Mitchell's offer to represent the City of Abilene at no cost to the city or the taxpayers for any litigation which may arise. We have actually used similar language in other ordinances.

If there are questions about other things mentioned in the ordinance, which you think merit a definition being added, I would be glad to help provide those definitions. We do have a definition for "abortion doula services" which is very specific and could be added if you believe it would be helpful.

Jonathan F. Mitchell will also be available for a call with you and Ryan, if you so wish. I'll be glad to help set that up, if necessary.

Sincerely,

Mark Lee Dickson

Founder, Sanctuary Cities for the Unborn Initiative

Co-Author, Abilene Sanctuary City for the Unborn Ordinance



ORDINANCE NO. 59-2022

ORDINANCE OUTLAWING ABORTION, DECLARING ABILENE A SANCTUARY CITY FOR THE UNBORN, MAKING VARIOUS PROVISIONS AND FINDINGS, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

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

A. FINDINGS

The City of Abilene finds that:

- (1) Human life begins at conception.
- (2) Abortion is an act of violence that purposefully and knowingly terminates an unborn human life.
- (3) Unborn human beings are entitled to the full and equal protection of the laws that prohibit violence against other human beings.
- (4) The State of Texas has never repealed its pre-*Roe v. Wade* statutes that outlaw and criminalize abortion unless the mother's life is in danger. *See* West's Texas Civil Statutes, articles 4512.1 – 4512.6 (1974); *see also* Act of June 14, 1973, ch. 399, §§ 5–6, 1973 Tex. Acts 883, 995–96; *see also id.* 996a, 996e (including the Texas abortion laws in the table indicating the “Disposition of Unrepealed Articles of the Texas Penal Code of 1925 and Vernon’s Penal Code.”).
- (5) The Texas Legislature has reaffirmed the continued existence and validity of the State’s pre-*Roe v. Wade* criminal abortion statutes. *See* Senate Bill 8, 87th Leg., § 2 (2021) (“The legislature finds that the State of Texas never repealed, either expressly or by implication, the state statutes enacted before the ruling in *Roe v. Wade*, 410 U.S. 113 (1973), that prohibit and criminalize abortion unless the mother’s life is in danger.”).
- (6) The law of Texas therefore continues to define abortion as a criminal offense except when necessary to save the life of the mother. *See* West’s Texas Civil Statutes, article 4512.1 (1974); Senate Bill 8, 87th Leg., § 2 (2021).
- (7) The law of Texas also imposes felony criminal liability on anyone who “furnishes the means for procuring an abortion knowing the purpose intended,” *see* West’s Texas Civil Statutes, article 4512.2 (1974), as well as anyone who aids or abets an abortion performed in violation of Texas law, *see* Tex. Penal Code section 7.02.
- (8) The Supreme Court’s judgment in *Roe v. Wade* did not cancel or formally revoke the Texas statutes that outlaw and criminalize abortion, and the judiciary has no power to erase a statute that it believes to be unconstitutional. *See Pidgeon v. Turner*, 538 S.W.3d 73, 88 n.21 (Tex. 2017) (“When a court declares a law unconstitutional, the law remains in place unless and until the body that enacted it repeals it”); *Texas v. United States*, 945 F.3d 355, 396 (5th Cir. 2019) (“The federal courts have no authority to erase a duly enacted law from the statute books, [but can only] decline to enforce a statute in a particular case or controversy.” (citation and internal quotation marks omitted)).
- (9) The Supreme Court’s pronouncements in *Roe v. Wade* and subsequent cases may temporarily limit the ability of State officials to impose penalties on those who violate the Texas abortion statutes, but they do not veto or erase the statutes themselves, which continue to exist as the law of Texas until they are repealed by the legislature that enacted them. The State’s temporary inability to prosecute or punish those

who violate its abortion statutes on account of *Roe v. Wade* does not change the fact that abortion is defined as a criminal act under Texas law.

(10) The Texas murder statute defines the crime of “murder” to include any act that “intentionally or knowingly causes the death” of “an unborn child at every stage of gestation from fertilization until birth.” See Texas Penal Code § 19.02; Texas Penal Code § 1.07. Although the statute exempts “lawful medical procedures” from the definition of murder, see Texas Penal Code § 19.06(2), an abortion is not a “lawful medical procedure” under Texas law unless the life of the mother is in danger, see West’s Texas Civil Statutes, article 4512.1 (1974).

(11) The law of Texas also prohibits abortions unless they are performed in a facility that meets the minimum standards for an ambulatory surgical center, and by a physician who holds admitting privilege at a nearby hospital. See Texas Health and Safety Code § 171.0031, 245.010(a). The Supreme Court’s ruling in *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016), did not alter or revoke these requirements of state law; it merely enjoined state officials from enforcing the penalties established in those statutes against the abortion providers who violate them. *Whole Woman’s Health v. Hellerstedt* does not change the fact that abortion is not a “lawful medical procedure” under Texas law unless it complies with sections 171.0031 and 245.010(a) of the Texas Health and Safety Code, and it does not change the fact that the Texas murder statute prohibits abortions that fail to comport with these still-existing requirements of Texas law.

(12) The Texas abortion laws are severable in each of their discrete applications, and they are severable as applied to each individual person, group of persons, or circumstances. See Tex. Gov’t Code § 311.032(c); Tex. Gov’t Code § 311.036(c) (“Every statute that regulates or prohibits abortion is severable in each of its applications to every person and circumstance. If any statute that regulates or prohibits abortion is found by any court to be unconstitutional, either on its face or as applied, then all applications of that statute that do not violate the United States Constitution and Texas Constitution shall be severed from the unconstitutional applications and shall remain enforceable, notwithstanding any other law, and the statute shall be interpreted as if containing language limiting the statute’s application to the persons, group of persons, or circumstances for which the statute’s application will not violate the United States Constitution and Texas Constitution.”). These laws therefore remain enforceable against any individual or entity that aids or abets an abortion performed in Texas, so long as the prosecution of the particular individual or entity that aids or abets the abortion will not impose an “undue burden” on abortion patients.

(13) The City of Abilene finds it necessary to supplement the existing state-law prohibitions on abortion with its own prohibitions on abortion, and to empower city officials and private citizens to enforce these prohibitions to the maximum extent permitted by state law and the Constitution. See Tex. Local Gov’t Code §§ 54.001(b)(1); 54.004.

(14) The law of Texas explicitly allows municipalities and political subdivisions to outlaw and prohibit abortion, and to establish penalties and remedies against those who perform or enable unlawful abortions. See Tex. Gov’t Code § 311.036(b) (“A statute may not be construed to restrict a political subdivision from regulating or prohibiting abortion in a manner that is at least as stringent as the laws of this state unless the statute explicitly states that political subdivisions are prohibited from regulating or prohibiting abortion in the manner described by the statute.”).

(15) To protect the health and welfare of all residents within the City of Abilene, including the unborn, the City finds it necessary to outlaw abortion under city law, to outlaw acts that aid or abet abortions, and to establish penalties and remedies as provided in this ordinance. See Tex. Local Gov’t Code §§ 54.001(b)(1); 54.004.

B. DECLARATIONS

- (1) We declare Abilene, Texas to be a Sanctuary City for the Unborn.
- (2) Abortion at all times and at all stages of pregnancy is declared to be an act of murder unless the mother's life is in danger.
- (3) Abortion-inducing drugs are declared to be contraband, and we declare the possession of abortion-inducing drugs within city limits to be an unlawful act.
- (4) Abortions performed anywhere in the state of Texas are criminal acts under Texas law, unless the abortion is procured or attempted by medical advice for the purpose of saving the life of the mother. *See West's Texas Civil Statutes, articles 4512.1 – 4512.6 (1974); see also Senate Bill 8, 87th Leg., § 2.*
- (5) Any person who "furnishes the means for procuring an abortion knowing the purpose intended," or who otherwise aids or abets an abortion performed in Texas, is a criminal and a felon subject to prosecution and imprisonment under article 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code, unless the abortion is procured or attempted by medical advice for the purpose of saving the life of the mother.
- (6) The City of Abilene urges the district attorneys of Taylor and Jones Counties to investigate and prosecute any individual or organization that "furnishes the means for procuring" an elective abortion, or that otherwise aids or abets such abortions, including:
 - (a) employers and insurers who arrange for coverage of abortions in Texas;
 - (b) individuals and organizations that knowingly provide transportation to or from a Texas abortion provider;
 - (c) individuals and organizations that knowingly pay for another person's abortion in Texas, including abortion funds and abortion-assistance organizations;
 - (d) individuals who knowingly donate money to abortion funds and abortion-assistance organizations that aid or abet abortions performed in Texas;
 - (e) individuals and organizations that offer or provide "abortion doula" services in Texas.
- (7) The City of Abilene urges all of its citizens to regard those who perform or assist elective abortion in Texas as criminals, consistent with the abortion laws of Texas, and to report these criminal activities to the relevant district attorneys for investigation and criminal prosecution.

C. AMENDMENTS TO CITY CODE

Chapter 20 of the Abilene Code of Ordinances is amended by adding Article VIII to read as follows:

ARTICLE VIII. ABORTION

Sec. 20.86. Definitions

- (a) For the purposes of this article, the following definitions shall apply:
 - (1) "Abortion" means the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant. The term does not include birth-control devices or oral

contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. An act is not an abortion if the act is done with the intent to:

(A) save the life or preserve the health of an unborn child;

(B) remove a dead, unborn child whose death was caused by accidental miscarriage;
or

(C) remove an ectopic pregnancy.

(2) "Unborn child" means a natural person from the moment of conception who has not yet completely left the womb.

(3) "Abortion-inducing drugs" includes mifepristone, misoprostol, and any drug or medication that is used to terminate the life of an unborn child. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. The term also does not include drugs or medications that are possessed or distributed for a purpose that does not include the termination of a pregnancy.

Sec. 20.87. Abortion Prohibited

(a) It shall be unlawful for any person to procure or perform an abortion of any type and at any stage of pregnancy in the city of Abilene, Texas.

(b) It shall be unlawful for any person to knowingly aid or abet an abortion that occurs in the city of Abilene, Texas. This section does not prohibit referring a patient to have an abortion which takes place outside the city limits of Abilene, Texas. The prohibition in this section includes, but is not limited to, the following acts:

(1) Knowingly providing transportation to or from an abortion provider;

(2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;

(3) Providing money with the knowledge that it will be used to pay for an abortion or the costs associated with procuring an abortion;

(4) Providing or arranging for insurance coverage of an abortion;

(5) Providing "abortion doula" services; and

(6) Coercing or pressuring a pregnant mother to have an abortion against her will.

(c) It shall be an affirmative defense to the unlawful acts described in Subsections (a) and (b) if the abortion was in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(d) It shall be unlawful for any person to possess or distribute abortion-inducing drugs in the city of Abilene, Texas.

(e) No provision of this section may be construed to prohibit any action which occurs outside of the jurisdiction of the city of Abilene, Texas.

(f) No provision of this section may be construed to prohibit any conduct protected by the First Amendment of the U.S. Constitution, as made applicable to state and local governments through the Supreme Court's interpretation of the Fourteenth Amendment, or by Article 1, Section 8 of the Texas Constitution.

(g) Under no circumstance may the mother of the unborn child that has been aborted, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(h) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(i) Neither the City of Abilene, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in Subsection (h) unless and until:

(1) The Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in Subsection (h) will not impose an "undue burden" on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in Subsection (h) lacks third-party standing to assert the rights of women seeking abortions in court.

(j) The penalty provided in Subsection (h) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(k) The non-imposition of the penalties described in Subsection (h) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in Section 20.91, or the criminal penalties for abortion set forth in article 4512.1 of the Revised Civil Statutes and sections 1.07 and 19.02(b) of the Texas Penal Code. Abortion remains and is to be regarded as an illegal act under city law and a criminal act under state law, except when abortion is necessary to save the life of the mother. And abortion remains outlawed under both city and state law, despite the temporary and partial inability of city and state officials to punish those who violate the abortion laws on account of the Supreme Court's decisionmaking.

(l) Mistake of law shall not be a defense to the penalty established Subsection (h).

Sec. 20.88. Abortion Coverage Prohibited in Employer-Provided Health Insurance or Benefits

(a) It shall be unlawful for any employer in the city of Abilene, Texas, and for any person acting on that employer's behalf, to offer, provide, or arrange for coverage of abortion in any health-insurance policy or plan, flexible spending account, health savings account, or any other benefit provided to its employees, except for abortions performed in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

(b) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(c) Any official of the city of Abilene, Texas, who becomes aware that an employer is aiding or abetting abortions by providing coverage of abortions in an employee-benefits package shall report that employer to the district attorneys of Taylor and Jones Counties, and to all other district attorneys with jurisdiction over that employer, for criminal prosecution under article 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code.

Sec. 20.89. Abortions Performed Outside Abilene, Texas

(a) It is the policy of Abilene, Texas to protect its unborn residents from individuals and organizations that aid or abet the killing of unborn children, and to protect the unborn from those who seek to kill or otherwise harm them, to the maximum extent permissible under state and federal law.

(b) Except as provided by Subsections (c), (d), (e), and (f), it shall be unlawful for any person to knowingly aid or abet an abortion performed on a resident of Abilene, Texas, or to attempt to aid or abet such an abortion, regardless of where the abortion is or will be performed. The prohibition in this subsection includes, but is not limited to:

- (1) Offering or knowingly providing transportation to or from an abortion provider;
- (2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;
- (3) Offering or providing money with the knowledge that it will be used to pay for, offset, or reimburse the costs of an abortion or the costs associated with procuring an abortion;
- (4) Providing or arranging for insurance coverage of an abortion;
- (5) Offering or providing "abortion doula" services;
- (6) Providing referrals to an abortion provider;
- (7) Coercing or pressuring a pregnant mother to have an abortion; and
- (8) Engaging in any of the conduct that would make one an accomplice to abortion under section 7.02 of the Texas Penal Code.

(c) This section may not be construed to impose civil or criminal liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth

Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution.

(d) This section may not be construed to prohibit conduct that Abilene, Texas, is forbidden to prohibit or regulate under state or federal law.

(e) It shall be an affirmative defense if the unlawful acts described in Subsection (b) were taken in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(f) Under no circumstance may the woman upon whom the abortion was performed, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(g) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(h) Neither the City of Abilene, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in Subsection (g) unless and until:

(1) The Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in Subsection (g) will not impose an "undue burden" on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in Subsection (g) lacks third-party standing to assert the rights of women seeking abortions in court.

(i) The penalty provided in Subsection (g) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(j) The non-imposition of the penalties described in Subsection (g) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in Section 20.91. Abortion remains and is to be regarded as an illegal act under city law and a criminal act under state law, except when abortion is necessary to save the life of the mother.

(k) Mistake of law shall not be a defense to the penalty established Subsection (g).

(l) Any official of the city of Abilene, Texas, who becomes aware that an individual or organization is aiding or abetting abortions performed in Texas by engaging in the conduct described in subsection (b) shall report that individual or organization to the district attorneys of Taylor and Jones Counties, or to the district attorneys with jurisdiction over that individual or organization, for criminal prosecution under article 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code.

Sec. 20.90. Abortions Performed in Violation of Texas Law

(a) It is the policy of the city of Abilene to ensure that the Texas abortion laws are enforced to the maximum possible extent consistent with the Constitution and existing Supreme Court doctrine.

(b) Except as provided by subsections (d), (e), (f), and (g), it shall be unlawful for any person to perform an abortion in violation of any statute enacted by the Texas legislature, including article 4512.1 of the Revised Civil Statutes, as well as sections 171.0031(a)(1) and 245.010(a) of the Texas Health & Safety Code.

(c) Except as provided by subsections (d), (e), (f), and (g), it shall be unlawful for any person to knowingly aid or abet an abortion performed in violation of any statute enacted by the Texas legislature, including article 4512.1 of the Revised Civil Statutes, as well as sections 171.0031(a)(1) and 245.010(a) of the Texas Health & Safety Code. The prohibition in this subsection includes, but is not limited to:

- (1) Offering or knowingly providing transportation to or from an abortion provider;
- (2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;
- (3) Offering or providing money with the knowledge that it will be used to pay for, offset, or reimburse the costs of an abortion or the costs associated with procuring an abortion;
- (4) Providing or arranging for insurance coverage of an abortion;
- (5) Offering or providing "abortion doula" services;
- (6) Providing referrals to an abortion provider;
- (7) Coercing or pressuring a pregnant mother to have an abortion; and
- (8) Engaging in conduct that makes one an accomplice to abortion under section 7.02 of the Texas Penal Code.

(d) This subsection may not be construed to impose civil or criminal liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution.

(e) This section may not be construed to prohibit conduct that Abilene, Texas, is forbidden to prohibit or regulate under state or federal law.

(f) It shall be an affirmative defense if the unlawful acts described in Subsection (b) were taken in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(g) Under no circumstance may the woman upon whom the abortion was performed, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(h) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(i) Neither the City of Abilene, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in Subsection (h) unless and until:

(1) The Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in Subsection (h) will not impose an "undue burden" on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in Subsection (h) lacks third-party standing to assert the rights of women seeking abortions in court.

(j) The penalty provided in Subsection (h) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(k) The non-imposition of the penalties described in Subsection (h) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in Section 20.91. Abortion remains and is to be regarded as an illegal act under city law and a criminal act under state law, except when abortion is necessary to save the life of the mother.

(l) Mistake of law shall not be a defense to the penalty established Subsection (h).

(m) Any official of the city of Abilene, Texas, who becomes aware that an individual or organization is performing or aiding or abetting abortions in violation of in violation of any statute enacted by the Texas legislature, including articles 4512.1 and 4512.2 of the Revised Civil Statutes, as well as sections 171.0031(a)(1) and 245.010(a) of the Texas Health & Safety Code, shall report that individual or organization to the district attorneys of Taylor and Jones Counties, or to the district attorneys with jurisdiction over that individual or organization, for criminal

prosecution under articles 4512.1 and 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code.

Sec. 20.91. Private Right of Action

(a) Any person, other than an officer or employee of a state or local governmental entity in this state, may bring a civil action in state court against any person who violates or intends to violate sections 20.87, 20.88, 20.89, or 20.90.

(b) If a claimant prevails in an action brought under this section, the court shall award:

(1) injunctive relief sufficient to prevent the defendant from violating section 20.87, 20.88, 20.89, or 20.90 in the future;

(2) statutory damages in an amount of not less than \$10,000 for each violation of section 20.87, 20.88, 20.89, or 20.90 that the defendant committed; and

(3) costs and attorney's fees.

(c) Notwithstanding Subsection (b), a court may not award relief under this section if the defendant demonstrates that the defendant previously paid statutory damages in a previous action for the particular conduct that violated section 20.87, 20.88, 20.89, or 20.90.

(d) There is no statute of limitations for an action brought under this section.

(e) The following are not a defense to an action brought under this section:

(1) ignorance or mistake of law;

(2) a defendant's belief that the requirements of this section, or the requirements of sections 20.87, 20.88, 20.89, or 20.90, are unconstitutional or were unconstitutional;

(3) a defendant's reliance on any court decision that has been overruled on appeal or by a subsequent court, even if that court decision had not been overruled when the defendant engaged in conduct that violates sections 20.87, 20.88, 20.89, or 20.90;

(4) a defendant's reliance on any state or federal court decision that is not binding on the court in which the action has been brought;

(5) nonmutual issue preclusion or nonmutual claim preclusion;

(6) the consent of the unborn child's mother to the abortion; or

(7) any claim that the enforcement of sections 20.87, 20.88, 20.89, or 20.90 or the imposition of civil liability against the defendant will violate the constitutional rights of third parties, except as provided by section 20.92.

(f) An action under this section must be brought in state court and not in the local or municipal courts;

(g) This section may not be construed to impose liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution;

(h) Neither the city of Abilene, Texas, nor any state or local official may intervene in an action brought under this section. This subsection does not prohibit a person or entity described by this subsection from filing an amicus curiae brief in the action.

(i) A civil action under this section may not be brought by any person who impregnated the abortion patient through an act of rape, sexual assault, incest, or any other unlawful act.

(j) Under no circumstance may a civil action under this section be brought against the mother of the unborn child that has been aborted, or the pregnant woman who seeks to abort her unborn child.

Sec. 20.92. Civil Liability: Undue Burden Defense

(a) A defendant against whom an action is brought under Section 20.91 does not have standing to assert the rights of women seeking an abortion as a defense to liability under that section unless:

(1) the United States Supreme Court or the Supreme Court of Texas holds that the courts of this state must confer standing on that defendant to assert the third-party rights of women seeking an abortion in state court as a matter of federal or state constitutional law; or

(2) the defendant has standing to assert the rights of women seeking an abortion under the tests for third-party standing established by the United States Supreme Court.

(b) A defendant in an action brought under Section 20.91 may assert an affirmative defense to liability under this section if:

(1) the defendant has standing to assert the third-party rights of a woman or group of women seeking an abortion in accordance with Subsection (a); and

(2) the defendant demonstrates that the relief sought by the claimant will impose an undue burden on that woman or that group of women seeking an abortion, or otherwise violate the rights of women seeking abortions under the United States Constitution.

(c) A court may not find an "undue burden" under Subsection (b) unless the defendant introduces evidence proving that:

(1) an award of relief will prevent a woman or a group of women from obtaining an abortion; or

(2) an award of relief will place a substantial obstacle in the path of a woman or a group of women who are seeking an abortion.

(d) A defendant may not establish an "undue burden" under this section by:

(1) merely demonstrating that an award of relief will prevent women from obtaining support or assistance, financial or otherwise, from others in their effort to obtain an abortion; or

(2) arguing or attempting to demonstrate that an award of relief against other defendants or other potential defendants will impose an undue burden on women seeking an abortion.

(e) The affirmative defense under Subsection (b) is not available if the United States Supreme Court overrules *Roe v. Wade*, 410 U.S. 113 (1973), or *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

(f) Nothing in this section shall in any way limit or preclude a defendant from asserting the defendant's personal constitutional rights as a defense to liability under Section 20.91, and a court may not award relief under Section 20.91 if the conduct for which the defendant has been sued was an exercise of state or federal constitutional rights that personally belong to the defendant.

Sec. 20.93. Severability

(a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the United States Supreme Court held that an explicit statement of legislative intent is controlling, the provisions and applications of this article shall be severable as follows:

- (1) It is the intent of the city that every section, provision, subsection, sentence, clause, phrase, or word in this article, and every application of the provisions in this article, are severable from each other. If any application of any provision in this article to any person, group of persons, or circumstances is found by a court to be invalid or unconstitutional, then the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected. All constitutionally valid applications of the provisions in this article shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the city's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this article to impose an undue burden in a large or substantial fraction of relevant cases, the applications that do not present an undue burden shall be severed from the remaining applications and shall remain in force, and shall be treated as if the city had enacted an provision limited to the persons, group of persons, or circumstances for which the provision's application do not present an undue burden. The city further declares that it would have enacted this article, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of this article, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this article were to be declared unconstitutional or to represent an undue burden.
- (2) If any court declares or finds a provision in this article facially unconstitutional, when there are discrete applications of that provision that can be enforced against a person, group of persons, or circumstances without violating the Constitution, then those applications shall be severed from all remaining applications of the provision, and the provision shall be interpreted, as a matter of city law, as if the city had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate the Constitution.
- (3) If any provision of this article is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the declarations of the city's intent in Subsections (a)(1) and (a)(2), and the provision shall be interpreted, as a matter of city law, as if the city had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application do not present constitutional vagueness problems.
- (4) No court may decline to enforce the severability requirements in Subsections (a)(1), (a)(2), and (a)(3) on the ground that severance would "rewrite" the ordinance or involve

the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a locality or government official from enforcing a subset of an ordinance's applications is never "rewriting" an ordinance, as the ordinance continues to say exactly what it said before. A judicial injunction or declaration of unconstitutionality is nothing more than a non-enforcement edict that can always be vacated by later courts if they have a different understanding of what the Constitution requires; it is not a formal amendment of the language in a statute or ordinance. A judicial injunction or declaration of unconstitutionality no more "rewrites" an ordinance than a decision by an executive official not to enforce a duly enacted statute or ordinance in a limited and defined set of circumstances.

- (5) If any federal or state court ignores or declines to enforce the requirements of Subsections (a)(1), (a)(2), (a)(3), or (a)(4), or holds a provision of this article invalid or unconstitutional on its face after failing to enforce the severability requirements of Subsections (a)(1), (a)(2), (a)(3) and (a)(4), for any reason whatsoever, then the Mayor shall hold delegated authority to issue a saving construction of this article that avoids the constitutional problems or other problems identified by the federal or state court, while enforcing the provisions of this article to the maximum possible extent. The saving construction issued by the Mayor shall carry the same force of law as an ordinance; it shall represent the authoritative construction of this article in both federal and state judicial proceedings; and it shall remain in effect until the court ruling that declares invalid or enjoins the enforcement of the original provision in this article is overruled, vacated, or reversed.
- (6) The Mayor must issue the saving construction described in Subsection (a)(5) within 20 days after a judicial ruling that declares invalid or enjoins the enforcement of a provision of this article after failing to enforce the severability requirements of Subsections (a)(1), (a)(2), (a)(3), and (a)(4). If the Mayor fails to issue the saving construction required by Subsections (a)(5) within 20 days after a judicial ruling that declares invalid or enjoins the enforcement of a provision of this article after failing to enforce the severability requirements of Subsections (a)(1), (a)(2), (a)(3), and (a)(4), or if the Mayor's saving construction fails to enforce the provisions of the article to the maximum possible extent permitted by the Constitution or other superseding legal requirements, as construed by the federal or state judiciaries, then any person may petition for a writ of mandamus requiring the Mayor to issue the saving construction described in Subsection (a)(5).

D. EFFECTIVE DATE

This ordinance shall take effect upon: (1) approval by the City Council, or (2) approval by the voters, whichever occurs sooner.

PASSED, ADOPTED, SIGNED and APPROVED,

Mayor of the City of Abilene, Texas

City Secretary of the City of Abilene, Texas

FURTHER ATTESTED BY "WE THE PEOPLE", THE CITIZENS and WITNESSES TO THIS
PROCLAMATION, THIS _____ DAY OF _____, THE YEAR OF OUR LORD
_____.

WITNESS: _____

WITNESS: _____

**Ordinance:
Amend Chapter 20, "Offenses,"
Article VIII, "Abortion,"
Section 20-86, "Definitions," and
Section 20-87, "Abortion Prohibited,"
Code of Ordinances**





At Issue

- Feedback from the local medical community indicated there was confusion regarding the definition of “Abortion Inducing Drugs”:
 - Two commonly used abortion drugs, Mifepristone and Misoprostol were specifically named and declared to be contraband.
- Current Ordinance:
- 20.86 (a) (3)
 - "Abortion-inducing drugs" includes mifepristone, misoprostol, and any drug or medication that is used to terminate the life of an unborn child. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. The term also does not include drugs or medications that are possessed or distributed for a purpose that does not include the termination of a pregnancy.





At Issue

- By listing two drugs by name, one with other medical uses, yet omitting other drugs by name that both can be used to induce an abortion and have other medical uses, unintentional confusion has been created and some in the medical community are reluctant to use drugs associated with abortion that have other medical uses for treatment of other conditions.
- Examples of drugs with other medical uses, that can be used in abortion, but not named in the original ordinance include:
 - Pitocin-used for labor induction and to treat post partum bleeding/can also be used to induce abortion.
 - Hemabate-used to treat post partum bleeding/can also be used to induce an abortion.



CITY OF
ABILENE
T E X A S



The Solution

- By adjusting the wording in the “Abortion Inducing Drug” definition, a more comprehensive and clearer prohibition is created, while still allowing doctors to treat women in Abilene with medical conditions.
- The amended wording also covers future drug development, and yet to be discovered “off label” uses that could be utilized for abortions.
- The original intent and prohibitions on abortion remain fully intact and unaltered.
- Further adjustments to the “Declarations” and 20.87 “Abortion Prohibited” are minor and align the language across the ordinance.





The Changes

- (3) “Abortion-inducing drugs” includes any drug or medication, irrespective of medically intended use, either on or off label, that is used to terminate the life of an unborn child. The term does not include:
 - (A) Plan B, morning-after pills, intrauterine devices, or any other type of contraception or emergency contraception; or *(original language)*
 - (B) Drugs or medications that are possessed or distributed for a purpose other than the termination of a pregnancy. *(original language)*





The Changes

- (C) For purpose of this section:
 - 1. “Medically intended use” refers to the mechanism of action and general purpose of the drug.
 - 2. “On Label” refers to the prescription or use of a drug for the purpose approved by the United States’ Food and Drug Administration.
 - 3. “Off Label” refers to the prescription or use of a drug for a different purpose than what the United States’ Food and Drug Administration approved.





Additional Changes

- Declarations, B3:
 - Existing Language:
 - (3) Abortion-inducing drugs are declared to be contraband, and we declare the possession of abortion-inducing drugs within city limits to be an unlawful act.
- Amended Language:
- (3) Abortion-inducing drugs are declared to be contraband if used for the purpose of the termination of an unborn child, and we declare the possession of abortion-inducing drugs used for the purpose of the termination of an unborn child within city limits to be an unlawful act. (*Dickson*)





Additional Changes

- 20.87-Abortion Prohibited
- Existing Language:
 - (d) It shall be unlawful for any person to possess or distribute abortion-inducing drugs in the City of Abilene, Texas.
- Amended Language
 - (d) It shall be unlawful for any person to possess or distribute abortion-inducing drugs for the purpose of the termination of an unborn child in the city of Abilene, Texas.
(Dickson)





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: **15. Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on approving an Ordinance establishing the 2024 Standards of Care and Setting a Public Hearing for December 21, 2023 (*Lesli Andrews*)

GENERAL INFORMATION

In August of 1997 the 74th Legislature enacted 42.041(14) of the Texas Human Resources Code, which exempts youth programs operated by a municipality from state child-care licensing requirements. The Texas Human Resources Code provides that in order for a municipality to be exempt from the state's licensing requirements, the governing body of the municipality must annually adopt standards of care by ordinance after a public hearing. The major difference in the City's standards is that we have established standards for 6-13 years of age, whereas the state's standard is for 0-6 years of age, a population we mostly do not serve.

The standards of care require three levels of inspection. Review levels are performed each year to ensure compliance. The first level is performed by the Recreation Coordinator to confirm adherence to the standards themselves. The second is a visual inspection of the facilities to be conducted by the division manager with the assistance of a Parks and Recreation professional not associated with the City of Abilene. The visual inspection was conducted on November 3, 2023. The Parks and Recreation Professional who assisted was Carl White, Parks and Recreation Director for the City of San Angelo, Texas. The third level is an annual inspection by both the Fire Department and Environmental Health. All of these inspections and reviews were satisfactorily completed, and the program is in compliance. A copy of the 2024 Standards of Care will be online for additional access.

SPECIAL CONSIDERATIONS

Besides updating the year to 2024, there is one additional requested change to the 2024 Standards of Care on page 5:
Currently Reads:

•...”The Administrator will make visual inspections of the facilities, based on the following schedule. A Parks and Recreation Professional that is not associated with the City of Abilene will assist on one of the following inspections.

- (1) A pre-summer check in April of each year; and
- (2) A fall check in October of each year.”

Proposed Change:

•...”The Administrator will make visual inspections of the facilities, based on the following schedule. An Administrator that is not associated with the City of Abilene Parks and Recreation Department will assist on one of the following inspections.

- (1) A pre-summer check in April of each year; and
- (2) A fall check in October of each year.”

FUNDING/FISCAL IMPACT

No funding or fiscal impact.

STAFF RECOMMENDATION

Staff recommends adopting the 2024 Standards of Care.

BOARD OR COMMISSION RECOMMENDATION

The 2024 Standards of Care were approved at the November 21, 2023 Parks and Recreation board meeting.

ATTACHMENTS:

1. 2024_Ordinance_Standards_of_Care
2. Standards of Care 2023
3. Redline Standards of Care 2024
4. Abilene recreation centers inspections November 8, 2023
5. Presentation 2024 Standards of Care

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ESTABLISHING STANDARDS OF CARE FOR CITY OF ABILENE YOUTH PROGRAMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; AND CALLING A PUBLIC HEARING.

WHEREAS, the City of Abilene, through the Division of Recreation, provides youth programs that contribute to the overall wellbeing of youth and families of the City of Abilene; and

WHEREAS, these youth programs are presently held at the Recreation Centers; and

WHEREAS, the 74th Legislature enacted Section 42.041(14) of the Texas Human Resources Code, which would exempt youth programs operated by a municipality from child-care state licensing requirements provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing; and

WHEREAS, The City of Abilene has had Standards of Care in place for twenty three years which have functioned well; and

WHEREAS, Abilene Parks and Recreation Board the Administrator of Recreation for the City of Abilene recommends the Standards of Care as set forth in Exhibit "A" be adopted by the City of Abilene:

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

- Section 1.** That all of the recitals and preambles hereinabove stated are found to be true and correct and are incorporated herein and made a part of this ordinance.
- Section 2.** That the Youth Programs' Standards of Care for the City of Abilene, as detailed in Exhibit "A" attached hereto and incorporated herein for all purposes, are hereby approved and adopted.
- Section 3.** That all ordinances or parts of ordinances in conflict with the provisions of the ordinance are hereby repealed.
- Section 4.** That, if any provision of this ordinance will be held to be invalid or unconstitutional, the remainder of such ordinance will continue in full force and effect, the same as if such invalid or unconstitutional provision had never been a part hereof.
- Section 5.** That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

PASSED ON FIRST READING this 7st day of December, 2023.

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 11th day of December 2022, to permit the public to be heard prior to final consideration of this ordinance.

PASSED ON SECOND AND FINAL READING this 21st day of December 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

City of Abilene Recreation Division



Standards of Care for Youth Programs 2023

Parks and Recreation
633 Walnut Street
Abilene, TX 79601
(325) 676-6217

www.abilenetx.gov/parksandrec
parksandrec@abilenetx.gov

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ABILENE YOUTH PROGRAMS

STANDARDS OF CARE

General Administration

1. Organization

- A. The governing body of the City of Abilene Youth Programs is the Abilene City Council.
- B. Implementation of the Youth Program's Standards of Care is the responsibility of the Recreation Administrator and departmental employees.
- C. Youth Programs ("Program") to which these Standards apply are the programs held at the City Recreation Centers currently operated by the City of Abilene. Other programs may be subsequently designated by the City of Abilene.
- D. Each of the City of Abilene Youth Program sites will have a current copy of the Standards of Care available for public and staff review.
- E. Parents of participants will be provided a current copy of the Standards of Care during the registration process or the Standards of Care can be accessed on the City of Abilene website at www.abilenetx.gov/camps. Parents of participants will be informed that the City of Abilene Youth Programs is not licensed by the State.
- F. Criminal background checks will be conducted on prospective Youth Program employees. If results of the criminal checks indicate that an applicant has been convicted for any of the following offenses, he or she may not be considered for employment:
 - (1) A felony or a misdemeanor classified as an offense against a person or family;
 - (2) A felony or misdemeanor classified as public indecency;
 - (3) A felony or misdemeanor violation of any law intended to control the possession or distribution of any controlled substance or any violation of the City Policy;
 - (4) Any offense involving moral turpitude;
 - (5) Any offense that would potentially put the City of Abilene or participants of the Program at risk.
 - (6) In addition, a nationwide check of databases for the Sex Offender Registration Program will be conducted on prospective Program Staff. If results of the check indicate that an applicant is a registered sex offender, he or she will not be considered for employment.

2. Definitions

- A. City: City of Abilene.
- B. City Council: City Council of the City of Abilene.
- C. Department: Parks and Recreation Department of the City of Abilene.
- D. Director: City of Abilene Director of Parks and Recreation Department or designee.
- E. Division: Recreation Services Division of the City of Abilene.
- F. Employee: Someone who has been employed by the City of Abilene and has been assigned responsibility for managing, administering, or implementing some portion of the City of Abilene Youth Programs.
- G. Parent(s): A parent or guardian who has legal custody and authority to enroll a child in the City of Abilene Youth Programs.
- H. Participant: A youth whose parent has completed all required registration procedures and who has been determined to be eligible for the City of Abilene Youth Programs.
- I. Program Manual: A notebook of policies, procedures, required forms, and organizational and programming information relevant to City of Abilene's Youth Programs.
- J. Program Site: Any area or facility where the City of Abilene Youth Programs is held.
- K. Recreation Coordinator: City of Abilene Recreation Division full-time Programmer who has been assigned administrative responsibility for the City of Abilene Youth Programs.
- L. Recreation Specialist or Recreation Leader: Any City of Abilene Recreation Division employee (full-time or part-time) who has been assigned responsibility to implement the City of Abilene Youth Programs.
- M. Playground Supervisor or Playground Aide: Any City of Abilene Recreation Division temporary employee who has been assigned responsibility to implement the City of Abilene Youth Programs.
- N. Administrator: City of Abilene Administrator of Recreation Services or his or her designee.
- O. Youth Program(s) or Program: City of Abilene Youth Programs held at the City's Recreation Centers are currently operated by the City of Abilene. Other programs may be subsequently designated by the City of Abilene. These programs are not child-care facilities.

3. Objective of Youth Programs

- A. To provide Youth with the opportunity of recreational activities which may include sports, games, arts and crafts, education, dance, drama, special events, field trips, etc...
- B. To provide an encouraging atmosphere by emphasizing the positive development of physical skills, emotional development, and growth of self-confidence.
- C. To provide a safe environment by promoting good health and welfare for all participants.
- D. To teach Youth how to spend leisure time wisely in an effort to meet the emotional, physical, and social needs of Youth.

4. Inspections/Monitoring/Enforcement

- A. An annual facility inspection report will be initiated by the Recreation Coordinator of each Program to confirm adherence to the Standards of Care. This report will be submitted in March.
 - (1) Inspection reports will be sent to the Administrator for review and kept on record for at least two years.
 - (2) The Administrator will review the report and establish deadlines and criteria for compliance with the Standards of Care.
- B. The Administrator will make visual inspections of the facilities, based on the following schedule. A Parks and Recreation Professional that is not associated with the City of Abilene will assist on one of the following inspections.
 - (1) A pre-summer check in April of each year; and
 - (2) A fall check in October of each year.
- C. Complaints regarding enforcement of the Standards of Care will be directed to the Recreation Coordinator. The Recreation Coordinator will be responsible for taking the necessary steps to resolve the problems. Complaints regarding enforcement of the Standards of Care and their resolution will be recorded by the Recreation Coordinator and forwarded to the Administrator, the complaint and the resolution will be noted.
- D. The Administrator will provide an annual report to the Parks and Recreation Board on the overall status of the Youth Programs and their operation relative to compliance with the adopted Standards of Care.

5. Enrollment

- A. Before a child may be enrolled, a parent/guardian must sign registration forms that contain:
- (1) Name, address, and telephone number of the child;
 - (2) Name and address of parents/guardian and telephone numbers during program hours;
 - (3) The names and telephone numbers of people to whom the child may be released;
 - (4) A statement of the child's special needs; and
 - (5) A signed liability waiver which also includes permission for field trips and emergency medical authorization.
 - (6) Signed acknowledgement of program code of conduct.

6. Suspected Abuse

Program employees will report suspected child abuse in accordance with the Texas Family Code. In a situation where an Employee is involved in an incident with a child that could be considered child abuse, the incident shall immediately be reported to the Recreation Division Manager. The Recreation Division Manager will immediately notify the Police Department and any other agency, as may be appropriate.

Staffing – Responsibilities and Training

1. Recreation Center Coordinators

- A. Qualifications
1. Recreation Coordinators will be full-time, professional employees of the City of Abilene Recreation Division
 2. Recreation Coordinators must meet the minimum education/experience requirements for employment with the City of Abilene to plan and implement recreation activities.
 3. Recreation Coordinators must be able to pass a background investigation, including testing for illegal substances.
 4. Coordinators must have a current certification in First Aid and Cardiopulmonary Resuscitation (CPR)– Adult and Child. These certifications must be from a nationally recognized certifying organization, i.e., American Heart Association or American Red Cross.
 5. Recreation Coordinators must complete City of Abilene mandatory training.

B. Job Functions

1. Recreation Coordinators are responsible for administering the Youth Programs daily operations in compliance with the Adopted Standards of Care.
2. Recreation Coordinators are responsible for hiring, supervising, and evaluating Recreation Specialist/Leaders.
3. Recreation Coordinators are responsible for planning, implementing, and evaluating programs.
4. Recreation Coordinators maintain supplies, equipment and all necessary documentation for the operation of the Youth Programs.
5. Recreation Coordinators must communicate with Parent(s) as necessary.
6. Recreation Coordinators know and follow all City of Abilene, Division, and Program Manual standards, policies and procedures that apply to Youth Programs.
7. Recreation Coordinators ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

2. Recreation Specialist/Recreation Leader

A. Qualifications

1. Recreation Specialists/Leaders may be full-time, part-time, or temporary employees of the City of Abilene Recreation Division.
2. Recreation Specialists/Leaders should be able to consistently exhibit competency, good judgment, and self-control when working with children.
3. Recreation Specialists/Leaders must relate to children with courtesy, respect, tolerance, and patience.
4. Recreation Specialists must have a current certification in First Aid and Cardiopulmonary Resuscitation (CPR)– Adult and Child. These certifications must be from a nationally recognized certifying organization, i.e., American Heart Association or American Red Cross.
5. Recreation Specialists/Leaders must pass a background investigation, including testing for illegal substances.
6. Recreation Specialist/Leaders will be responsible for understanding and following all City of Abilene, Departmental, Division, and Program standards, policies, and procedures that apply to the City of Abilene Youth Programs.

B. Job Functions

1. Recreation Specialist/Leaders will be responsible for providing participants with an environment in which they can feel safe, enjoy wholesome recreation activities, and can participate in appropriate social opportunities with their peers.
2. Recreation Specialist/Leaders will directly lead activities using a method that will provide opportunities for involvement of all participants on an equal basis.
3. Recreation Specialist/Leaders must exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.
4. Recreation Specialist/Leaders will promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied, and well-organized activities.
5. Recreation Specialist/Leader must be with participants at all times while they are participating in the Program.
6. Recreation Specialist/Leaders ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

3. Playground Supervisor and/or Playground Aide

A. Qualifications

1. Playground Supervisor/Aides will be temporary employees of the City of Abilene Recreation Division.
2. Playground Supervisor/Aides should be able to consistently exhibit competency, good judgment, and self-control when working with children.
3. Playground Supervisor/Aides must relate to children with courtesy, respect, tolerance, and patience.
4. Playground Supervisor/Aides must pass a background investigation, including testing for illegal substances.
5. Playground Supervisor/Aides will be responsible for understanding and following all City of Abilene, Departmental, Division, and Program standards, policies, and procedures that apply to the City of Abilene Youth Programs.

B. Job Functions

1. Playground Supervisor/Aides will assist in leading activities using a method that will provide opportunities for involvement of all participants on an equal basis.
2. Playground Supervisor/Aides must exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.
3. Playground Supervisor/Aides will promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied, and well-organized activities.
4. Playground Supervisor/Aides will be responsible for picking up the areas used by their group after each activity.
5. Playground Supervisor/Aides must be with participants at all times while they are participating in the Program.
6. Playground Supervisor/Aides ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

4. Training/Orientation

- A. The Division is responsible for providing training and orientation to Program employees in working with children and for specific job responsibilities.
- B. Program employees must be competent with the Standards of Care for Youth Program operation as adopted.
- C. Program employees must be competent with the Program's policies, including discipline, guidance, and release of participants as outlined in the Summer Playground Manual.
- D. Program employees will be trained in appropriate procedures to handle emergencies.
- E. Program employees will be trained in areas including City, Departmental, Division and Program policies and procedures; provision of recreation activities; safety issues; and organization.
- F. Program employees will be electronically tested annually over program manuals and Standards of Care.

Operations

1. Staff-Participant Ratio

- A. The City of Abilene Youth Programs, the minimum employee to participant ratio will be 1 to 20 for participants from ages 6-13.
- B. Each participant should have a Program employee who is responsible for him or her and who is aware of details of the participant's habits, interests, and any special needs as identified by the participant's parent during the registration process.

2. Notification

- A. Parents must be notified immediately when Program employees are aware of the following:
 - (1) Participant is injured; or
 - (2) Participant has a sign or symptom requiring exclusion from the site (i.e. communicable disease, fever, and/or illness).
- B. All parents must be notified if there is an outbreak of any communicable disease. The disease will be reported to the Abilene Taylor County Public Health District.

3. Discipline

- A. Program employees will implement discipline and guidance in a consistent manner, based on the best interests of Program participants.
- B. There will be no cruel or harsh punishment or treatment. Examples include, but not limited to:
 - 1. Using physical punishment or any action administered to the body such as, but not limited to rough handling, or forcing child(ren) to assume an uncomfortable position.
 - 2. Restraining movement by tying, enclosing in a confined space, shaking, or using exercise as punishment.
 - 3. Being verbally abusive, including, but not limited to, threats, belittling remarks, humiliation, embarrassment, or frightening a child.
 - 4. Giving any child the authority to punish another child.
 - 5. Placing a child out of visual/hearing range, in the dark, or in an unventilated area.
 - 6. Punishing a child for a toileting accident.
 - 7. Taunting a child by mocking or any other form of jeering.
 - 8. Giving preferential attention to any child over another child.

- C. Program employees may use brief, supervised separation from the activity if necessary.
- D. As necessary, Program employees will initiate discipline reports to the parents of participants. Parents will be asked to sign participant discipline reports to indicate they have been advised about a specific problem or incident.
 - 1. A sufficient number and/or severe nature of discipline report(s), as detailed by the Disciplinary Policy in the Program and Operations Manuals, may result in a Participant being suspended from the Youth Program immediately. If a Participant is suspended from the program, an Authorized Person must pick up the Participant.
 - 2. Participants will be removed from the Program Site as soon as possible in instances of danger to other Participants or Program Staff. This includes, but is not limited to, continuous disruption of the Youth Program, inappropriate sexual behavior, bullying, hitting or biting other Participants or Program Staff and damage to any City property.
- E. A sufficient number and/or severe nature of discipline reports as detailed in the Program manual may result in a participant being suspended and/or expelled from the Program.
- F. In instances where there is a danger to other participants or staff, offending participants will be removed from the Program site as soon as possible.
- G. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any Program Site will be subject to ejection from the site and possible arrest and legal action.

4. Programming

- A. Program employees will provide activities for each group according to the participants' ages, interests, and abilities. The activities will be appropriate to participants' health, safety, and well-being. The activities also will be flexible and designed to promote the participants' emotional, social, and mental growth.
- B. Program employees will provide indoor and outdoor time periods to include:
 - (1) Alternating active and passive activities;
 - (2) Opportunity for individual and group activities; and
 - (3) Outdoor time each day that weather permits.
- C. Program employees will be attentive and considerate of the participants' safety on field trips and during any transportation provided by the Program. Participants must be counted before leaving the Program Site and before boarding the transportation to return to the Program Site.

- (1) During trips, Program employees supervising participants must have immediate access to emergency medical forms and emergency contact information for each participant.
- (2) Program employees will have transportation cards of the participants in the group and must check the roll frequently.
- (3) Program employees should have First-Aid supplies and a guide to First-Aid and emergency care available on field trips.
- (4) Notice of any field trips will be displayed at a prominent location at each Program site.

5. Communication

- A. Each Program site will have access to a telephone for use in contacting the Recreation Center or making emergency calls.
- B. The Recreation Coordinator will post the following telephone numbers adjacent to a telephone accessible to all Program employees at each site:
 - (1) Ambulance or emergency medical services.
 - (2) City of Abilene Police Department.
 - (3) City of Abilene Fire Department.
 - (4) Poison control.
 - (5) The telephone number for the site itself.

6. Transportation

- A. First-Aid supplies and a First-Aid emergency care guide will be available in all Program vehicles that transport children.
- B. All Program vehicles used for transporting participants must have available a portable fire extinguisher located in the passenger compartment of the vehicle which will be accessible to the adult occupants.

Facility Standards

1. Safety

- A. Program employees will inspect Program sites daily to detect sanitation and safety concerns that might affect the health and safety of the participants.
- B. Buildings, grounds, and equipment on the Program site will be inspected, cleaned, repaired, and maintained to protect the health of the participants.
- C. Program equipment and supplies should be safe for the participants' use.

- D. Program employees should have First-Aid supplies available at each site, during transportation and for the duration of any off-site activity.
- E. Program employees should have first-aid supplies readily available to staff in a designated location. Program employees should have an immediately accessible guide to First-Aid and emergency care.
- F. Program air conditioners, electric fans, and heaters should be mounted out of participants reach or have safeguards that keep participants from being injured.

2. Fire

- A. In case of fire, danger of fire, explosion, or other emergency, Program employee's first priority is to evacuate the participants to a designated safe area.
- B. The Program site will have an annual fire inspection by the City of Abilene Fire Department, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Administrator who will review and establish deadlines and criteria for compliance.
- C. Each Program site must have at least one (1) fire extinguisher approved by the Fire Marshall readily available to all Program employees. The fire extinguisher is to be inspected monthly by the Recreation Center Coordinator. All of the City of Abilene Youth Program employees will be trained in the proper use of fire extinguishers.

3. Health

- A. Illness or Injury
 - (1) A participant who is considered to be a health or safety concern to other participants or staff will not be admitted to the Program.
 - (2) Illnesses and injuries will be handled in a manner to protect the health of all participants and employees. Emergency responders will be notified in the event of an injury that cannot be remedied through basic first aid. An accident report shall be completed and forwarded to the Recreation Supervisor.
 - (3) An ill Youth will not be allowed to attend or participate if the Youth is suspected of having a temperature and/or accompanied by behavior changes or other signs or symptoms until a medical evaluation indicating that the Youth can return to the Youth Program.
 - (4) Program employees will follow plans to provide emergency care for injured participants or for participants with symptoms of an acute illness as specified in the Program manual.

- (5) Program employees will follow the recommendation of the Texas Department of State Health Services concerning the admission or readmission of any participant after a communicable disease.

C. Toilet Facilities

- (1) The Program site will have inside toilets located and equipped so children can use them independently and Program employees can supervise as needed.
- (2) There must be at least one flush toilet for every thirty (30) children. Urinals may be counted in the ratio of toilets to children but must not exceed fifty percent (50%) of the total number of toilets.
- (3) An appropriate and adequate number of lavatories will be provided.

D. Sanitation

- (1) The Program site must have adequate light, ventilation, and heat.
- (2) The Program must have an adequate supply of water, meeting the standards of the Texas Department of State Health Services for drinking water, and ensure that it will be supplied to the participants in a safe and sanitary manner.
- (3) Program employees must see that garbage is removed from Program sites daily.
- (4). The Program site will have an annual health inspection by the City of Abilene Health Department, and the resulting report will detail any health concerns observed. The report will be kept on file at the center. Information from this report will be included in the Director's annual report to the City Council.

4. Participants

- A. All participants must wear tennis shoes daily, unless the Youth is in the swimming pool or participating in an activity that requires no shoes to be worn.
- B. Youth must respect the Employees, Program Site, and each other.

City of Abilene Recreation Division



Standards of Care for Youth Programs 2024

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 - (6) Signed acknowledgement of program code of conduct.

6. Suspected Abuse

Program employees will report suspected child abuse in accordance with the Texas Family Code. In a situation where an Employee is involved in an incident with a child that could be considered child abuse, the incident shall immediately be reported to the Recreation Division Manager. The Recreation Division Manager will immediately notify the Police Department and any other agency, as may be appropriate.

Staffing – Responsibilities and Training

1. Recreation Center Coordinators

- A. Qualifications
1. Recreation Coordinators will be full-time, professional employees of the City of Abilene Recreation Division
 2. Recreation Coordinators must meet the minimum education/experience requirements for employment with the City of Abilene to plan and implement recreation activities.
 3. Recreation Coordinators must be able to pass a background investigation, including testing for illegal substances.
 4. Coordinators must have a current certification in First Aid and Cardiopulmonary Resuscitation (CPR)– Adult and Child. These certifications must be from a nationally recognized certifying organization, i.e., American Heart Association or American Red Cross.
 5. Recreation Coordinators must complete City of Abilene mandatory training.

B. Job Functions

1. Recreation Coordinators are responsible for administering the Youth Programs daily operations in compliance with the Adopted Standards of Care.
2. Recreation Coordinators are responsible for hiring, supervising, and evaluating Recreation Specialist/Leaders.
3. Recreation Coordinators are responsible for planning, implementing, and evaluating programs.
4. Recreation Coordinators maintain supplies, equipment and all necessary documentation for the operation of the Youth Programs.
5. Recreation Coordinators must communicate with Parent(s) as necessary.
6. Recreation Coordinators know and follow all City of Abilene, Division, and Program Manual standards, policies and procedures that apply to Youth Programs.
7. Recreation Coordinators ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

2. Recreation Specialist/Recreation Leader

A. Qualifications

1. Recreation Specialists/Leaders may be full-time, part-time, or temporary employees of the City of Abilene Recreation Division.
2. Recreation Specialists/Leaders should be able to consistently exhibit competency, good judgment, and self-control when working with children.
3. Recreation Specialists/Leaders must relate to children with courtesy, respect, tolerance, and patience.
4. Recreation Specialists must have a current certification in First Aid and Cardiopulmonary Resuscitation (CPR)– Adult and Child. These certifications must be from a nationally recognized certifying organization, i.e., American Heart Association or American Red Cross.
5. Recreation Specialists/Leaders must pass a background investigation, including testing for illegal substances.
6. Recreation Specialist/Leaders will be responsible for understanding and following all City of Abilene, Departmental, Division, and Program standards, policies, and procedures that apply to the City of Abilene Youth Programs.

B. Job Functions

1. Recreation Specialist/Leaders will be responsible for providing participants with an environment in which they can feel safe, enjoy wholesome recreation activities, and can participate in appropriate social opportunities with their peers.
2. Recreation Specialist/Leaders will directly lead activities using a method that will provide opportunities for involvement of all participants on an equal basis.
3. Recreation Specialist/Leaders must exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.
4. Recreation Specialist/Leaders will promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied, and well-organized activities.
5. Recreation Specialist/Leader must be with participants at all times while they are participating in the Program.
6. Recreation Specialist/Leaders ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

3. Playground Supervisor and/or Playground Aide

A. Qualifications

1. Playground Supervisor/Aides will be temporary employees of the City of Abilene Recreation Division.
2. Playground Supervisor/Aides should be able to consistently exhibit competency, good judgment, and self-control when working with children.
3. Playground Supervisor/Aides must relate to children with courtesy, respect, tolerance, and patience.
4. Playground Supervisor/Aides must pass a background investigation, including testing for illegal substances.
5. Playground Supervisor/Aides will be responsible for understanding and following all City of Abilene, Departmental, Division, and Program standards, policies, and procedures that apply to the City of Abilene Youth Programs.

B. Job Functions

1. Playground Supervisor/Aides will assist in leading activities using a method that will provide opportunities for involvement of all participants on an equal basis.
2. Playground Supervisor/Aides must exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.
3. Playground Supervisor/Aides will promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied, and well-organized activities.
4. Playground Supervisor/Aides will be responsible for picking up the areas used by their group after each activity.
5. Playground Supervisor/Aides must be with participants at all times while they are participating in the Program.
6. Playground Supervisor/Aides ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

4. Training/Orientation

- A. The Division is responsible for providing training and orientation to Program employees in working with children and for specific job responsibilities.
- B. Program employees must be competent with the Standards of Care for Youth Program operation as adopted.
- C. Program employees must be competent with the Program's policies, including discipline, guidance, and release of participants as outlined in the Summer Playground Manual.
- D. Program employees will be trained in appropriate procedures to handle emergencies.
- E. Program employees will be trained in areas including City, Departmental, Division and Program policies and procedures; provision of recreation activities; safety issues; and organization.
- F. Program employees will be electronically tested annually over program manuals and Standards of Care.

Operations

1. Staff-Participant Ratio

- A. The City of Abilene Youth Programs, the minimum employee to participant ratio will be 1 to 20 for participants from ages 6-13.
- B. Each participant should have a Program employee who is responsible for him or her and who is aware of details of the participant's habits, interests, and any special needs as identified by the participant's parent during the registration process.

2. Notification

- A. Parents must be notified immediately when Program employees are aware of the following:
 - (1) Participant is injured; or
 - (2) Participant has a sign or symptom requiring exclusion from the site (i.e. communicable disease, fever, and/or illness).
- B. All parents must be notified if there is an outbreak of any communicable disease. The disease will be reported to the Abilene Taylor County Public Health District.

3. Discipline

- A. Program employees will implement discipline and guidance in a consistent manner, based on the best interests of Program participants.
- B. There will be no cruel or harsh punishment or treatment. Examples include, but not limited to:
 - 1. Using physical punishment or any action administered to the body such as, but not limited to rough handling, or forcing child(ren) to assume an uncomfortable position.
 - 2. Restraining movement by tying, enclosing in a confined space, shaking, or using exercise as punishment.
 - 3. Being verbally abusive, including, but not limited to, threats, belittling remarks, humiliation, embarrassment, or frightening a child.
 - 4. Giving any child the authority to punish another child.
 - 5. Placing a child out of visual/hearing range, in the dark, or in an unventilated area.
 - 6. Punishing a child for a toileting accident.
 - 7. Taunting a child by mocking or any other form of jeering.
 - 8. Giving preferential attention to any child over another child.

- C. Program employees may use brief, supervised separation from the activity if necessary.
- D. As necessary, Program employees will initiate discipline reports to the parents of participants. Parents will be asked to sign participant discipline reports to indicate they have been advised about a specific problem or incident.
 - 1. A sufficient number and/or severe nature of discipline report(s), as detailed by the Disciplinary Policy in the Program and Operations Manuals, may result in a Participant being suspended from the Youth Program immediately. If a Participant is suspended from the program, an Authorized Person must pick up the Participant.
 - 2. Participants will be removed from the Program Site as soon as possible in instances of danger to other Participants or Program Staff. This includes, but is not limited to, continuous disruption of the Youth Program, inappropriate sexual behavior, bullying, hitting or biting other Participants or Program Staff and damage to any City property.
- E. A sufficient number and/or severe nature of discipline reports as detailed in the Program manual may result in a participant being suspended and/or expelled from the Program.
- F. In instances where there is a danger to other participants or staff, offending participants will be removed from the Program site as soon as possible.
- G. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any Program Site will be subject to ejection from the site and possible arrest and legal action.

4. Programming

- A. Program employees will provide activities for each group according to the participants' ages, interests, and abilities. The activities will be appropriate to participants' health, safety, and well-being. The activities also will be flexible and designed to promote the participants' emotional, social, and mental growth.
- B. Program employees will provide indoor and outdoor time periods to include:
 - (1) Alternating active and passive activities;
 - (2) Opportunity for individual and group activities; and
 - (3) Outdoor time each day that weather permits.
- C. Program employees will be attentive and considerate of the participants' safety on field trips and during any transportation provided by the Program. Participants must be counted before leaving the Program Site and before boarding the transportation to return to the Program Site.

- (1) During trips, Program employees supervising participants must have immediate access to emergency medical forms and emergency contact information for each participant.
- (2) Program employees will have transportation cards of the participants in the group and must check the roll frequently.
- (3) Program employees should have First-Aid supplies and a guide to First-Aid and emergency care available on field trips.
- (4) Notice of any field trips will be displayed at a prominent location at each Program site.

5. Communication

- A. Each Program site will have access to a telephone for use in contacting the Recreation Center or making emergency calls.
- B. The Recreation Coordinator will post the following telephone numbers adjacent to a telephone accessible to all Program employees at each site:
 - (1) Ambulance or emergency medical services.
 - (2) City of Abilene Police Department.
 - (3) City of Abilene Fire Department.
 - (4) Poison control.
 - (5) The telephone number for the site itself.

6. Transportation

- A. First-Aid supplies and a First-Aid emergency care guide will be available in all Program vehicles that transport children.
- B. All Program vehicles used for transporting participants must have available a portable fire extinguisher located in the passenger compartment of the vehicle which will be accessible to the adult occupants.

Facility Standards

1. Safety

- A. Program employees will inspect Program sites daily to detect sanitation and safety concerns that might affect the health and safety of the participants.
- B. Buildings, grounds, and equipment on the Program site will be inspected, cleaned, repaired, and maintained to protect the health of the participants.
- C. Program equipment and supplies should be safe for the participants' use.

- D. Program employees should have First-Aid supplies available at each site, during transportation and for the duration of any off-site activity.
- E. Program employees should have first-aid supplies readily available to staff in a designated location. Program employees should have an immediately accessible guide to First-Aid and emergency care.
- F. Program air conditioners, electric fans, and heaters should be mounted out of participants reach or have safeguards that keep participants from being injured.

2. Fire

- A. In case of fire, danger of fire, explosion, or other emergency, Program employee's first priority is to evacuate the participants to a designated safe area.
- B. The Program site will have an annual fire inspection by the City of Abilene Fire Department, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Administrator who will review and establish deadlines and criteria for compliance.
- C. Each Program site must have at least one (1) fire extinguisher approved by the Fire Marshall readily available to all Program employees. The fire extinguisher is to be inspected monthly by the Recreation Center Coordinator. All of the City of Abilene Youth Program employees will be trained in the proper use of fire extinguishers.

3. Health

- A. Illness or Injury
 - (1) A participant who is considered to be a health or safety concern to other participants or staff will not be admitted to the Program.
 - (2) Illnesses and injuries will be handled in a manner to protect the health of all participants and employees. Emergency responders will be notified in the event of an injury that cannot be remedied through basic first aid. An accident report shall be completed and forwarded to the Recreation Supervisor.
 - (3) An ill Youth will not be allowed to attend or participate if the Youth is suspected of having a temperature and/or accompanied by behavior changes or other signs or symptoms until a medical evaluation indicating that the Youth can return to the Youth Program.
 - (4) Program employees will follow plans to provide emergency care for injured participants or for participants with symptoms of an acute illness as specified in the Program manual.

- (5) Program employees will follow the recommendation of the Texas Department of State Health Services concerning the admission or readmission of any participant after a communicable disease.

C. Toilet Facilities

- (1) The Program site will have inside toilets located and equipped so children can use them independently and Program employees can supervise as needed.
- (2) There must be at least one flush toilet for every thirty (30) children. Urinals may be counted in the ratio of toilets to children but must not exceed fifty percent (50%) of the total number of toilets.
- (3) An appropriate and adequate number of lavatories will be provided.

D. Sanitation

- (1) The Program site must have adequate light, ventilation, and heat.
- (2) The Program must have an adequate supply of water, meeting the standards of the Texas Department of State Health Services for drinking water, and ensure that it will be supplied to the participants in a safe and sanitary manner.
- (3) Program employees must see that garbage is removed from Program sites daily.
- (4). The Program site will have an annual health inspection by the City of Abilene Health Department, and the resulting report will detail any health concerns observed. The report will be kept on file at the center. Information from this report will be included in the Director's annual report to the City Council.

4. Participants

- A. All participants must wear tennis shoes daily, unless the Youth is in the swimming pool or participating in an activity that requires no shoes to be worn.
- B. Youth must respect the Employees, Program Site, and each other.



**City of San Angelo
Parks & Recreation Department
702 South Chadbourne
San Angelo, Texas 76903
(325) 657-4279/4450**

November 8, 2023

Ann Hall
Division Manager
City of Abilene Parks & Recreation
633 Walnut St.
Abilene, TX 79601

I hope this letter finds you well. On Friday, November 3, 2023, I had the privilege of visiting your recreation centers: Daniels, Chavez, Cobb, and Rose. It is with great pleasure that I share my findings from the inspection, as they exceeded our expectations in terms of care and operation.

Despite the fact that these centers have been serving the community for some time, it is evident that they have been exceptionally well-maintained and are still vibrant hubs of recreational activity. Each center is furnished adequately, with all the necessary resources in place to ensure their smooth operation. I am pleased to note that all required communication postings for emergency situations were in place and easily accessible. Furthermore, all fire extinguishers were present, fully charged, and none were overdue for inspections. The necessary safety equipment was also found in its designated locations, in line with the established requirements.

However, the most outstanding asset of the recreation centers is undeniably the dedicated and knowledgeable staff. It is clear that they possess an unwavering passion for their work, which is both commendable and inspiring. Their commitment to providing quality services is truly remarkable.

I have attached my inspection sheets, which include a few notes on items that could be considered for further improvement. These recommendations are made with the intention of enhancing the overall experience and safety for visitors to your centers.

I would like to extend my sincere gratitude for the opportunity to visit and inspect your recreation centers. Your commitment to maintaining these valuable community resources is evident, and I applaud your efforts. Please do not hesitate to reach out if you have any questions or require further assistance in implementing the suggested improvements.

Thank you once again for your dedication to the well-being of the community and the provision of exceptional recreational facilities.

Carl White
Parks and Recreation Director
City of San Angelo, Texas
325-657-4279
Carl.white@cosatx.us

Standards of Care Review

Recreation Center: G.V. Daniels

Date: Nov 3, 2023 Inspector: Carl White, San Angelo

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	✓	
First Aid kit readily accessible in designated area	✓	
Center Coordinators: CPR/First Aid Certified	✓	

Comments:

FIRE	Yes	No
At least one fire extinguisher	✓	
Fire Extinguishers were current	✓	
Fire Extinguishers locations were labeled	✓	
Emergency Exit map posted	✓	

Comments: sign

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	✓	
EMS or Ambulance contact information posted	✓	
Police Department contact information posted	✓	
Fire Department contact information posted	✓	
Poison Control contact information posted	✓	
Recreation Center contact information posted	✓	

Comments:

Note: center to be considered for replacement under upcoming bond election (Nov 7)

- paint entrance doors - main entrance doors should be painted for more appealing entrance
- Fall fest ... still cleaning + putting up from recent fall festival.

Standards of Care Review

Recreation Center: Cesar Chavez

Date: Nov 3, 2023 Inspector: Carl White, San Angelo

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	✓	
First Aid kit readily accessible in designated area	✓	
Center Coordinators: CPR/First Aid Certified	✓	

Comments:

FIRE	Yes	No
At least one fire extinguisher	✓	
Fire Extinguishers were current	✓	
Fire Extinguishers locations were labeled	✓	
Emergency Exit <u>map</u> posted	✓	

Comments: sign

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	✓	
EMS or Ambulance contact information posted	✓	
Police Department contact information posted	✓	
Fire Department contact information posted	✓	
Poison Control contact information posted	✓	
Recreation Center contact information posted	✓	

Comments:

ladders at electrical panels in back - remove & keep mechanical room clear of all obstacles

Standards of Care Review

Recreation Center: Cobb

Date: Nov 3, 2023 Inspector: Carl White, San Angelo

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	✓	
First Aid kit readily accessible in designated area	✓	
Center Coordinators: CPR/First Aid Certified	✓	

Comments:

FIRE	Yes	No
At least one fire extinguisher	✓	
Fire Extinguishers were current	✓	
Fire Extinguishers locations were labeled	✓	
Emergency Exit map posted	✓	

Comments: sign

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	✓	
EMS or Ambulance contact information posted	✓	
Police Department contact information posted	✓	
Fire Department contact information posted	✓	
Poison Control contact information posted	✓	
Recreation Center contact information posted	✓	

Comments:

- Mc ramp 6 entrance + 1/4" ? gravel? → accessible ramp at entrance looks to need some attention - ramp and walkway look to be at more than 1/4" difference. Grnd higher portion to make level.
 - building is very clean and tidy
 - open hours not posted

Standards of Care Review

Recreation Center: Rose

Date: Nov 3, 2023 Inspector: Carl White, San Angelo

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	☒	☐
First Aid kit readily accessible in designated area	☒	☐
Center Coordinators: CPR/First Aid Certified	☒	☐

Comments:

FIRE	Yes	No
At least one fire extinguisher	☒	☐
Fire Extinguishers were current	☒	☐
Fire Extinguishers locations were labeled	☒	☐
Emergency Exit map posted	☒	☐

Comments: sign

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	☒	☐
EMS or Ambulance contact information posted	☒	☐
Police Department contact information posted	☒	☐
Fire Department contact information posted	☒	☐
Poison Control contact information posted	☒	☐
Recreation Center contact information posted	☒	☐

Comments:

- the restrooms are generally clean, but do have some foul odor.
- exit sign (M) at back door → it is scheduled for installation



Approval of 2024 Standards of Care



Standards of Care

- Summer Camp and After School Programs are open to ages 6 to 13.
- Parents are provided with a copy of the document and it is posted www.abilenetx.gov/camps.
- The Standards of Care are intended to be minimum standards by which the City of Abilene will operate the City's Youth Programs. The programs operated by the City are recreational in nature and are not licensed by the state of Texas as certified day care programs.



Basic Requirements

- Adequate and readily available first aid kits.
- Full time staff must be certified in CPR and First Aid.
- Non-expired fire extinguisher / properly labeled
- Emergency exit signs are posted
- Posting of emergency contact including fire, police, poison control, as well as contact information for Recreation Center.
- Registration collection of names, addresses, phone numbers, and signed waiver of liability. This is done electronically through the registration software.
- Defines job titles, qualifications, and responsibilities.
- Outlines the ratio (Abilene is 20 children per 1 staff).
- Lists facility standards that includes lighting, toilet facilities, and communicable diseases.



Standards of Care

- Internal annual inspection
- Environmental Health and Fire Department conducts an annual inspection.
- We also have an outside Parks and Recreation professional perform a review. This was done on November 8th, by Carl White, City of San Angelo Parks and Recreation Director.



Proposed Change

Proposed Change:

- ...”The Administrator will make visual inspections of the facilities, based on the following schedule. An Administrator that is not associated with the City of Abilene Parks and Recreation Department will assist on one of the following inspections.
 - (1) A pre-summer check in April of each year; and
 - (2) A fall check in October of each year.”



Standards of Care

Steps in the adoption:

- Approval by Parks and Recreation Board – November 21, 2023
- First Reading by City Council – December 7, 2023
- Public Hearing and vote by City Council – December 21, 2023





City Council Agenda Memo

City Council Meeting Date: 12/7/2023

TO: Honorable Mayor Hurt and Members of the City Council

FROM: Robert Hanna, City Manager

SUBJECT: **16. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Enter Into an Agreement with Freese and Nichols, Inc for a Comprehensive Land Development Code Rewrite (*Robert Hanna*)

GENERAL INFORMATION

The City Council adopted a new comprehensive plan on April 13, 2023. This document was long in the making. It was a necessary and legally required step to achieve the City Manager's stated purpose of adopting a new land development code. Now it is time to consider the rewrite of the city's land development code.

As you may know, the City's current land development code is contradictory in several areas, confusing in others, and difficult to administer in many cases. This has forced City staff to maintain a list of "decisions" that have set precedent on code interpretations. Many of these interpretations are founded on solid planning principles, but are not necessarily supported in the text of the adopted code. Moreover, the zoning districts are numerous and duplicative of one another. To be fair, there are several elements of our current code that are very functional and we will want to maintain these to the extent they do not conflict with the adopted comprehensive plan.

A land development code should be structured to implement the shared community vision expressed in the comprehensive plan. It should do so in a manner that is plainly written and plainly understood. It should use as few zoning districts as possible, and in West Texas at least, it should understand and reflect the importance of private property rights, while addressing the community's desire to help shape the built environment with reasonable development standards. It is the opinion of the City Manager that a complete rewrite of our current land development code is required to accomplish these goals.

SPECIAL CONSIDERATIONS

An important part of this project will be the designation of a technical services team. Staff has identified the following companies to serve on the technical review committee. These companies have been identified because they perform a majority of the land development work in Abilene, represent the majority of land owners engaged in land development work, or represent a historical connection to the City's previous land development code process and offer a unique and important perspective on development in Abilene.

- 1.) A representative from Enprotec Hibbs and Todd.
- 2.) A representative from Jacob and Martin.
- 3.) A representative from Senter Realtors.
- 4.) Mayor appointee.
- 5.) Mayor appointee.
- 6.) City Manager.
- 7.) Director of Planning and Development.

FUNDING/FISCAL IMPACT

At the request of the City Manager, Freese and Nichols submitted a Scope of Services for the work proposed for the complete rewrite of the City's land development code. The cost for the service is \$403,000 and is to be paid in two equal installments as a lump sum over two fiscal years. Meaning, year one costs will be \$201,500 and year two costs will be \$201,500. This is reflected in the attached Professional Services Agreement, and corresponding Scope of Work. Funding for this project is available from the Minor Improvement Fund. It is anticipated this work will take 18 months to complete.

Freese and Nichols has extensive experience working with communities across the State of Texas. They are recognized professionals in the field of land use planning and have significant experience working with communities to enact development standards and land use regulations.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. RESOLUTION
2. Professional Services Agreement - FNI
3. Supplement
4. F&N Scope of Work
5. Presentation

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH FREESE AND
NICHOLS, INC FOR A COMPREHENSIVE LAND DEVELOPMENT CODE REWRITE**

WHEREAS, the City adopted a new comprehensive plan on April 13, 2023; and

WHEREAS, the City's current land development code is contradictory in several areas, confusing in others, and difficult to administer in many cases; and

WHEREAS, a complete rewrite of our current land development code is required to implement the newly adopted comprehensive plan; and

WHEREAS, the new land development code should be plainly written in order to be plainly understood, with the goal of shaping the built environment with reasonable development standards.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF ABILENE, TEXAS:**

Part 1: The City Manager is authorized to execute the professional services agreement with Freese and Nichols, Inc.

Part 2. That this Resolution takes effect immediately upon its adoption.

ADOPTED this 7th day of December, 2023.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



PROFESSIONAL SERVICES CONTRACT Engineers & Architects

This contract, dated the 7th day of December, 2023, is between the City of Abilene, a home rule municipal corporation of the State of Texas (“City”), and Freese and Nichols, Inc, a Texas Corporation organized under the laws of the State of Texas (“Consultant”).

The City is engaged in the writing of land use planning and development standards and desires to engage the services of Consultant, as an independent contractor and not as an employee, to assist in the project and to render his or her or its services on the terms and conditions provided in this Contract.

The Consultant is a[n] qualified professional engineering firm properly licensed to practice in the State of Texas. Consultant desires to render professional services to the City on the terms and conditions provided in this Contract.

The Consultant must perform services with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

THEREFORE, the City engages the services of the Consultant. In consideration of the mutual promises contained in this Contract, the parties agree as follows:

I. TERMS

In consideration of the compensation stated in paragraph II, the Consultant must provide all services as described in Attachment A, which is incorporated by reference for all purposes. The Consultant must complete all services by a mutually agreed upon date.

II. FEE

For the services to be rendered under this Contract, the Consultant will be entitled to a fee as described in Attachment B, which is incorporated by reference for all purposes.

III. FACILITIES

The Consultant will furnish all facilities and equipment that may be necessary to perform services required under this agreement.

IV. ASSIGNMENT

The Consultant may not assign in whole or in part any rights, duties, obligations or interest arising from this agreement without the City's prior written consent. In the event of an assignment by the Consultant to which the City has consented, the assignee or assignee's legal representative must agree in writing with the City to personally assume, perform, and be bound by all the provisions of this Contract. All of the terms and provisions of this Contract are binding on Consultant's successors and assigns and may be enforced by the City against such successors and assigns.

V. STATUS OF CONSULTANT

The Consultant is an Independent Contractor. Consultant and Consultant's employees are not the agents, servants or employees of the City.

VI. AMENDMENT OR MODIFICATION

This contract, including attachments, constitutes the entire agreement of the parties. Any statements, promises, or agreements made by either party or its agent which are not contained in this contract are of no effect. This contract may not be amended or modified except by both parties' written consent. This Contract supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.

VII. OWNERSHIP OF DOCUMENTS AND MATERIALS

All documents and materials prepared by Consultant under the terms of this contract are the City's property from the time of preparation. Consultant will deliver copies of the documents and materials to the City or make them available for inspection *whenever requested*. City has the right to make duplicate copies of such documents or materials for its own file or use for any other such purposes as the City deems necessary and there shall be no additional costs incurred because of such copying or use.

VIII. NONDISCLOSURE

The Consultant may not show to any person or entity any documents, reports, plans, programs, reports, drawings, or any other material which Consultant prepares or acquires in performing this contract, including any duplicate copies kept by Consultant. The Consultant may not disclose to any person or entity any information regarding the City's activities. The City may, however, specifically authorize a limited disclosure at its discretion.

IX. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

“City” shall mean all officers, agents and employees of the City of Abilene.

“Claims” shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

“Consultant” includes the person, corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

“Consultant’s employees” shall mean any employees, officers, agents, subcontractors, licensee and invitees of Consultant.

“Damages” shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right**
- (ii) injury, damage, or death to any person or entity**
- (iii) attorneys fees, witness fees, expert witness fees and expenses, and**
- (iv) all other costs and expenses of litigation**

“Premise Defects” shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

B. Indemnity

The Consultant shall indemnify, hold harmless and defend the City against liability for damage that is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Consultant or the Consultant’s agent, or another entity over which the Consultant exercises control.

The Consultant is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Consultant’s employees while in the vicinity where the work is

being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Consultant or Consultant's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Consultant.

The City and Consultant must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Consultant or City. The City has the right to compromise and defend the same to the extent of its own interests.

X. INSURANCE

A. GENERAL REQUIREMENTS

The Consultant agrees to maintain the type and amounts of insurance required in this contract throughout the term of the agreement. The Consultant is solely responsible for providing the required certificates of insurance. The City may terminate this agreement if the Consultant fails to timely comply with the insurance requirements.

The required insurance must be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies are subject to examination and approval by the City for their adequacy as to content, form of protection, and providing company.

The required insurance naming the City as additional insured must be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Before the City executes the notice to proceed with any work under this agreement, the Consultant must provide the City Secretary with either an original certificate of insurance or a certified copy of the insurance policy evidencing the required insurance. Thereafter, the Consultant must furnish new certificates or copies of the policy before the expiration date.

Texas Labor Code Section 406.096 requires a city to ensure that contractors carry workers' compensation for each employee when the city is a party to any "building or construction contract." The code enumerates that "building and construction" includes:

- (A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
- (B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or an appurtenance to real property through similar activities.

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured with respect to operations for which this agreement is made.
2. Provide for 30 days advance written notice of cancellation or material change.

C. TYPES AND AMOUNTS OF INSURANCE

The types of insurance required in this contract are those indicated by initials. If no initials appear on any of items 1 through 6, items 1 through 4 shall be required.

<u>Type</u>	<u>Amount</u>
☐ 1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
☐ 2. Commercial (Public) Liability including, but not limited to: • Premises/Operations • Independent Contractors • Products/Completed Operations • Contractual Liability (insuring above indemnity) and where the exposures exist • Explosion Collapse and Underground	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
☐ 3. Business Automobile Liability to include coverage for: • Owned/Leased Autos • Non-Owned Autos • Hired Cars	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
☒ 4. Professional Liability	\$500,000 combined single limit (per occurrence)
☐ 5. See Addendum for Special Coverages and/or revisions	

___6. No Insurance Required

XI. VENUE, CHOICE OF LAW AND INTERPRETATION

Venue for any cause of action arising under this contract is Taylor County, Texas. This contract is governed by the laws of the State of Texas both as to interpretation and performance. This contract shall, in any dispute over its meaning or application, be interpreted fairly and reasonably, and not more strongly for or against either party.

XII. TERMINATION

This contract may be terminated at any time upon 30 days written notice by City to Consultant. In the event of termination, Consultant will be compensated for work satisfactorily performed before the termination date.

If, through any cause, the Consultant fails to fulfill his obligations under this contract, or if the Consultant violates any of the agreements of this contract, the City has the right to terminate the contract by giving five days written notice to the Consultant. The Consultant will be compensated for work satisfactorily performed before the termination date.

The Consultant, however, is not relieved of liability to the City for damages sustained by the City because of any breach of contract by Consultant. The City may withhold any payments to Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined and paid.

XIII. PROJECT REPRESENTATION

The City agrees to appoint a Project Representative to assist in obtaining information from various City departments as requested by Consultant and in coordinating, monitoring, and evaluating the project to its completion. The Project Representative has no control over the means, methods, techniques, or procedures employed by Consultant. The City is interested only in the results obtained under this contract; the manner and means of obtaining those results is solely under the Consultant's control.

XIV. NOTICE

All notices must be in writing, hand-delivered or mailed by certified mail, to the other party at the address below. The name and address for notification may be changed by notice to the other party.

City – ATTN:
Robert Hanna, City Manager
555 Walnut Street
Abilene, TX 79601

Consultant – ATTN:
David Jones, AICP
801 Cherry St #2800
Fort Worth, TX 796102

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

Consultant, its agents, employees and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Abilene, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Consultant must obtain all necessary permits and licenses required in completing the work contracted for in this agreement.

XVI. NO INDEBTEDNESS

Consultant agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty and interest. Consultant is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty and interest.

XVII. EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the City to recruit, employ, and to provide compensation, promotion, and other conditions of employment without regard to race, color, religion, sex, age, national origin, or disability. The City affirms that employment decisions shall be made only on the basis of bonafide occupational qualifications. The City shall continually review its employment practices and personnel procedures and take positive steps to assure that equality of employment opportunity in the City of Abilene, Texas, is a fact as well as an ideal.

XVIII. VERIFICATION OF EMPLOYMENT ELIGIBILITY

Consultant must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Consultant -- not City -- must verify eligibility for employment as required by IRCA.

XIX. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids in for this contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas

Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XX. SALES TAX

The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the “Tax Act”), and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Consultant. The Consultant must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Consultant is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the project, tangible personal property purchased for use in the performance of this contract and not completely consumed, or other taxable services used to perform this contract, or other taxes required by law in connection with this contract.

XXI. LEGAL CONSTRUCTION

In the event that any one or more of the provisions contained in this Contract is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions, and the Contract will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

XXII. BOYCOTT OF ISRAEL

In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees, and (b) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. Additionally, “company” does not include a sole proprietorship.

If this section is applicable, the signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

XXIII. SECTIONS AND OTHER HEADINGS

Section, paragraph, and other headings contained in this Contract are for reference purposes only and do not affect in any way the meaning or interpretation of this Contract.

XIV. COUNTERPARTS

This Contract may be executed in two or more counterparts (including fax, email, or electronic PDF counterparts), each of which shall be deemed an original and all of which together shall constitute one instrument.

{Remainder of Page Intentionally Left Blank—Signature Page Follows}

IN WITNESS HEREOF, the parties hereto have executed this contract effective as of the date written above:

CITY OF ABILENE

PROFESSIONAL

By:

By:

Name:

Name:

Title:

Title:

Address:

Phone Number:

Federal Tax ID#:

ATTEST:

ATTEST: (if corporation)

City Secretary

Corporation's Secretary

APPROVED:

Corporate Seal (if available)

By: _____
City Attorney

ATTACHMENT A

Scope of Services

ATTACHED

ATTACHMENT B

PAYMENT SCHEDULE

PARTIES TO INITIAL OPTION SELECTED

OPTION 1 ____

Compensation is based on actual hours of work/time devoted to providing the described professional services and will be paid at a rate of \$Click or tap here to enter text. per hour not to exceed \$Click or tap here to enter text..

Professional must submit monthly invoices to City accompanied by an explanation of charges, professional fees, and services. City will pay invoices according to its normal payment procedures.

OPTION 2 _X_

Payment is in a lump sum amount of \$201,500 in Fiscal Year 2024 and \$201,500 in Fiscal Year 2025 upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Contractor must execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subcontractors, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Contractor has been notified.

OPTION 3 ____

Payment is a fixed fee amount of \$Click or tap here to enter text. payable per Click or tap here to enter text. upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Professional shall execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subcontractors, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Professional has been notified.

ATTACHMENT C

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

THIS ATTACHMENT IS ONLY APPLICABLE IF WORKERS' COMPENSATION COVERAGE IS PROVIDED

a. Definitions

Certificate of coverage ("certificate") - a copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Professional's/person's work on the project has been completed and accepted by the City.

Persons providing services on the project ("subcontractors" in 406.096) - includes all persons or entities performing all or part of the services the Professional has undertaken to perform on the project, regardless of whether that person contracted directly with the Professional and regardless of whether that person has employees. This includes, without limitation, independent contractors, subprofessionals, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitations, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- b. The Professional shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Professional providing services on the project, for the duration of the project.
- c. The Professional must provide a certificate of coverage to the City prior to being awarded the contract.
- d. If the coverage period shown on the Professional's current certificate of coverage ends during the duration of the project, the Professional must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.
- e. Professional shall obtain from each person providing services on a project and provide to City:

- (1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven (7) days after receipt by the Professional, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- f. The Professional shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
 - g. The Professional shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Professional knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
 - h. The Professional shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
 - i. The Professional shall contractually require each person with whom it contracts to provide services on a project to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the Professional, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing service on the project, for the duration of the project;
 - (3) provide the Professional, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the Professional:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;

(6) notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project;

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

- j. By signing this contract or providing or causing to be provided a certificate of coverage, the Professional is representing to the City that all employees of the Professional who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Professional to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- k. The Professional's failure to comply with any of these provisions is a breach of contract by the Professional which entitles the City to declare the contract void if the Professional does not remedy the breach within ten (10) days after receipt of notice of breach from the City.

ATTACHMENT D
NOTICE TO PROCEED

Click or tap here to enter text.

ATTACHMENT E
CHANGE IN SCOPE OF SERVICES

Click or tap here to enter text.

**SUPPLEMENT TO AGREEMENT BETWEEN THE CITY OF ABILENE, TEXAS AND

("Company")**

- (1) **Verification Against Boycott of Israel Provision.** In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a company for the provision of goods or services unless the agreement contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. The term "company" does not include a sole proprietorship. Chapter 2271 of the Texas Government Code only applies to an agreement that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000.00 or more that is paid wholly or partly from public funds of the governmental entity.
- (2) **Verification Against Discrimination of Firearm or Ammunition Industries Provision.** Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the company employs at least 10 full-time employees, and this agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company verifies that: (1) the company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the company will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. The term "company" does not include a sole proprietorship. This provision does not apply to a governmental entity that contracts with a sole-source provider, or does not receive any bids from a company that is able to provide the written verification required.
- (3) **Verification Against Boycott of Energy Companies Provision.** Pursuant to Texas Government Code Chapter 2276, unless otherwise exempt, if the company employs at least 10 full-time employees, and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company represents that: (1) the company does not boycott energy companies; and (2) the company will not boycott energy companies during the term of this Agreement. The term "company" does not include a sole proprietorship. This provision does not apply to a governmental entity that determines the requirements are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.
- (4) **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the company verifies that company is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

Unless the company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company: (1) does not boycott Israel and will not boycott Israel during the term of this Agreement; (2) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade

association, and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association; (3) does not boycott energy companies, and will not boycott energy companies during the term of this Agreement; and (4) is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

(printed name of company)

(signature and printed name of signatory)

(date of signature)

SCOPE OF SERVICES AND RESPONSIBILITIES OF OWNER

ARTICLE I

BASIC SERVICES: FNI shall render the following professional services in connection with the development of the Project:

PROJECT UNDERSTANDING:

As further described below, the City of Abilene (Client, City) is engaging FNI (Consultant) to develop a comprehensive plan amendment and updated development regulations anticipated in the form of a Land Development Regulations Code (Development Regulations), consistent with standards, procedures and best management practices in Texas. Execution of the contract by all parties shall constitute notice to proceed.

SCOPE OF SERVICES:

Tasks prepared as part of this planning effort may occur concurrently or sequentially where appropriate or, in some cases, may deviate from the sequence shown in this Scope of Services document.

OVERVIEW OF PROJECT MANAGEMENT, COORDINATION, MEETINGS AND ENGAGEMENT (ALL PHASES)

1: Project Management and Quality Control

Perform general project management and control project quality, progress and budget for the scoped period of completion, including the Consultant's monthly reporting and invoicing requirements, monthly status meetings with the City, and similar efforts.

Deliverables:

- a. Project schedule, updated as needed
- b. Monthly one-page reports and invoices

2: Engagement and Meetings

The consultant will prepare an engagement plan for approval by the City, consistent with the following:

1. Staff Check-In Meetings

The FNI Team will meet with City staff periodically throughout the project to discuss project progress, key action items and responsibilities, and the project schedule. These meetings will take place through standing conference calls to be determined by the Client and FNI. The project's progress and status will also come through monthly status updates that summarize progress and document completed and upcoming tasks. The monthly status updates will outline any upcoming key decisions which will require input from or discussion with the City. Outside of scoped project meetings, conference calls with City staff will be scheduled as needed.

2. Project Initiation

A conference call with key project team staff from the City will take place at the beginning of the

project to familiarize all parties with the scope, project schedule, project kick-off, data request needs and timing, invoicing, communication and key staff, and other significant considerations advantageous to understand prior to the kick-off.

3. Kickoff Meeting and Study Area Tour

FNI will prepare for and attend one (1) in-person kick-off meeting with the City. The purpose of the meeting will be to build upon discussions of the project initiation conference call. Immediately following the Kickoff Meeting, FNI will participate in one (1) study area tour of the city to provide context to conversations about the City's challenges and opportunities. If the City is unable to participate in this tour, the City will provide a recommended tour route, key project information and summary to identify focus areas (may include, but not be limited to, development project examples, neighborhoods or districts, corridors or special planning areas, other natural or sensitive areas or zones), and other key elements for consideration when drafting the Development Regulations. FNI and the City may also mutually agree to other approaches.

4. Technical Committee Meetings

Technical Committee members will be identified by the City before drafting of the Development Regulations commences. Technical Committee meetings will allow for the review of key components of the draft regulations, identify potential issues to be addressed, and to receive direction. Such sessions will include an agenda and draft chapters of the Development Regulations for review and comment for the module specified in Phase 2 below. A total of seven (7) Technical Committee meetings are included in this scope of work, at least three (3) of which shall be in person and three (3) of which shall be held via virtual hosting platform such as Teams or Zoom. Any or all of the in-person Technical Committee meetings may be made virtual at the request of the City. One (1) in-person Technical Committee meeting is included in this scope as part of the trip for the Kickoff Meeting and Study Area Tour to aid in issue identification before commencing Phase 1 – Diagnostic Report. The remaining in-person Technical Committee meetings are combined with other in-person activities such as Open House and Council/P&Z check-ins to maximize efficiency of travel to the CITY.

5. Stakeholder Meetings and/or Community Conversations

No stakeholder meetings are included in this scope other than the Technical Committee meetings listed above. Additional stakeholder meetings may be added for additional fee upon request of the City. Two (2) open houses will be held prior to drafting of full zoning standards (to allow public review of proposed standards and revised zoning map) and following the Technical Committee review of the Discussion Draft to gather community feedback and to present the revised Development Regulations and zoning map. The open house meetings will be combined with corresponding Technical Committee meetings to be held on the same day.

6. City Council Briefings and Adoption Meetings

Attend up to four (4) in-person City Council or Planning and Zoning Commission meetings during the process (as specified under Task 3), which may be structured as joint meetings of the Planning and Zoning Commission and the City Council. If additional City Council or Planning and Zoning Commission meetings, briefings, or contact is needed at any phase of the project, FNI may provide supporting materials and general guidance to City Staff. Additional in-person meetings may be

added for an additional fee at the direction of the City.

Deliverables:

- a. Meetings, events and engagements, and their associated support materials such as PowerPoint presentations, handouts, maps, and other exhibits to support the topic of discussion. City Staff is responsible for coordinating and scheduling meeting venues for in-person meetings.
- b. In-person meetings will be attended by at least two (2) consultant team members who will be augmented by additional City Staff as agreed upon by FNI and the CITY.

PHASE 1: DIAGNOSTIC EVALUATION

Task 1.1: Project Initiation, Form and Outline

1. The deliverable shall include updating/rewriting the following chapters of the Abilene Code of Ordinances, Part III, Appendix A – Land Development Code:
 - a. Chapter 1: General Provisions
 - b. Chapter 2: Zoning Regulations
 - c. Chapter 3: Subdivision Regulations
 - d. Chapter 4: Site Development Regulations
 - e. Chapter 5: Definitions
2. With direction from the City, incorporate elements of the 2023 Comprehensive Plan into the Development Regulations for implementation.
3. With direction from the City, update the Development Regulations for increased readability and user-friendliness, including the use of graphics, tables, flowcharts, and other visual aids.
4. With direction from the City, define other critical regulations outside of those listed above from the Code of Ordinances with which to align the project development regulations for consistency and cross-reference as needed, but that will remain unaltered and outside of this project.
5. Preparation of the project development regulations does not include development of or revisions to Engineering Criteria Manuals, Construction Specifications and Standards Manuals, or Development Manuals, but such manuals will be cross-referenced as appropriate. Such revision services are available as an additional service.

Task 1.2: Diagnostic of Current Regulations

1. FNI will produce a Code Diagnostic and Analysis Report based on consensus between FNI and the City to lay the foundation for revising the existing regulations.
 - a. The Code Diagnostic will be used to guide the creation of the Development Regulations update.
 - b. The Code Diagnostic will be in memorandum/report format (approximately 30-40 pages in length), which will summarize the issues and recommended changes to the existing regulations, informed by the direction of the Comprehensive Plan, other adopted City policies, and staff feedback.
2. The diagnostic effort will focus on necessary revisions to the Development Regulations in order to streamline the remainder of the process, identifying issues with Code users as represented by the

Technical Committee and discussing potential resolutions and identifying the selected course of action.

3. Upon delivery of the draft Code Diagnostic, City Staff is responsible for providing one set of consolidated and aligned comments on the draft report within 14 calendar days of receipt. FNI and City Staff will conduct one virtual meeting to review the City's comments. FNI will provide a revised report for discussion and direction. Based on the joint workshop direction, FNI will provide a final electronic deliverable of the report.
4. The City may elect to present the Code Diagnostic to the Planning and Zoning Commission and City Council for formalization or adoption. This scope does not include FNI attendance at those meetings, though FNI may provide supporting materials or general guidance to City Staff.
5. Consultant shall undertake the preparation of the development regulations based upon the Diagnostic Evaluation to achieve a set of development codes that is implementable, legal, internally consistent and aligned to the vision.

PHASE 2: DEVELOPMENT REGULATIONS UPDATE

Tasks 2.1-2.3: Draft and Review of Development Regulations

1. This task shall be broken into the following subtasks or modules:
 - a. **Task 2.1 (module 1):** Draft revised Zoning Districts, Land Use Standards, and Dimensional Standards for City Staff and Technical Committee review (up to 2 Technical Committee meetings)
 - i. Draft zoning & site development regulations included in Module 1:
 - i. Identification and definition of zoning districts
 - ii. Updates to the land use matrix
 - iii. Updates to the dimensional standards table
 - iv. Creation of design and architectural standards
 - ii. Module 1 includes supplemental zoning regulations such as:
 - i. Parking, landscaping, lighting, signs
 - ii. Performance, conditional or use-specific standards
 - iii. Non-conforming uses
 - b. **Task 2.2 (module 2):** Draft revised General Provisions and Development Procedures – City Staff and Technical Committee review (1 Technical Committee meeting)
 - c. **Task 2.3 (module 3):** Draft revised Subdivision Regulations – City Staff and Technical Committee review (up to 2 Technical Committee meetings)
 - i. Module 3 includes platting procedures and standards, adequate facilities ordinance and proportionality regulations, amendments to roadway cross-sections, and subdivision procedures, but does not include engineering technical standards or technical manual development.
2. Module Drafting Process

The process for creating the development regulations will be divided into several distinct parts (modules) to allow for focused and topical discussion between the project team, City Staff, and the Technical Committee. City Staff is responsible for providing one set of consolidated comments for each part, with conflicting comments from the City either resolved or identified and summarized for a facilitated comment resolution conversation.

3. Module Draft Review Process

- a. FNI will prepare one working draft for each module listed above and may, if requested by the City, provide a brief (approximately one hour) virtual orientation session to introduce each module to City Staff.
- b. One set of consolidated comments is due from City Staff within 28 calendar days of receipt of the working draft. After written comments have been provided, FNI and City Staff will hold a virtual call (approximately one to two hours, as needed) to review City Staff's comments and direction.
- c. FNI will complete one revision following receipt of review comments and a final round of revisions following Technical Committee review, which will be included in the Full Discussion Draft.

4. Full Discussion Draft

- d. Based on City Staff comments and revisions to the module draft reviews, FNI will prepare a Discussion Draft.
- e. FNI will deliver the discussion draft to the City, with City staff providing one review within 28 calendar days of receipt. FNI will edit as necessary, and return to City Staff for distribution to the Technical Committee.
- f. One (1) Technical Committee meeting will be held to review the Discussion Draft
- g. FNI will review all comments originating at the Technical Committee meetings with City Staff and address as necessary to prepare a Final Draft for consideration by the Planning and Zoning Commission and City Council.

Task 2.4 – Development Process Manual

- 1. FNI will work with City Staff to develop a summary guide or manual outlining all steps and requirements that pertain to the development process established in the Development Regulations in a single reference document. The text and content of this document is intended to be a highly-visual guide that is less technical or formal than the Development Regulations on which it is based, and which may be amended from time to time by City Staff as regulations and policies are updated. The manual will be written in a easy-to-read style that can be understood by a non-technical or non-professional reader.
- 2. Initiation of this task is intended to take place following development of the full discussion draft, with the final deliverable consisting of the following:
 - a. Cover Page, Welcome Message, and Table of Contents page with active links to each chapter
 - b. Zoning Chapter:
 - i. FNI will develop a zoning chapter outlining all steps in the zoning and entitlement process from initial pre-application correspondence to City Council decision.
 - ii. The zoning chapter will incorporate a checklist of all requirements necessary to a completed zoning application or site plan application.

- iii. The zoning chapter will include a table of all elected and appointed bodies involved in the zoning process and their degree of decision-making authority based on permit type.
 - iv. The zoning chapter will explain the types of zoning requests, incorporate procedural summaries using graphs and decision trees that pertain to each.
 - v. The zoning chapter will summarize City responsibilities and applicant responsibilities related to requests for zoning or site plan.
- c. Subdivision Chapter:
 - i. FNI will develop a subdivision chapter outlining all steps in the platting process from zoning (if a zoning change is required) or pre-application correspondence (if the property is zoned) to final plat approval.
 - ii. The subdivision chapter will incorporate a checklist of all requirements necessary to a completed plat application.
 - iii. The subdivision chapter will include a table of all elected and appointed bodies involved in the platting process and their degree of decision-making authority based on plat type.
 - iv. The subdivision chapter will explain the types of plats and the applicability of each, and will incorporate procedural summaries using graphs and decision trees that pertain to each type of plat.
 - v. The platting chapter will summarize City responsibilities and applicant responsibilities related to platting.
- d. Public Improvements Chapter:
 - i. FNI will develop a public improvements chapter outlining all steps in the process to review civil construction plans for water, sewer, drainage, and streets intended for conveyance to the City, along with issuance of permits, inspect, and accept public improvements constructed during the development process.
 - ii. The public improvements chapter will incorporate a checklist of all requirements necessary to submit plans, construct improvements, and convey improvements to the City or perform work within the City's right-of-way.
 - iii. The public improvements chapter will incorporate procedural summaries using graphs and decision trees that pertain to construction and acceptance of public improvements.
 - iv. The public improvements chapter will be based on the subdivision regulations developed with the Development Regulations in task 2.3 and the City's adopted engineering design manuals and make reference to those documents, but will not contain technical specifications or design criteria other than high-level summaries of each type of water, wastewater, drainage, and roadway facility permitted by the City.
 - v. The public improvements chapter will summarize City responsibilities and applicant responsibilities related to public improvements.
- e. Building Permits and Inspections Chapter:
 - i. FNI will develop a building permits chapter outlining all steps in the process for registering as a contractor, reviewing and issuing residential and non-residential building permits, inspecting work under an open permit, and issuing approval, green tagging, or certificate of occupancy following completion of work.
 - ii. The building permits chapter will incorporate a checklist of all requirements necessary to submit plans and request inspections as well as a summary of all types of permits issued and the various City departments involved in the review and inspections process.

- iii. The building permits chapter will be based on the applicable chapters in the Development Regulations and the City's adopted ICC and IFC codes, but will not contain building code or fire code content, requirements, or specifications other than high-level summaries of requirements that are associated with each permit type.
 - iv. The building inspections chapter will summarize City responsibilities and applicant responsibilities related to requests for building permits, inspections, and building occupancy.
- f. Task 2.4 Meetings
 - i. Prior to beginning work on this task, FNI will conduct up to three (3) initial meetings with relevant department staff to coordinate content and format for the Development Manual based on staff preference. Prior to these meetings, FNI will provide to the city up to five (5) examples of development guides or manuals adopted by other cities of similar population or characteristics for the City's consideration and feedback.
 - ii. FNI will submit an initial draft of the Development Manual to City staff for review
 - iii. Following review of the draft Development Manual, FNI will conduct up to two (2) virtual review meetings with City staff to coordinate revisions to the draft Development Manual.
 - iv. All meetings under this task will be virtual on the same platform used for other virtual meetings described in this scope of services.
- g. Task 2.4 Deliverable

FNI will provide the City with one (1) copy of the completed Development Manual in both PDF and native MS word file types for future modification by City staff.

Task 3: Adoption and Delivery of Final Development Regulations

1. Final Draft and Adoption

- a. FNI will prepare a draft set of development regulations for adoption, and advise as necessary on the adoption process.
- b. FNI will attend in-person and facilitate one joint workshop with the Planning & Zoning Commission and City Council to review the draft development regulations and discuss initial feedback.
- c. FNI will provide a revised draft of the development regulations for adoption consideration.
- d. FNI will attend in-person and facilitate one public hearing at a joint meeting with the Planning & Zoning Commission and City Council to consider recommendation and adoption of the development regulations.

Deliverables:

- Project deliverables include all electronic files in Microsoft Word and Adobe PDF formats to edit and reproduce the development regulations. Note that this scope of services does not include development of engineering design/construction details.
- An updated City zoning map based on revised zoning districts created through the Development Regulations update process. GIS layers created in the development of maps will be made available to the City for integration with the City's GIS layers.

- Other planning maps such as future land use or thoroughfare plan are not included within this scope.

MEETINGS SUMMARY:

1. One (1) in-person Kickoff Meeting and Study Area Tour with City staff
2. Up to seven (7) Technical Committee Meetings, with one being in-person during the project kick-off, three (3) additional in-person meetings, and three (3) conducted virtually during the update of the Development Regulations.
3. Two (2) in-person community-wide open house meetings, which will be combined with in-person Technical Committee meetings to achieve efficiency in travel and budget.
4. Up to two (2) in-person adoption meetings with P&Z/Council
5. Five (5) virtual meetings associated with Task 2.4 – Development Process Manual

ARTICLE II

ADDITIONAL SERVICES: Additional Services to be performed by Consultant, if authorized by City, which are not included in the above described basic services, are described as follows:

- A. Conducting Stakeholder Meetings or additional public outreach to gain feedback or consensus on proposed content or regulations. Stakeholder meetings requested by the City will be billed hourly in accordance with the rates outlined in Exhibit SC and may be combined with other in-person meetings included in this scope.
- B. Meetings or trips in excess of the number of meetings included in Article I for coordination meetings, public meetings or other activities. Additional meetings requested by the City in excess of those included in Article I will be billed hourly in accordance with the rates outlined in Exhibit SC.
- C. Printing and binding of documents in addition to those identified in ARTICLE II will be billed in accordance with the rates outlined in Exhibit SC. Consultant, following a request for assistance from the City, will prepare an estimate for approval by the City prior to initiating work.
- D. Making revisions to drawings or other report documents when such revisions are 1) not consistent with approvals or instructions previously given by City or 2) due to other causes not solely within the control of Consultant.
- E. Preparation of new impact fees or impact fee updates for water, wastewater, roadway or drainage under Chapter 395.
- F. Preparation or revisions to engineering criteria manuals and development manuals.
- G. Preparation of water, wastewater or drainage master plans, or updates to other adopted plans.
- H. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications, including MPO applications.
- I. Preparing data and reports for assistance to City in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- J. Revisions, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective within six (6) months of the date of this agreement.
- K. Providing basic or additional services on an accelerated time schedule. This includes cost for overtime wages of employees and Consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the City.
- L. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services attached to this professional services agreement.
- M. Providing document revisions in excess of those outlined in Article I.

ARTICLE III

TIME OF COMPLETION: Consultant is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the basic services **within 18 months of the notice to proceed.**

If Consultant's services are delayed through no fault of FNI, FNI shall be entitled to adjust the contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in City or regulatory reviews, delays in the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and will be based upon rates outlined in Exhibit SC.

ARTICLE IV

COMPENSATION: FNI shall perform professional services as outlined in the "Scope of Services" for a lump sum fee of \$403,000 which may be funded in equal lump sum payments over two fiscal years. All project expenses are included.

ARTICLE V

RESPONSIBILITIES OF OWNER: City shall perform the following in a timely manner so as not to delay the services of Consultant:

- A. Provide meeting space and coordinate equipment needs, room set up, and logistics for meetings outlined in Article I.
- B. Provide information from all previous and current studies and projects (as available) that may affect the outcome of the Project. This information will be provided in digital format when possible and available.
- C. Provide any identified Code deficiencies or issues known to City Staff.
- D. Provide the most recently updated digital base map and aerial imagery of the planning area for use during the Land Development Code preparation process. These files will be in the form of GIS file types native to ESRI ArcGIS.
- E. Contact meeting invitees for stakeholder and public meeting(s). This includes email, mail, newsletter or other forms of notification.
- F. Examine and provide prompt feedback on all submittals, draft reports, sketches, drawings, and other documents presented by Consultant within a reasonable time so as not to delay the services of Consultant. City comments should be consolidated with clear and concise edits, preferably typed for legibility.
- G. Designate in writing a person to act as City's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to FNI's services for the Project.
- H. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.
- I. Bear all costs incident to compliance with the requirements of this Article IV.

ARTICLE V

DESIGNATED REPRESENTATIVES: FNI designates the following representatives:

FNI's Project Representative

Name: David Jones, AICP
 E-mail: david.jones@freese.com
 Phone: 214-217-2226

FNI's Accounting Representative

Name: Sharon James
 E-mail: sharon.james@freese.com
 Phone: 817-735-7298

Agreement with Freese and Nichols, Inc for a Comprehensive Land Development Code Rewrite





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Tim Littlejohn, Director of Planning & Development Services

FROM: Tim Littlejohn, Director of Planning & Development Services
Robert Hanna, City Manager

SUBJECT: **17. Ordinance (Final Reading) HOZ-2023-02: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Robert Hoemke To Apply Historic Overlay Zoning To Approximately 0.44 Acres Zoned Central Business (CB). Located At 1201 South 1st Street. (Tim Littlejohn)**

GENERAL INFORMATION

Add Historic Overlay to a commercial building within Original Town Abilene.

SPECIAL CONSIDERATIONS

Information provided by the applicant on the history of owners and businesses could be construed as historic significance.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

The Landmarks Commission recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 5-0.

ATTACHMENTS:

1. D&W HO Ord
2. D&W HO ReportRSA
3. application
4. Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; 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 2 (Zoning Regulations) of the Land Development Code 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.

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 16th day of November, 2023.

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 20th day of October, 2023, 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 7th day of December, 2023, 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 7th day of December, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Add the Historic Overlay (HO) District to the following described land:

Legal Description: Lots 1-6, Block 49, Original Town Abilene, Abilene, Taylor County, Texas.

Location: 1201 South 1st Street.



END

HOZ-2023-02

STAFF REPORT



Scheduled Hearing(s)

Tabled Landmarks Commission: August 22, 2023
Landmarks Commission: October 24, 2023
Planning & Zoning: November 7, 2023
Council Hearing: November 16, 2023
December 7, 2023

Applicant

Owner: Robert Hoemke

Request

Add Historic Overlay to a commercial building within Original Town Abilene.

Location

1201 South 1st Street

Background (from applicant)

1927: S.B. Shelton built the building for Buick.
1928: Buick buys building.
1929: Depression hits.
1931: Buick vacates the building.
1932: Jessie Franklin Winters buys the building and operates as D&W Tire Store.
1951: Winters sells the building and the new owners operate it as D&W Furniture.
1980's: The building begins operating as Thomas Everett's Furniture.
2019: The new owner of the building is Robert Hoemke.
2023: The building is operated as D&W Underground Venue.

This property is not on the Abilene Register of Historic Properties (ARHP). As a result, staff does not have any information about the history of this property.

Criteria Assessment

According to Section 2.3.4.4 (c) Criteria for Designation. Historic Overlay Districts shall be established only if principal districts, conservation districts, areas, sites, structures, buildings, properties, or objects within the boundaries of a proposed zone exhibit any one or more of the following characteristics:

- 1. Possesses significance with respect to history, culture, architecture, archeology, paleontology, or as a natural site with a demonstrable cultural association.**
Information provided by the applicant on the history of owners and businesses could be construed as historic significance.
- 2. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, national, or international history.**
Undetermined.
- 3. Embodies characteristics distinct to a type, period, or method of construction or architecture.**

None available.

4. **Is associated with the lives of persons significant in local, regional, state, national, or international history.**

None available.

5. **Represents a distinctive and familiar visual feature of a neighborhood or of the city.**

The Coca-Cola sign is a very significant feature along South 1st Street.

6. **Represents the works of a master designer, architect, builder, or craftsman.**

Undetermined.

Recommendations

The Landmarks Commission recommends **approval**.

The Planning and Zoning Commission recommends **approval**.

Attachments

- Application
- PowerPoint Presentation

NOTIFICATIONS

Legend:
O- Opposed
F- In Favor

OWNER	PROP_ID	SITUS	RESPONSE
CORPIAN GARY LEE & MARILU LEE	30593	1243 S 1ST ST	
DUKE NOAH & KENDRA	31111	142 ELM ST	
EAGLE JAMES C II & SAMANTHA	31238	1234 S 2ND ST	
GIRDNER MEREDITH	15220	125 ELM ST	
GIRDNER MEREDITH	15344	141 ELM ST	
HOEMKE PROPERTY LLC	15106	107 ELM ST	
HOEMKE PROPERTY LLC	30157	1201 S 1ST ST	
HOEMKE PROPERTY LLC	103730	1149 S 1ST ST	
HOEMKE PROPERTY LLC	30302	1225 S 1ST ST	
ROADRUNNER MANAGEMENT LLC	30720	129 BUTTERNUT ST	
ROADRUNNER MANAGEMENT LLC	30720	189 BUTTERNUT ST	
ROADRUNNER MANAGEMENT LLC	31367	126 ELM ST	
SWORD OF JOSHUA FELLOWSHIP	103971	123 ELM ST	
SWORD OF JOSHUA FELLOWSHIP	15458	1152 S 2ND ST	
SWORD OF JOSHUA FELLOWSHIP	15458	1158 S 2ND ST	
SWORD OF JOSHUA FELLOWSHIP	15458	1174 S 2ND ST	

PROPERTY ID

OWNER	PROP_ID	SITUS	RESPONSE
HOEMKE PROPERTY LLC	15106	107 ELM ST	
GIRDNER MEREDITH	15220	125 ELM ST	
GIRDNER MEREDITH	15344	141 ELM ST	
SWORD OF JOSHUA FELLOWSHIP	15458	1152 S 2ND ST	
SWORD OF JOSHUA FELLOWSHIP	15458	1158 S 2ND ST	
SWORD OF JOSHUA FELLOWSHIP	15458	1174 S 2ND ST	
HOEMKE PROPERTY LLC	30157	1201 S 1ST ST	
HOEMKE PROPERTY LLC	30302	1225 S 1ST ST	
CORPIAN GARY LEE & MARILU LEE	30593	1243 S 1ST ST	
ROADRUNNER MANAGEMENT LLC	30720	129 BUTTERNUT ST	
ROADRUNNER MANAGEMENT LLC	30720	189 BUTTERNUT ST	
DUKE NOAH & KENDRA	31111	142 ELM ST	
EAGLE JAMES C II & SAMANTHA	31238	1234 S 2ND ST	
ROADRUNNER MANAGEMENT LLC	31367	126 ELM ST	
HOEMKE PROPERTY LLC	103730	1149 S 1ST ST	
SWORD OF JOSHUA FELLOWSHIP	103971	123 ELM ST	

LOCATION MAP

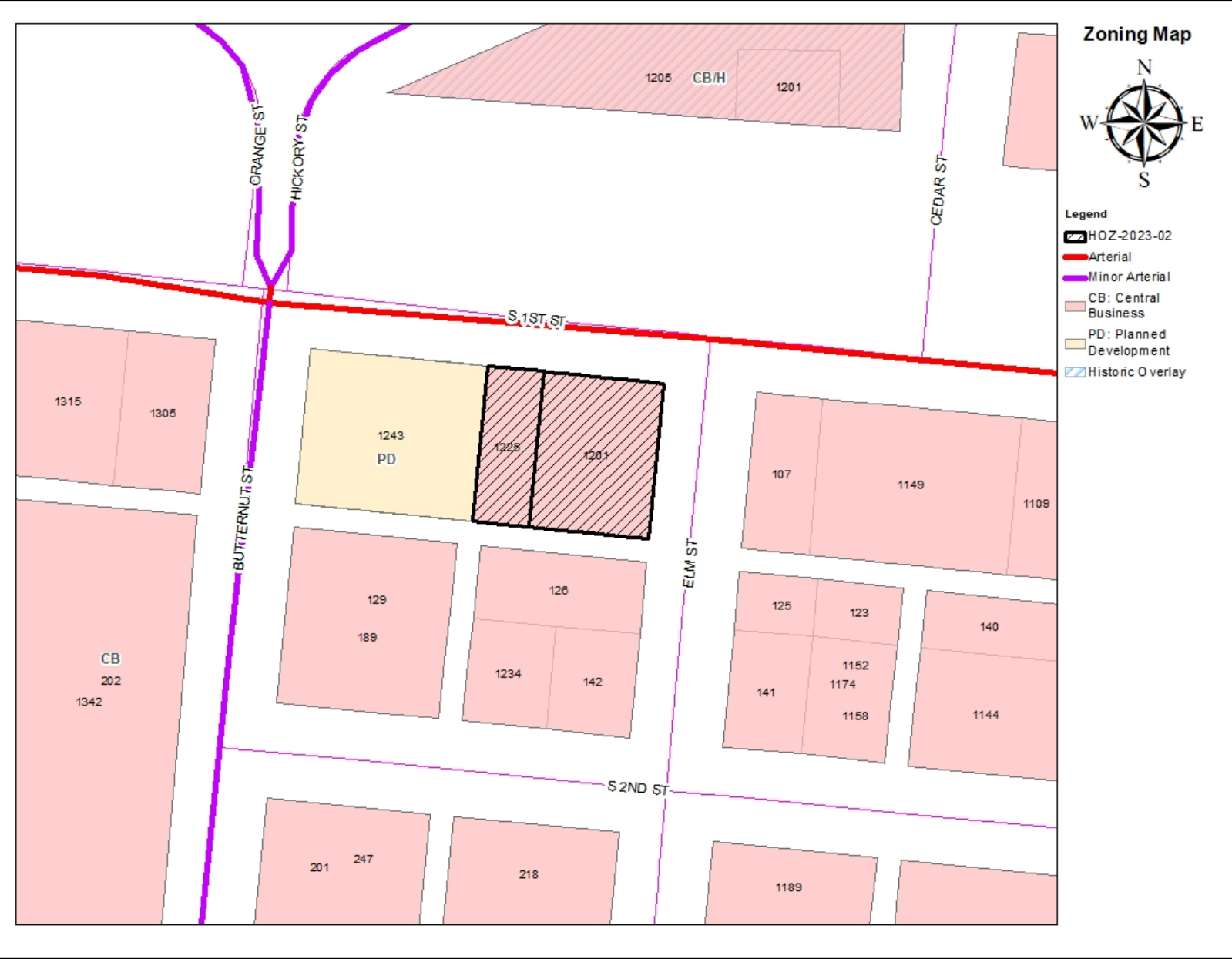


Location Map



Legend
[Hatched Box] HOZ-2023-02

ZONING MAP





Historic Overlay Zoning

Owner Name: ROBERT AUSEMKE

Project Address: 1201 SOUTH FIRST

OWNER/AGENT AND AUTHORIZATION

Owner/Agent Name: ROBERT AUSEMKE

Address: 1201 SOUTH FIRST

City/State/Zip: ABILENE TX 79602 Fax: _____

Phone: 325-829-8217

Email: ROBERT@AIRTIMEPRODUCTS.COM

I hereby certify that I am the owner of the property and further certify that the information provided on this application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature of Owner: [Signature]

Date: _____

BREIF DESCRIPTION OF PROPERTY AND ITS HISTORIC SIGNIFICANCE:

1927 SA SHELTON BUILT THIS BUILDING FOR BUIK.

1928 BUIK Buys Building.

1929 DEPRESSION HITS.

1931 BUIK MOVES OUT.

1932 JESSIE EDANUN WINTERS Buys Building AND TURNS it INTO
D+W TIRE STORE

1951 WINTERS SELLS THE BUILDING TO 3 INVESTOR THEY
TURN it INTO D+W APPLIANCES

1960's D+W FURNITURE

1980's THOMAS EVERETT FURNITURE

2019 NEW OWNER ROBERT AUSEMKE

2023 D+W UNDED GROUND HISTORICAL VENUE

IS SUBJECT PROPERTY ON THE ABILENE REGISTER OF HISTORIC PROPERTIES?

- ☐ Yes
☒ No
☐ Unsure



Historic Overlay Zoning

ADDITIONAL INFORMATION

Please attach any information regarding the history of the property, including old photos. Also include a current description and photographs of the property. Staff may request additional information be submitted with the application or prior to the Landmarks Commission meeting.

CERTIFICATION

I have read and completed this application and certify that all information contained therein is complete, true, and correct. I request that this application be submitted to the Landmarks Commission for consideration.

Signature of Owner or Authorized Agent

03-23-23

Date

For Office Use Only

Commission Action:

- ☐ Approved
☐ Approved with Conditions
☐ Denied

Landmarks Commission, Chair

Date

Letter Sent to Taylor Central Appraisal District:

Date: _____ Initials: _____

PAYMENT INFORMATION

Received: _____

Fee: \$ _____

Receipt No.: _____

Case No.: _____

Reviewed By: _____



HISTORIC OVERLAY REQUEST

Case: HOZ-2023-02

Owner/Agent: Robert Hoemke

Request: Add Historic Overlay to a commercial building within Original Town Abilene.

Location: 1201 South 1st Street

Tabled Landmarks: August 22, 2023

Landmarks: October 24, 2023

Planning & Zoning: November 7, 2023

Council Hearing: November 16, 2023
December 7, 2023





BACKGROUND INFORMATION

1927: S.B. Shelton built the building for Buick

1928: Buick buys building

1929: Great Depression begins

1931: Buick moves out

1932: Jessie Franklin Winters buys the building and begins operations as D&W Tire Store

1951: The building begins operating as D&W Furniture

1980s: The building begins operating as Thomas Everett's Furniture

2019: The building is purchased by Robert Hoemke

2023: The building begins operating as D&W Underground Venue

This property is not on the Abilene Register of Historic Properties.





AERIAL LOCATION MAP

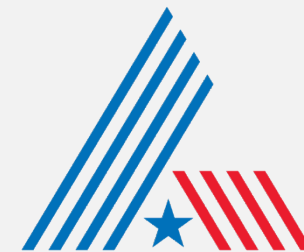


Aerial Map



Legend

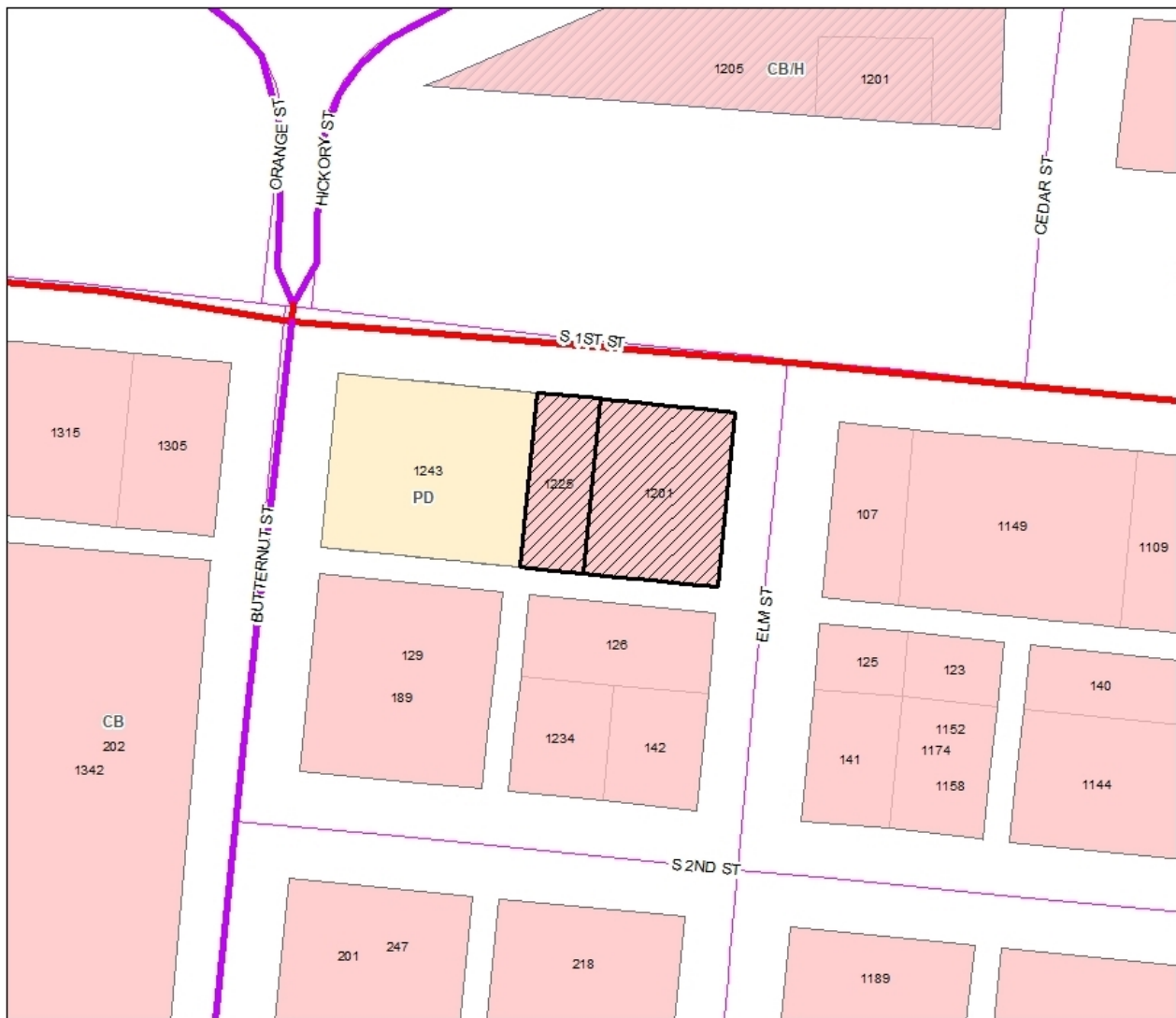
- HOZ-2023-02
- Historic Overlay
- Courier Parcels



CITY OF
ABILENE
TEXAS



ZONING MAP

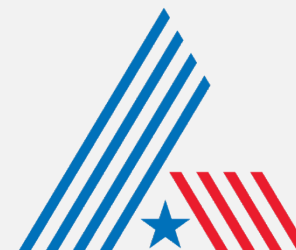


Zoning Map



Legend

- HOZ-2023-02
- Arterial
- Minor Arterial
- CB: Central Business
- PD: Planned Development
- Historic Overlay



CITY OF
ABILENE
TEXAS



VIEWS OF SUBJECT PROPERTY





HISTORIC PHOTO OF SUBJECT PROPERTY



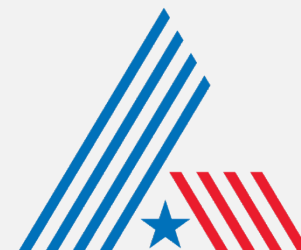
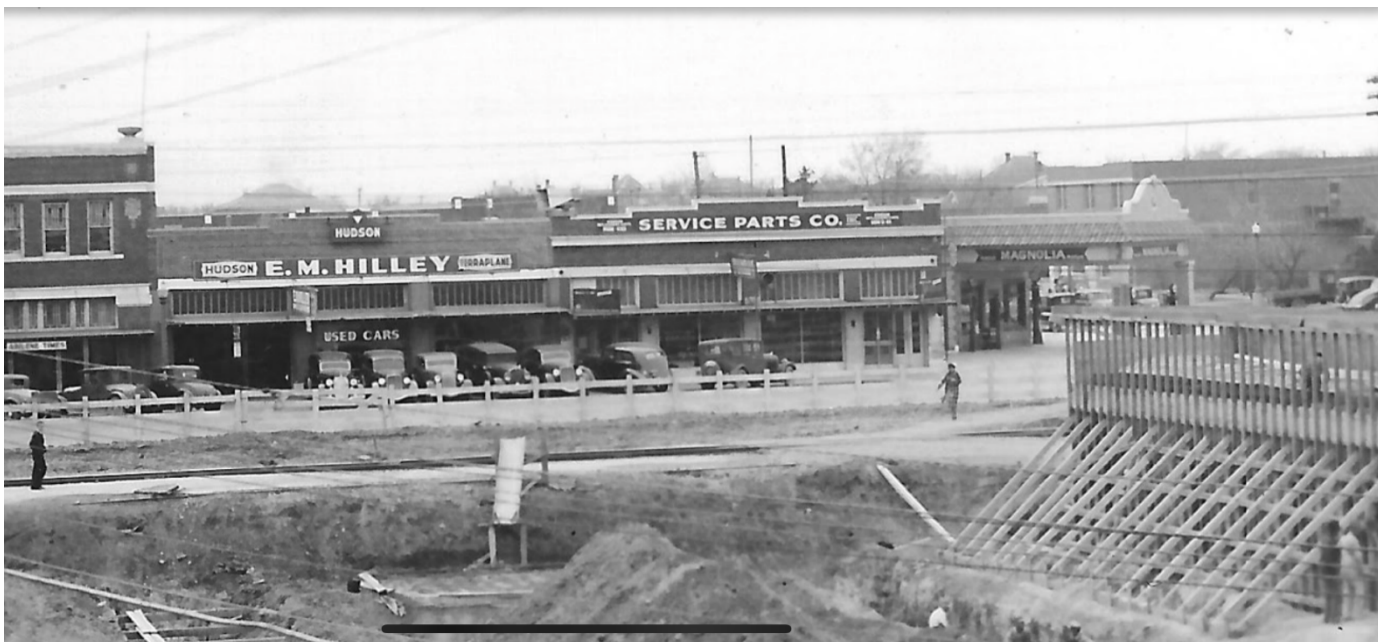


HISTORIC PHOTO OF SUBJECT PROPERTY





HISTORIC PHOTOS OF SUBJECT PROPERTY



CITY OF
ABILENE
TEXAS

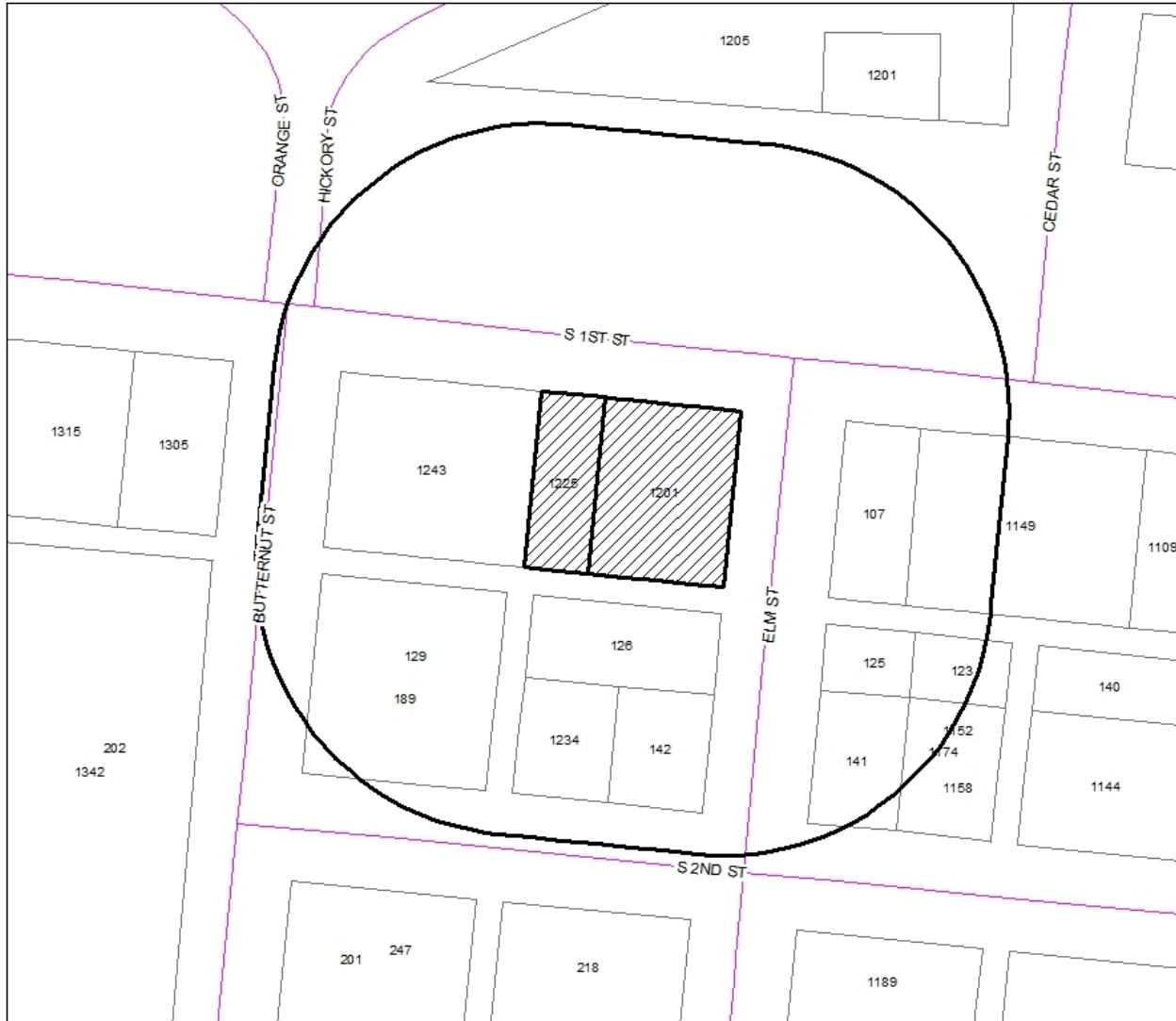


EXISTING PHOTOS OF SUBJECT PROPERTY





NOTIFICATION MAP

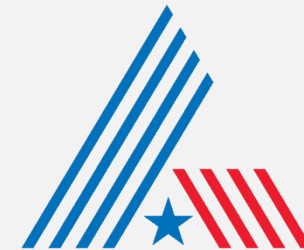


Notification Map



Legend

-  HOZ-2023-02
-  Notification Area



CITY OF
ABILENE
TEXAS



FINDINGS AND RECOMMENDATIONS

According to Section 2.3.4.4 (c) Criteria for Designation. Historic Overlay Districts shall be established only if principal districts, conservation districts, areas, sites, structures, buildings, properties, or objects within the boundaries of a proposed zone exhibit any one or more of the following characteristics:

1. Possesses significance with respect to history, culture, architecture, archeology, paleontology, or as a natural site with a demonstrable cultural association.
2. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, national, or international history.
3. Embodies characteristics distinct to a type, period, or method of construction or architecture.
4. Is associated with the lives of persons significant in local, regional, state, national, or international history.
5. Represents a distinctive and familiar visual feature of a neighborhood or of the city.
6. Represents the works of a master designer, architect, builder, or craftsman.

The Landmarks Commission recommends approval.

The Planning and Zoning Commission recommends approval.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **18. Ordinance (Final Reading) HOZ-2023-03:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on **A Request From Matthew Meador To Apply Historic Overlay Zoning To Approximately 0.69 Acres Zoned Medium Density (MD). Located At 1941 North 3rd Street. (Tim Littlejohn)**

GENERAL INFORMATION

Add Historic Overlay to a residence within Original Town Abilene.

SPECIAL CONSIDERATIONS

The house has been named the King House, after Harry Tom King & his wife. Mr. King was a prominent lawyer and judge in early Abilene.

Staff could not locate a building file or permit(s) for the home 1941 North 3rd Street.

Staff located the 1979 and 2011 Historic Resources Survey Forms from the Texas Historical Commission. This property is listed on the Abilene Register of Historic Properties.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

The Landmarks Commission recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 5-0.

ATTACHMENTS:

1. 1941 N 3rd HO Ord
2. 1941 N 3rd Report
3. application
4. Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; 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 2 (Zoning Regulations) of the Land Development Code 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.

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 16th day of November, 2023.

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 20th day of October, 2023, 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 7th day of December, 2023, 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 7th day of December, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Add the Historic Overlay (HO) District to the following described land:

Legal Description: Lots 9-11, Blocks 1-3, Original Town Abilene, Abilene, Taylor County, Texas.

Location: 1941 North 3rd Street.



END

HOZ-2023-03

STAFF REPORT



Scheduled Hearing(s)

Landmarks Commission: October 24, 2023
Planning & Zoning: November 7, 2023
Council Hearing: November 16, 2023
December 7, 2023

Applicant

Owner: Matthew Meador

Request

Add Historic Overlay to a residence within Original Town Abilene.

Location

1941 North 3rd Street

Background

The subject residence is a 2-story, multiple-bay domestic building in the Queen Anne style with Beaux Arts/Neo-Classical influences built circa 1910. The building is irregular in plan. The structural system is frame. The foundation is undetermined. Exterior walls are original wood siding. The building has a multi-plane/complex roof clad in replacement asphalt shingles with box cornice. There are three offset left, side slope, brick chimneys. There is a five (5) sided tower located in the middle of the rear side of the house. Windows are original wood, 1/1 double-hung sashes. There is a single-story, recessed corner umbrage characterized by a bell cast gable roof with classical wood posts.

The house has been named the King House, after Harry Tom King & his wife. Mr. King was a prominent lawyer and judge in early Abilene.

Staff could not locate a building file or permit(s) for the home 1941 North 3rd Street.

Staff located the 1979 and 2011 Historic Resources Survey Forms from the Texas Historical Commission. This property is listed on the Abilene Register of Historic Properties.

Criteria Assessment

According to Section 2.3.4.4 (c) Criteria for Designation. Historic Overlay Districts shall be established only if principal districts, conservation districts, areas, sites, structures, buildings, properties, or objects within the boundaries of a proposed zone exhibit any one or more of the following characteristics:

- 1. Possesses significance with respect to history, culture, architecture, archeology, paleontology, or as a natural site with a demonstrable cultural association.**
None available.
- 2. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, national, or international history.**
None available

3. Embodies characteristics distinct to a type, period, or method of construction or architecture.

The home is a multiple-bay domestic building in the Queen Anne style with Beaux Arts/Neo-Classical influences distinct to the late 1800s, early 1900s.

4. Is associated with the lives of persons significant in local, regional, state, national, or international history.

Harry T. King was a well-known lawyer and judge. King had his own firm, Kirby, King & Overshiner.

5. Represents a distinctive and familiar visual feature of a neighborhood or of the city.

None available.

6. Represents the works of a master designer, architect, builder, or craftsman.

None available.

Recommendations

Landmarks Commission recommends **approval**.

The Planning and Zoning Commission recommends **approval**.

Attachments

- Application
- PowerPoint Presentation

NOTIFICATIONS

Legend:
O- Opposed
F- In Favor

OWNER	PROP_ID	SITUS	RESPONSE
ABSOLUTE RESTORATION INC	55146	210 CLINTON ST	
BARBER MICHAEL E & CHERYL	67457	1918 N 3RD ST	
BLASCHKE CARRIE	55525	258 CLINTON ST	
BLASCHKE RUSSELL	55401	242 CLINTON ST	
BLASCHKE RUSSELL	55401	244 CLINTON ST	
BOWER RICHARD K & LAURIE JAN	18985	410 1/2 VICTORIA ST	
BOWER RICHARD K & LAURIE JAN	18985	410 1/2 VICTORIA ST APT 1	
BOWER RICHARD K & LAURIE JAN	18985	410 1/2 VICTORIA ST APT 2	
BOWER RICHARD K & LAURIE JAN	18985	410 1/2 VICTORIA ST APT 4	
BOWER RICHARD K & LAURIE JAN	18985	410 VICTORIA ST	
BOWER RICHARD K & LAURIE JAN	18985	410 1/2 VICTORIA ST APT 3	
CYUMA SAMUEL	56303	1942 N 2ND ST	
GARZA LUISA M	68076	1930 N 3RD ST	
HAMM KEVIN R & SANDRA D	55268	230 CLINTON ST	
HERNANDEZ EDUARDO A	21608	218 VICTORIA ST	
LANIER PROPERTIES LLC	56165	1934 N 2ND ST	
LECK JUDY GAIL	21472	210 VICTORIA ST	
MATTA PAUL R & ALMA L	67952	1942 N 3RD ST	
MEADOR MATTHEW WARREN &	55766	1941 N 3RD ST	
MEADOR MATTHEW WARREN &	55766	1939 N 3RD ST	
ROSS DOUGLAS D	19233	258 VICTORIA ST	
ROSS DOUGLAS D	19233	258 1/2 VICTORIA ST	
SPENCER CHERYL J	19358	222 VICTORIA ST	
WAYNE JERRY J	55904	219 VICTORIA ST	
WAYNE JERRY J	56033	217 VICTORIA ST	
WILLEFORD JAMES & DANA	67821	1928 N 3RD ST	
WILLEFORD JAMES & DANA	67588	1910 N 3RD ST	

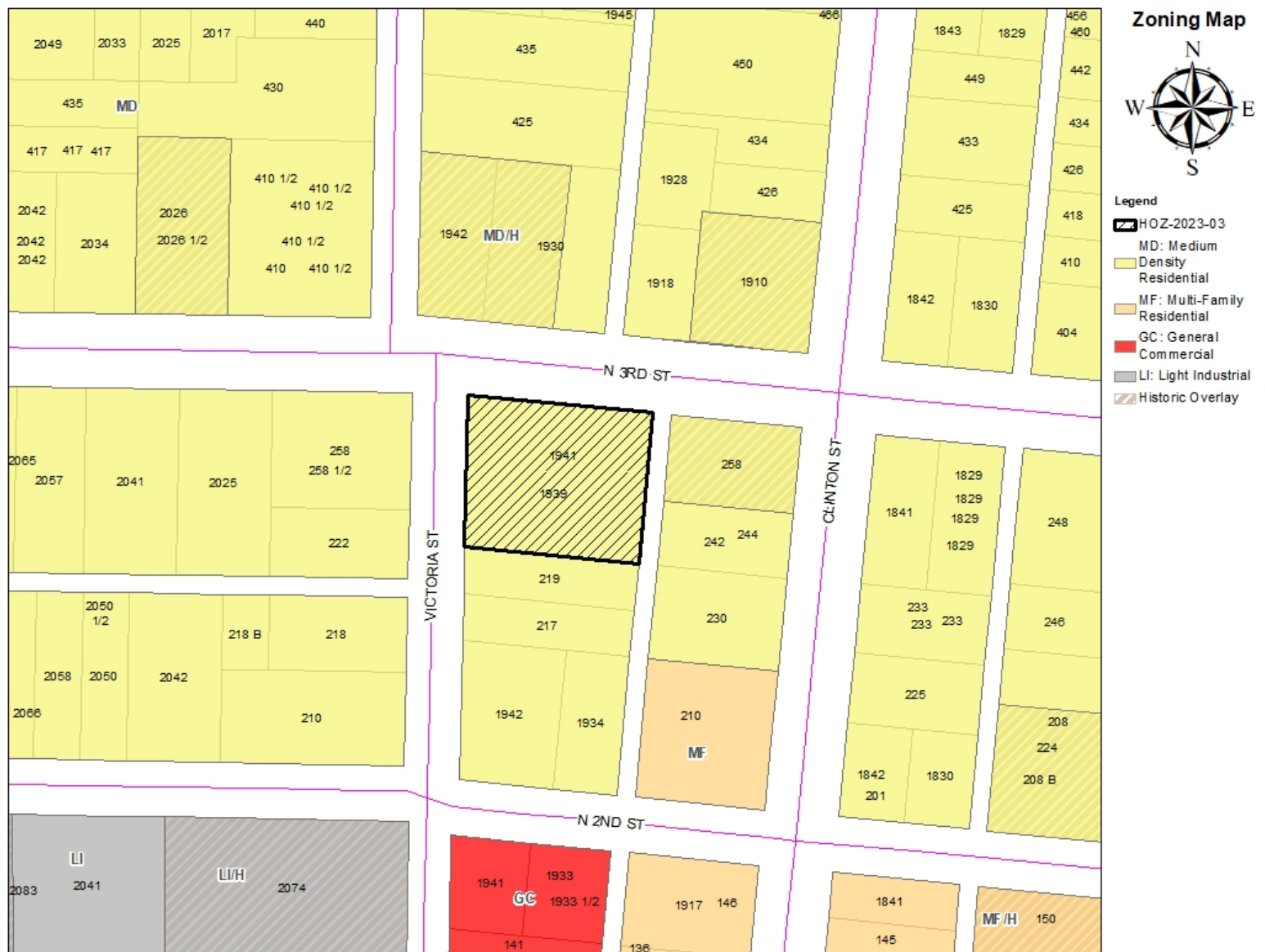
PROPERTY ID

OWNER	PROP_ID	SITUS	RESPONSE
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BOWER RICHARD K & LAURIE JAN	18985	410 1/2 VICTORIA ST APT 1	
BOWER RICHARD K & LAURIE JAN	18985	410 1/2 VICTORIA ST APT 2	
BOWER RICHARD K & LAURIE JAN	18985	410 1/2 VICTORIA ST APT 4	
BOWER RICHARD K & LAURIE JAN	18985	410 VICTORIA ST	
BOWER RICHARD K & LAURIE JAN	18985	410 1/2 VICTORIA ST APT 3	
ROSS DOUGLAS D	19233	258 VICTORIA ST	
ROSS DOUGLAS D	19233	258 1/2 VICTORIA ST	
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BARBER MICHAEL E & CHERYL	67457	1918 N 3RD ST	
WILLEFORD JAMES & DANA	67588	1910 N 3RD ST	
WILLEFORD JAMES & DANA	67821	1928 N 3RD ST	
MATTA PAUL R & ALMA L	67952	1942 N 3RD ST	
GARZA LUISA M	68076	1930 N 3RD ST	

LOCATION MAP



ZONING MAP



AERIAL LOCATION MAP



Aerial Map



Legend

- HOZ-2023-03
- Historic Overlay
- CourierParcels



Historic Overlay Zoning

Owner Name: MATTHEW W MEADOR

Project Address: 1941 N 3RD ST

OWNER/AGENT AND AUTHORIZATION

Owner/Agent Name: MATTHEW W MEADOR

Address: 1941 N 3RD ST

City/State/Zip: ABILENE, TX 79603

Fax: _____

Phone: 940-389-9516

Email: MATMEADOR@HOTMAIL.COM

I hereby certify that I am the owner of the property and further certify that the information provided on this application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature of Owner: _____

Matthew Meador

Date: 9-18-23

BREIF DESCRIPTION OF PROPERTY AND ITS HISTORIC SIGNIFICANCE:

BUILT IN 1908 AS A SINGLE STORY HOUSE
SOLED TO HARRY TOM KING & WIFE IN 1918.
UNDERWENT MAJOR RENOVATION IN 1928 AT
WHICH TIME THE 2ND STORY WAS ADDED.

HARRY TOM KING WAS A PROMINENT LAWYER
AND JUDGE IN EARLY ABILENE.

IS SUBJECT PROPERTY ON THE ABILENE REGISTER OF HISTORIC PROPERTIES?

- ☒ Yes
☐ No
☐ Unsure



Historic Overlay Zoning

ADDITIONAL INFORMATION

Please attach any information regarding the history of the property, including old photos. Also include a current description and photographs of the property. Staff may request additional information be submitted with the application or prior to the Landmarks Commission meeting.

CERTIFICATION

I have read and completed this application and certify that all information contained therein is complete, true, and correct. I request that this application be submitted to the Landmarks Commission for consideration.

[Signature]
Signature of Owner or Authorized Agent

9-18-23
Date

For Office Use Only

Commission Action:

- ☐ Approved
☐ Approved with Conditions
☐ Denied

Landmarks Commission, Chair Date

Letter Sent to Taylor Central Appraisal District:

Date: _____ Initials: _____

PAYMENT INFORMATION

Received: _____

Fee: \$ _____

Receipt No.: _____

Case No.: _____

Reviewed By: _____



HISTORIC OVERLAY REQUEST

Case: HOZ-2023-03

Owner/Agent: Matthew Meador

Request: Add Historic Overlay to a residence within Original Town Abilene.

Location: 1941 North 3rd Street

Landmarks: October 24, 2023

Planning & Zoning: November 7, 2023

Council Hearing: November 16, 2023
December 7, 2023





BACKGROUND INFORMATION

- The home is a a 2-story, multiple-bay domestic building in the Queen Anne style with Beaux Arts/Neo-Classical influences approximately built circa 1910.
- There are three offset left, side slope, brick chimneys.
- There is a single-story, recessed corner umbrage characterized by a bell cast gable roof with classical wood posts.
- There is a five (5) sided tower located in the middle of the rear side of the house.

The house has been named the King House, after Harry Tom King & his wife. Mr. King was a prominent lawyer and judge in early Abilene.

This property is located on the Abilene Register of Historic Properties.





AERIAL LOCATION MAP

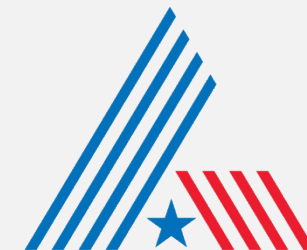


Aerial Map



Legend

- HOZ-2023-03
- Historic Overlay
- Courier Parcels



CITY OF
ABILENE
TEXAS



ZONING MAP

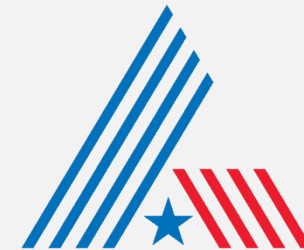


Zoning Map



Legend

- HOZ-2023-03
- MD: Medium Density Residential
- MF: Multi-Family Residential
- GC: General Commercial
- LI: Light Industrial
- Historic Overlay



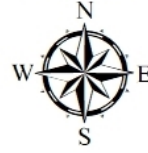
CITY OF
ABILENE
TEXAS



HISTORIC OVERLAY ZONING MAP



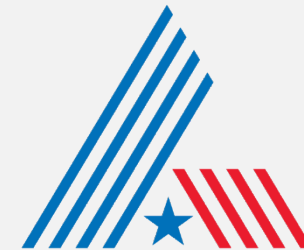
Location Map



Legend

HOZ-2023-03

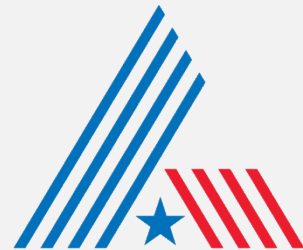
Historic Overlay



CITY OF
ABILENE
TEXAS



VIEWS OF SUBJECT PROPERTY



CITY OF
ABILENE
TEXAS



VIEWS OF SUBJECT PROPERTY



CITY OF
ABILENE
T E X A S



HISTORIC PHOTOS OF SUBJECT PROPERTY





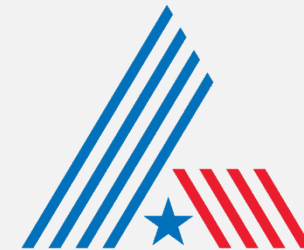
NOTIFICATION MAP



Notification Map



Legend
HOZ-2023-03
Notification Area



CITY OF
ABILENE
TEXAS



FINDINGS AND RECOMMENDATIONS

According to Section 2.3.4.4 (c) Criteria for Designation. Historic Overlay Districts shall be established only if principal districts, conservation districts, areas, sites, structures, buildings, properties, or objects within the boundaries of a proposed zone exhibit any one or more of the following characteristics:

1. Possesses significance with respect to history, culture, architecture, archeology, paleontology, or as a natural site with a demonstrable cultural association.
2. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, national, or international history.
3. Embodies characteristics distinct to a type, period, or method of construction or architecture.
4. Is associated with the lives of persons significant in local, regional, state, national, or international history.
5. Represents a distinctive and familiar visual feature of a neighborhood or of the city.
6. Represents the works of a master designer, architect, builder, or craftsman.

Landmarks Commission recommends approval.

The Planning and Zoning Commission recommends approval.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **19. Ordinance (Final Reading) Z-2023-31:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Abilene Christian University, Represented By TJC Development And McMahon Surovik Suttle, To Amend The Terms And Conditions And Concept Plan Of Planned Development District 157 To Allow Single Family Residential Uses West Of Judge Ely Boulevard, To Reduce The Setback Requirement For Single Family Residential Uses, And To Provide A New Concept Plan. Located On The West Side 2500 Block Of Judge Ely Blvd. *(Tim Littlejohn)*

GENERAL INFORMATION

ACU proposes to allow single-family residential uses in PD-157 and to allow residential accessory uses and buildings.

SPECIAL CONSIDERATIONS

The subject property was zoned as PD-157 in 2016 to create a mixed-use development known as Allen Ridge, to allow uses in the Multi-Family (MF), Townhome (TH), and General Retail (GR) zoning districts. The applicant proposes to add single-family detached residential as a new permitted use in order to create a development multiple residential choices, similar to the Westley Court Senior Living facility. The original Concept Plan has been updated, as described in the "Addendum", to address the neighborhood concerns from the previous Commission meeting.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends **approval** of the proposed amendment to PD-157 to allow single-family residential uses and residential accessory uses subject to the following conditions, as described in the attached ordinance:

1. The amendment shall be subject to the amended Concept Plan;
2. A Type A buffer that includes a berm and vegetation shall be provided, as shown on the amended Concept Plan.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 4-0.

ATTACHMENTS:

1. Ordinance
2. Staff ReportRSA
3. Application
4. Final Concept plan
5. PD-157 2209 N Judge Ely
6. 22-2014 Abandonment ACU Drive North of Ambler
7. PresentationAH

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, CONCERNING PDD-157 AND ORDINANCE NO. 44-2016 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 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing Ordinance No. 44-2016, 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 16th day of November, 2023.

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 20th day of October, 2023, 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 6th day of December, 2023, 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 7th day of December, 2023.

ATTEST:

CITY SECRETARY

MAYOR

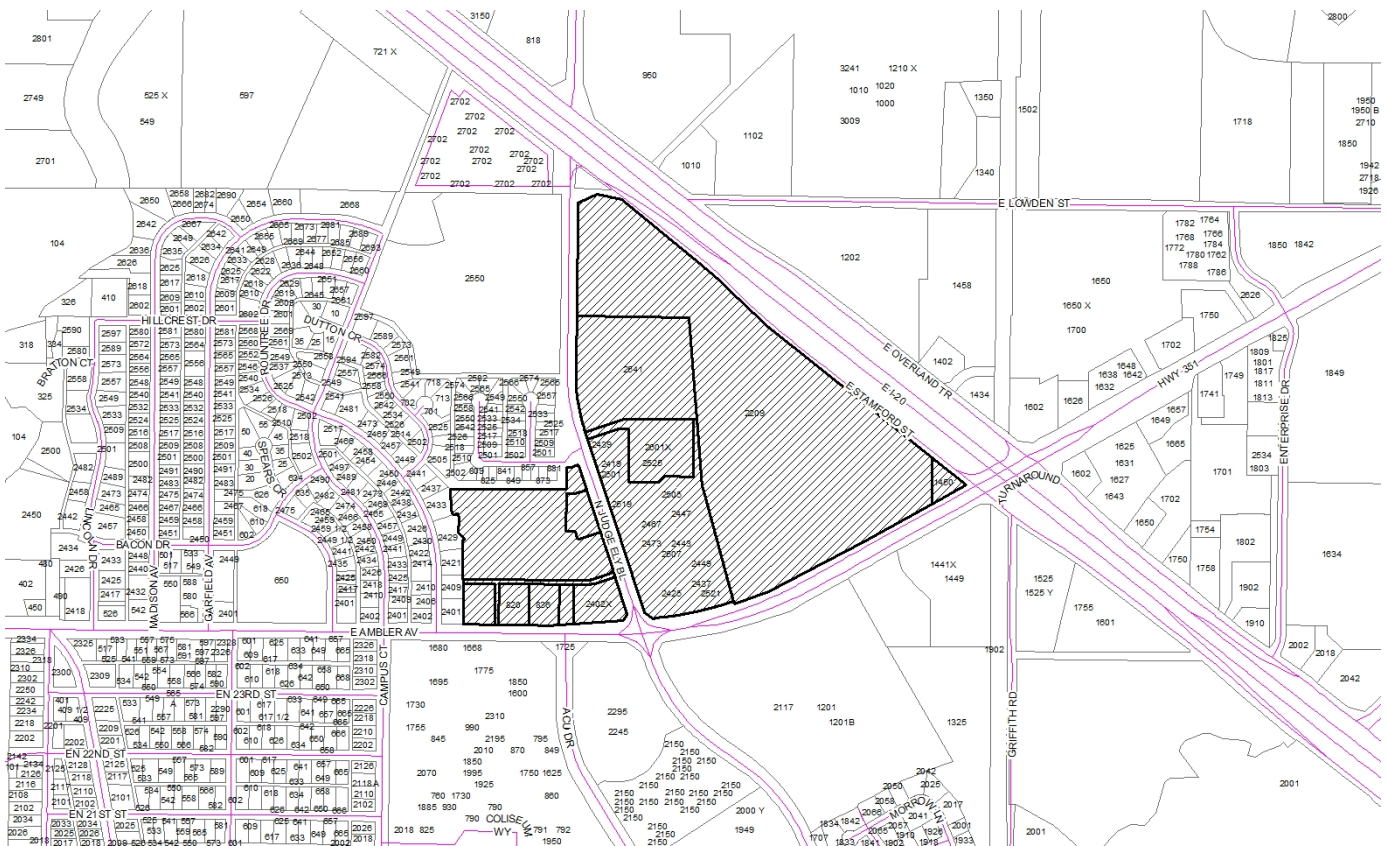
APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Located at the northeast and northwest corners of Ambler Avenue & North Judge Ely Boulevard. 2209 N Judge Ely,



ADD UNDERLINED PART 6: Purpose. The purpose of the Planned Development (PD) request is to allow for GR (General Retail), MF (Multi-Family), PH (Residential Patio Home), RS-6 (Residential Single-Family 6,000 Square foot lots), and TH (Town House) uses, mixed-use development encompassing, office, restaurant retail, multi-family housing, single family residential and parks at the property. Additionally, the conditions shown in the attached exhibits.

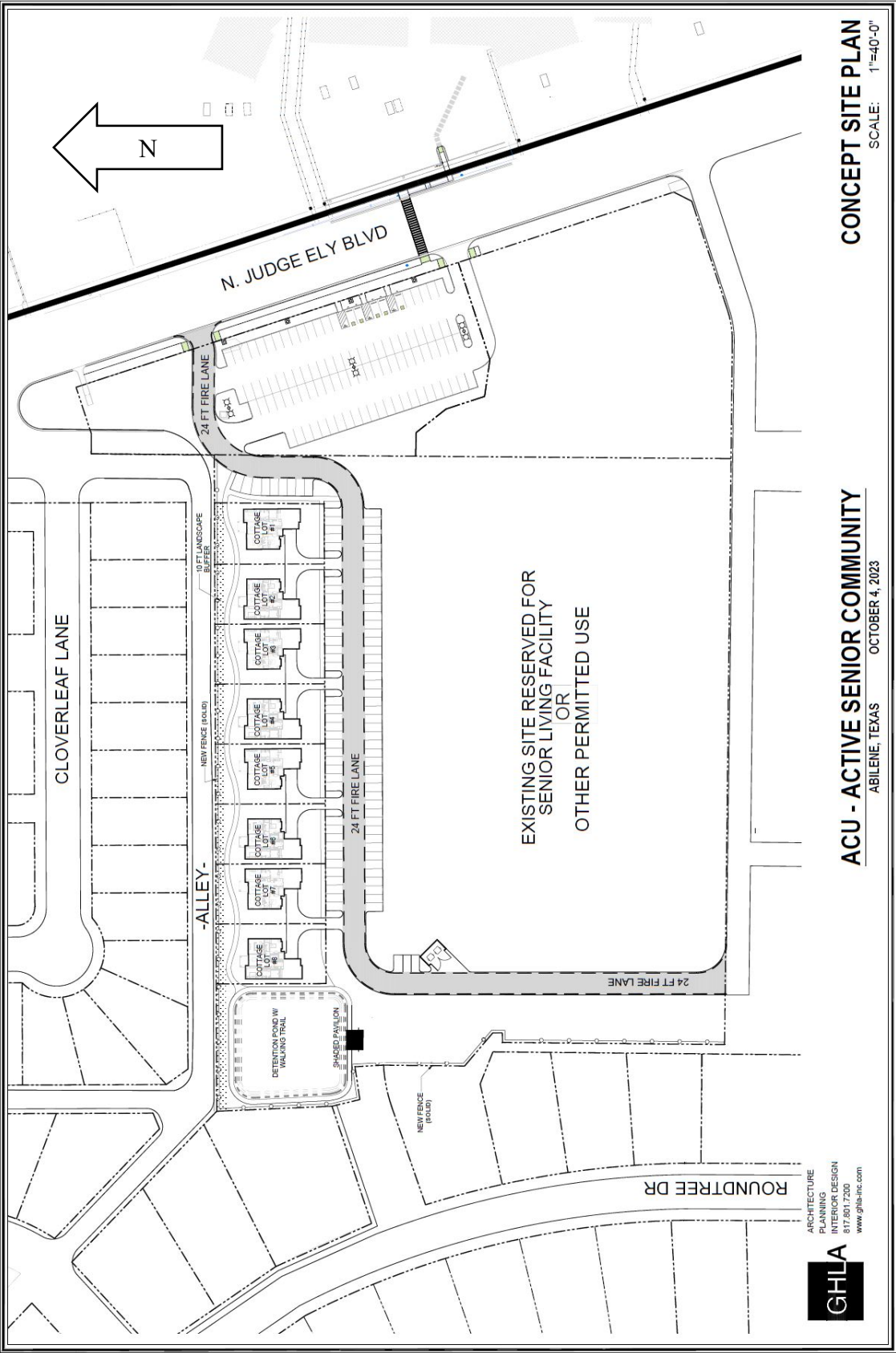
ADD UNDERLINED PART 7: Specific Modifications. This Planned Development shall be subject to the requirements of the GR (General Retail), MF (Multi-Family), PH (Residential Patio Home), RS-6 (Residential Single-Family 6,000 Square foot lots), and TH (Town House) zoning districts, except as modified below:

ADD UNDERLINED Part 7: I) PERMITTED USES:
a. All the land uses permitted in the GR (General Retail), MF (Multi-Family), and TH (Town Home) districts. MF (Multi-Family), PH (Residential Patio Home), and RS-6 (Residential Single-Family 6,000 Square foot lots) shall be allowed in GR (General Retail).

ADD UNDERLINED Part 7: Section 2(A)(3) 60' Side and Rear Setbacks abutting Residential Single-Family Districts to the West of Judge Ely Boulevard to provide additional privacy for the existing adjacent residential uses, except that these setbacks shall not apply to any use of the specified areas for single-family residential use, including PH (Single-Family Residential Patio Home) and RS-6 (Residential Single-Family – 6,000 sq. ft. lots) use.

ADD UNDERLINED Part 7: Section 2(A)(4) All Accessory structures shall adhere to the standards set in the Land Development Code (as amended)

ADD The attached concept plan to the Planned Development District applicable to the West side of Judge Ely in Block A, ACU Drive Addition



ADD Part 8: Buffering and Access

1. The proposed amendment shall be subject to the proposed Concept Plan;
2. A Type A buffer that includes a berm and vegetation shall be provided north of the alley, as shown on the proposed Concept Plan, between alley and existing residential development to the north

END

ZONING CASE Z-2023-31

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: November 7, 2023
City Council 1st Reading: November 16, 2023
City Council 2nd Reading: December 7, 2023

Applicant

Owner: Abilene Christian University
Agent: TJC Development and McMahon, Surovik, Suttle, PC

Case Manager

Adam Holland – Planner

Request

ACU proposes to allow single-family residential uses in PD-157 and to allow residential accessory uses and buildings.

Location

The west side of the 2500 block of North Judge Ely Boulevard.

Background

The subject property was zoned as PD-157 in 2016 to create a mixed-use development known as Allen Ridge, to allow uses in the Multi-Family (MF), Townhome (TH), and General Retail (GR) zoning districts. The applicant proposes to add single-family detached residential as a new permitted use in order to create a development multiple residential choices, similar to the Westley Court Senior Living facility. The original Concept Plan has been updated, as described in the “Addendum”, to address the neighborhood concerns from the previous Commission meeting.

At the initial Commission meeting, staff indicated that the original concept plan would require an amendment to the ordinance (22-2014) that abandoned ACU Drive. Since the amended concept plan fully complies with the ACU Drive abandonment conditions, there is no longer an issue.

If the proposed amendment is approved, the subject property will need to be platted.

Zoning, Existing and Proposed Land Use

The existing zoning of the property is a Planned Development that allows multi-family, townhomes, and general retail. The applicant proposes to add single-family residential uses to the mix.

West and north of the property are single-family detached residences. To the east is the retail portion of PD-157, which includes restaurants, hotel, and general retail uses. Abilene Christian University is located to the south.

Criteria Assessment

Section 1.4.1.4 of Abilene’s Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

- (1) **Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan Map, as amended.**

This development is consistent with the Comprehensive Plan and Future Land Use Plan.

- (2) **Whether the uses permitted by the proposed change in zoning classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.**

PD-157 allows virtually all residential uses, with the exception of single-family residential uses. Adding this use at the proposed location will provide an appropriate land use transition between the existing single-family subdivision to the north and the proposed higher density residential uses to the south.

- (3) **Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

This property has access to all required utilities.

- (4) **Any other factors, which will substantially affect the public health, safety, morals, or general welfare.**

In March 2014, when ACU Drive was abandoned in 2014, appropriate conditions were imposed to help to mitigate the impact of PD-157 on the neighborhood to the north. The approval of the amended Concept Plan essentially “downzones” the property that adjoins the neighborhood, which further mitigates any potential negative impacts from PD-157.

Addendum

The proposed Concept Plan has been amended to address the comments expressed by the surrounding owners at the previous Commission meeting. Below are the significant changes:

1. A private alley behind the proposed residences, with emergency access to the public alley to the north is no longer proposed.
2. A new driveway from Judge Ely Boulevard in the vicinity of Cloverleaf Lane is no longer proposed. Access to the proposed homes will be provided from the existing driveway south of Cloverleaf Lane.
3. All conditions of the 2014 abandonment of ACU Drive, namely a non-access agreement, buffer yard, and a screening fencing, relative to the alley north of PD-157, will be fully honored.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval** of the proposed amendment to PD-157 to allow single-family residential uses and residential accessory uses subject to the following conditions, as described in the attached ordinance:

1. The amendment shall be subject to the amended Concept Plan;
2. A Type A buffer that includes a berm and vegetation shall be provided, as shown on the amended Concept Plan.

NOTIFICATIONS

Legend:
O- Opposed
F- In Favor

OWNER

Owner	Property ID	Situs	Response
ABILENE CHRISTIAN SCHOOLS	46673	2550 N JUDGE ELY BL	
ABILENE CHRISTIAN UNIVERSITY	53571	1725 ACU DR	
ADAMS RONALD	45167	2517 SUNNIBROOK CT	
ARMER ALBERT & BEVERLY DIANE	42134	2410 ROUNTREE DR	
BABER DONALD C &	45081	2502 CLOVERLEAF LN	
BAGGS TERRY W & KAREN	45154	2565 SUNNIBROOK CT	
BARTON JOHN M & MARY E	45065	849 CLOVERLEAF LN	
CAMPUS CREST AT ABILENE LP	110513	2702 N JUDGE ELY BL	
CARPENTER TOM P LF EST	42617	2426 ROUNTREE DR	
CARPENTER TOM P LF EST	42617	2430 ROUNTREE DR	
CEDILLO OSCAR S & CARLA	45169	2509 SUNNIBROOK CT	
CLEMMER BETTY R	45058	873 CLOVERLEAF LN	
CLUTE ALAN CHARLES &	44987	2433 ROUNTREE DR	
COLLINSWORTH THAD J	41885	2402 ROUNTREE DR	
CORNING CARYN	44915	2437 ROUNTREE DR	
DAVIDSON MASON & MADGE	45064	857 CLOVERLEAF LN	
DELONY ROBERT L & MIKEE C	45072	817 CLOVERLEAF LN	
DRENNAN JERRY DALE	42253	2414 ROUNTREE DR	
EARLES JAMES EDWARD &	44683	2421 ROUNTREE DR	
EDGAR STEVEN RANDALL &	44681	2409 ROUNTREE DR	
GRUBBS DONALD RAY &	225401	2505 JOHN C STEVENS ST	
HARRIS CAMILLE LF EST	45082	2510 CLOVERLEAF LN	
HOLMANS JIMMIE D & MYRA	45069	825 CLOVERLEAF LN	
ICE BERLE J	45161	2533 SUNNIBROOK CT	
JOHNSON JAKE & KRISTEN	45160		
KING BEVERLY C	45076	801 CLOVERLEAF LN	
LEPARD LOUANN	45061	865 CLOVERLEAF LN	
LONG INVESTMENTS LLC	45066	841 CLOVERLEAF LN	
MILLER AARON R & ELIZABETH A	44678	2429 ROUNTREE DR	
MIMS GREGORY & PAMELA &	45164	2525 SUNNIBROOK CT	
NEWBY CHARLES JR & SHARI	46554	2441 ROUNTREE DR	
PHIPPS MICHAEL	45075	809 CLOVERLEAF LN	

ROBERSON CHARLES W & GEORGAN	42891	2434 ROUNTREE DR	
ROBERTS REV LIVING TRUST	45057	881 CLOVERLEAF LN	
STRADER ROYE SUE	42499	2422 ROUNTREE DR	
SWAG ASSETS LLC	42013	2406 ROUNTREE DR	
TINKLER LOUISE S LF EST	45157	2557 SUNNIBROOK CT	
TROCHE JOSE & JOAN ELIZABETH	45134	2502 SUNNIBROOK CT	
WEST TEXAS UTILITIES CO	68246	1902 GRIFFITH RD	
WHITAKER ROBERT H & DANA	45130	2501 CLOVERLEAF LN	
WILLIAMS LINDA M	45171	2501 SUNNIBROOK CT	

PROPERTY ID

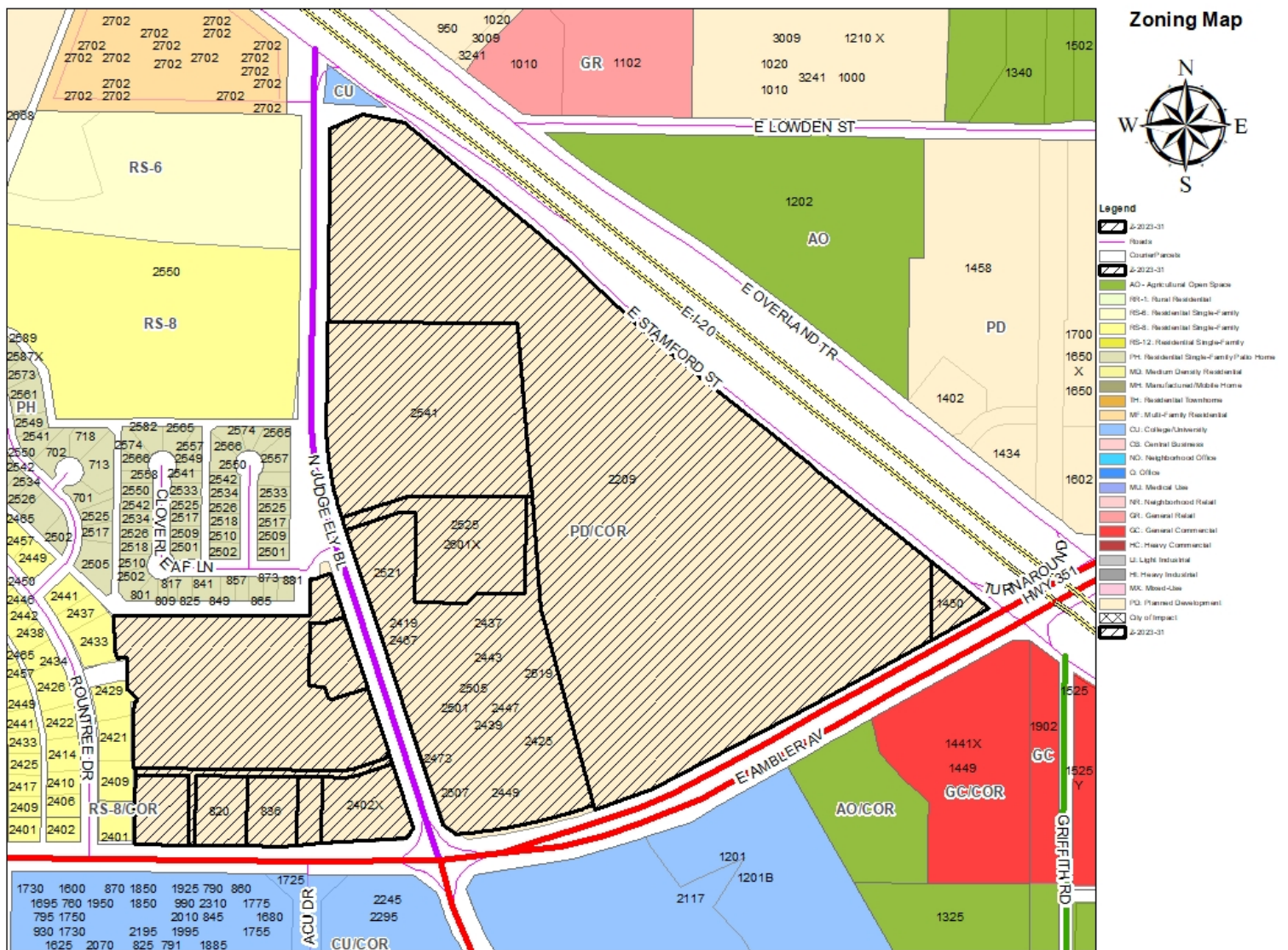
Owner	Property ID	Situs	Response
COLLINSWORTH THAD J	41885	2402 ROUNTREE DR	
SWAG ASSETS LLC	42013	2406 ROUNTREE DR	
ARMER ALBERT & BEVERLY DIANE	42134	2410 ROUNTREE DR	
DRENNAN JERRY DALE	42253	2414 ROUNTREE DR	
STRADER ROYE SUE	42499	2422 ROUNTREE DR	
CARPENTER TOM P LF EST	42617	2426 ROUNTREE DR	
CARPENTER TOM P LF EST	42617	2430 ROUNTREE DR	
ROBERSON CHARLES W & GEORGAN	42891	2434 ROUNTREE DR	
MILLER AARON R & ELIZABETH A	44678	2429 ROUNTREE DR	
EDGAR STEVEN RANDALL &	44681	2409 ROUNTREE DR	
EARLES JAMES EDWARD &	44683	2421 ROUNTREE DR	
CORNING CARYN	44915	2437 ROUNTREE DR	
CLUTE ALAN CHARLES &	44987	2433 ROUNTREE DR	
ROBERTS REV LIVING TRUST	45057	881 CLOVERLEAF LN	
CLEMMER BETTY R	45058	873 CLOVERLEAF LN	
LEPARD LOUANN	45061	865 CLOVERLEAF LN	
DAVIDSON MASON & MADGE	45064	857 CLOVERLEAF LN	
BARTON JOHN M & MARY E	45065	849 CLOVERLEAF LN	
LONG INVESTMENTS LLC	45066	841 CLOVERLEAF LN	
HOLMANS JIMMIE D & MYRA	45069	825 CLOVERLEAF LN	
DELONY ROBERT L & MIKEE C	45072	817 CLOVERLEAF LN	
PHIPPS MICHAEL	45075	809 CLOVERLEAF LN	
KING BEVERLY C	45076	801 CLOVERLEAF LN	
BABER DONALD C &	45081	2502 CLOVERLEAF LN	
HARRIS CAMILLE LF EST	45082	2510 CLOVERLEAF LN	
WHITAKER ROBERT H & DANA	45130	2501 CLOVERLEAF LN	
TROCHE JOSE & JOAN ELIZABETH	45134	2502 SUNNIBROOK CT	
BAGGS TERRY W & KAREN	45154	2565 SUNNIBROOK CT	
TINKLER LOUISE S LF EST	45157	2557 SUNNIBROOK CT	
JOHNSON JAKE & KRISTEN	45160		

ICE BERLE J	45161	2533 SUNNIBROOK CT	
MIMS GREGORY & PAMELA &	45164	2525 SUNNIBROOK CT	
ADAMS RONALD	45167	2517 SUNNIBROOK CT	
CEDILLO OSCAR S & CARLA	45169	2509 SUNNIBROOK CT	
WILLIAMS LINDA M	45171	2501 SUNNIBROOK CT	
NEWBY CHARLES JR & SHARI	46554	2441 ROUNTREE DR	
ABILENE CHRISTIAN SCHOOLS	46673	2550 N JUDGE ELY BL	
ABILENE CHRISTIAN UNIVERSITY	53571	1725 ACU DR	
WEST TEXAS UTILITIES CO	68246	1902 GRIFFITH RD	
CAMPUS CREST AT ABILENE LP	110513	2702 N JUDGE ELY BL	
GRUBBS DONALD RAY &	225401	2505 JOHN C STEVENS ST	

LOCATION MAP



ZONING MAP



Case # Z-2023-31
October 25, 2023

July 5, 2023

Sent via Hand Delivery

City of Abilene
Planning and Development Services
555 Walnut Street
Abilene, Texas 79601

RE: Amendment to Planned Development District No. 157 ("PD-157") under Zoning Ordinance No. 44-2016 (the "Ordinance")

Planning and Development Services:

This law firm represents Abilene Christian University ("ACU") in connection with the request for amendment of PD-157 restrictions related to the Village at Allen Ridge development project. Enclosed with the letter please find the following:

1. Development Application form;
2. Owner Authorization and Representative Designation forms;
3. Disclosure of Interest form;
4. Concept Site Plan;
5. Check in the amount of \$1,000 for the Planned Development District amendment application fee.

Presently, zoning and use regulations established in the Ordinance for PD-157 (the "*Regulations*") allow general retail, multi-family, and townhouse uses. ACU contemplates constructing single-family residences within PD-157 to the south of the existing residential single-family subdivisions to the west of Judge Ely Blvd. However, although the Regulations contemplate residential development, the Regulations do not allow single-family residences. Additionally, the Regulations mandate 60-foot side and rear setbacks abutting residential single-family districts to the west of Judge Ely Blvd as specified in Part 7, Section 2(A)(3) of the Ordinance and as depicted in the attached Concept Site Plan (the "*Setback*"). Accordingly, ACU requests an amendment to the zoning restrictions for PD-157, allowing development as shown on the Concept Site Plan, to (1) allow use as Single-Family Residential Patio Homes and Residential Single-Family – 6,000 sq. ft. lots; and (2) apply the setback restriction only to uses other than single-family residential use.

Specifically, ACU requests that the current codification of the Ordinance be modified as follows:

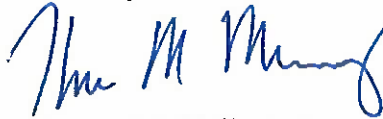
1. Part 6: After "MF (Multi-Family)," add "PH (Single-Family Residential Patio Home), RS-6 (Residential Single-Family – 6,000 sq. ft. lots)";

2. Part 7, "Specific Modifications": After "MF (Multi-Family)," add "PH (Single-Family Residential Patio Home), RS-6 (Residential Single-Family – 6,000 sq. ft. lots)";
3. Part 7, Section 1: After "MF (Multi-Family)," add "PH (Single-Family Residential Patio Home), RS-6 (Residential Single-Family – 6,000 sq. ft. lots)";
4. Part 7, Section 2(A)(3): This section be stricken and replaced with the following:

"60' Side and Rear Setbacks abutting Residential Single-Family Districts to the West of Judge Ely Boulevard to provide additional privacy for the existing adjacent residential uses, except that these setbacks shall not apply to any use of the specified areas for single-family residential use, including PH (Single-Family Residential Patio Home) and RS-6 (Residential Single-Family – 6,000 sq. ft. lots) use."

Thank you for your consideration of this submission. ACU appreciates the ability to work with the City to bring the Allen Ridge development project to Abilene and looks forward to continuing to further its development to the benefit of the City. If you have any questions related to this amendment request, please do not hesitate to contact me at the information provided above.

Sincerely,



Thomas M. "Mike" Murray
Attorney at Law

TMM/rr

cc: Abilene Christian University

2023 Development Application

Zoning Application Page 1 of 3

Planning

- ☐ Conditional Use ☐ Special Exceptions ☐ Rezoning ☐ Variance
☒ PDD Amendment ☐ Street Name Change ☐ Thoroughfare Abandonment
☐ Easement Release

Relief Procedures

- ☐ Petition for Relief ☐ Proportionality Appeal ☐ Vested Rights Petition ☐ Appeal
 Other: _____

Project Name: The Village at Allen Ridge (PD-157)

Address: _____ Number of Lots: _____ Acreage: _____

Legal Description: ACU Drive Addition, Block A, Lot 1; A0956 SUR 24 B A L SW/4, Acres 84.23; A0956 SUR 24 B A L SW/4, Acres 0.35

Subdivision Name: The Village at Allen Ridge Block: _____ Lot: _____

Current Zoning: PDD (GR, MF, GH) Proposed Zoning (if applicable): PDD (GR, MF, GH, PH, and RS-6)

OWNER AND AUTHORIZATION

Owner Name: Abilene Christian University

Address: 1600 Campus Court

City, State, Zip: Abilene, Texas 79699 Fax: _____

Phone: 325-674-2000 Email: _____

Agent Name: Tony J Chron, TJC Development, LLC **Additional Agent:**

Address: 322 Hearthstone Lane Mike Murray, McMahon Surovik Suttle, PC

City, State, Zip: Coppell, Texas 75019 P.O. Box 3679, Abilene, Texas 79604

Phone: 214-771-6300 Fax: Phone: 325-676-9183 Email: mmurray@mss.law

Email: tchron@transitiondevelopment.net

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature of Owner: *TJ Chron, Vice President of ACU, as Agent* Date: 6/29/23

FOR OFFICE USE ONLY

Received: _____ Fee: \$ _____ Receipt No.: _____

Case No.: _____ Reviewed By: _____

2023 Development Application

Zoning Application Page 2 of 3

Existing Zoning

- | | | | |
|--------------------------------|--|--|------------------------------|
| ☐ AO | Agricultural Open Space | ☐ GR | General Retail |
| ☐ RR | Rural Residential RR-5 & RR-1 | ☐ MU | Medical Use |
| ☐ RS-12 | Residential Single-Family – 12,000 sq. ft lots | ☐ CB | Central Business |
| ☐ RS-8 | Residential Single-Family – 8,000 sq. ft lots | ☐ MX | Mixed Use |
| ☐ RS-6 | Residential Single-Family – 6,000 sq. ft lots | ☐ GC | General Commercial |
| ☐ PH | Single-Family Residential Patio Home | ☐ HC | Heavy Commercial |
| ☐ TH | Residential Townhouse | ☐ LI | Light Industrial |
| ☐ MD | Residential Medium Density | ☐ HI | Heavy Industrial |
| ☐ MH | Manufactured/Mobile Home | ☒ PD | Planned Development District |
| ☐ CU | College & University | ☐ | Empowerment Overlay |
| ☐ NO | Neighborhood Office | | |
| ☐ O | Office | | |
| ☐ NR | Neighborhood Retail | | |

Reason for Zoning Change

The current Planned Development zoning provides for general retail, multi-family, and townhouse uses. Applicant seeks to (1) add the zoning uses of Single-Family Residential Patio Home (PH) and Residential Single-Family -- 6,000 sq. ft. lots (RH-7); and (2) remove the sixty-foot (60') setbacks specified in Ordinance 44-2016, Part 7, Section 2.3, for residential purposes. Accordingly, Applicant requests an amendment of the Official Zoning District Map codification of Ordinance No. 44-2016.

Fees

FOR DEVELOPMENT FEES CTRL & CLICK LINK BELOW AND CHOOSE "Z"

<https://abilenetx.gov/563/Fee-Schedule>

Fees can be paid online with credit card.

2023 Development Application

Zoning Application Page 3 of 3

Zoning Impact Analysis

Please answer these questions in order to assist staff with the processing of your zoning request.

1. Does the proposed zoning map amendment implement the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use Map?

Yes, generally. The Comprehensive Plan policies and land use contemplate use of the property for residential purposes.

Applicant seeks this amendment to allow construction of single-family residences.

2. Is the use permitted by the proposed change in the zoning district's classification? Are the standards applicable to such uses appropriate in the immediate area of the land to be reclassified?

(a) Yes, residential use is permitted generally in the current PD usage provisions, and will be allowed in the location desired by Applicant after the proposed amendments.

(b) Yes, the standards applicable to single-family residences are appropriate in the PD, including in the area that now encompasses the referenced 60' setbacks

3. Are the proposed changes in agreement with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area?

Yes, because the existing PD plan already contemplates residential construction in this general area.

4. Are there other factors that will substantially affect the public health, safety, morals, or general welfare?

No such factors are known by Applicant at this time.

Other Required Forms - Disclosure of Interest (See Attached)

2023 Development Application

Owner Authorization and Representative Designation

Property Description

Subdivision: The Village at Allen Ridge (PD-157) Total Number of Acres: appx. 85
 Zoning Classification(s): GR, MF, TH Total Number of Lots: _____
 Location: near Judge Ely Blvd. and Ambler Avenue

Property Owner Information & Authorization

Name/Company: Abilene Christian University
 Address: 1600 Campus Court
 City: Abilene State: TX Zip Code: 79699
 Phone: 325-674-2000 Email: kelly.young@acu.edu

Project Representation (check one):

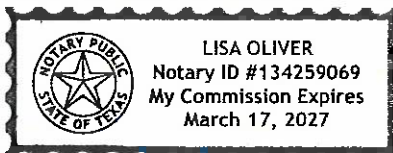
- ☐ I will represent the application myself; OR
☒ I hereby designate Tony J. Chron (TJC Development, LLC) (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this request. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this request.

I hereby certify that I am the property owner of the property and further certify that the information provided on this development application is true and correct. I have selected the above submittal type, representation, and landscape incentive of my own volition and not at the request of the City of Abilene.

Property Owner's Signature: [Signature] Date: 6/29/23
 STATE OF: Texas
 COUNTY OF: Taylor

BEFORE ME, a Notary Public, on this day personally appeared Kelly Young
 (printed property owner's name) the above signed, who, under oath, stated the following: "I hereby certify that I am the property owner for the purposes of this application; that all information submitted herein is true and correct."

SUBSCRIBED AND SWORN TO before me, this the 29th day of June, 2023



[Signature]
 NOTARY PUBLIC in and for the State of Texas

Project Representative Information (complete if designated by owner)

- ☐ Engineer ☐ Purchaser ☐ Tenant ☐ Preparer ☒ Other(specify): Master Developer

Name: Tony Chron Company: TJC Development, LLC
 Address: 322 Hearshstone Ln. City: Coppell State: TX
 Zip Code: 75019 Number: 214.616.7919 Email: tchron@transitiondevelopment.net

2023 Development Application

Owner Authorization and Representative Designation

Property Description

Subdivision: The Village at Allen Ridge (PD-157)

Total Number of Acres: appx. 85

Zoning Classification(s): GR, MF, TH

Total Number of Lots:

Location: near Judge Ely Blvd. and Ambler Avenue

Property Owner Information & Authorization

Name/Company: Abilene Christian University

Address: 1600 Campus Court

City: Abilene

State: TX

Zip Code: 79699

Phone: 325-674-2000

Email: kelly.young@acu.edu

Project Representation (check one):

☐ I will represent the application myself; OR

☒ I hereby designate Mike Murray, McMahon Surovik Suttle, PC (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this request. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this request.

I hereby certify that I am the property owner of the property and further certify that the information provided on this development application is true and correct. I have selected the above submittal type, representation, and landscape incentive of my own volition and not at the request of the City of Abilene.

Property Owner's Signature: [Signature]

Date: 6/29/23

STATE OF: Texas

COUNTY OF: Taylor

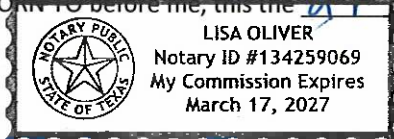
BEFORE ME, a Notary Public, on this day personally appeared Kelly Young

(printed property owner's name) the above signed, who, under oath, stated the following: "I hereby certify that I am the property owner for the purposes of this application; that all information submitted herein is true and correct."

SUBSCRIBED AND SWORN TO before me, this the 29th

day of June

, 20 23



[Signature]
NOTARY PUBLIC in and for the State of Texas

Project Representative Information (complete if designated by owner)

☐ Engineer

☐ Purchaser

☐ Tenant

☐ Preparer

☒ Other(specify): Master Developer

Name: Tony Chron

Company: TJC Development, LLC

Address: 322 Hearthstone Ln.

City: Coppell

State: TX

Zip Code: 75019

Number: 214-616-7914

Email: tchron@transitiondevelopment.net

Thomas M. "Mike" Murray, McMahon Surovik Suttle, PC

P.O. Box 3679, Abilene, Texas 79604

(325) 676-9183

mmurray@mss.law

2023 Development Application

Disclosure of Interest

Disclosure Questions

Every question must be answered. If the question is not applicable, answer with "N/A".

NOTE: If the Project Representative is not the Property Owner, this form must be filled out by both the Property Owner and the Project Representative.

- A. Do you believe that a City official* or City employee** may have a conflict of interest in the property or application referenced on the reverse side? ☒ Yes ☐ No

- B. If so, state the name of each City official or employee of the City of Abilene known by you that may have a conflict of interest in the property or application referenced on reverse side.

Kyle McAlister ; Shane Price

- C. State all information upon which you base the belief (use additional paper, if necessary).

Mr. McAlister's wife, Amy, works for ACMA.

Mr. Price lives in Country Meadows, adjacent to the property requested for changes.

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Abilene, Texas, as changes occur.

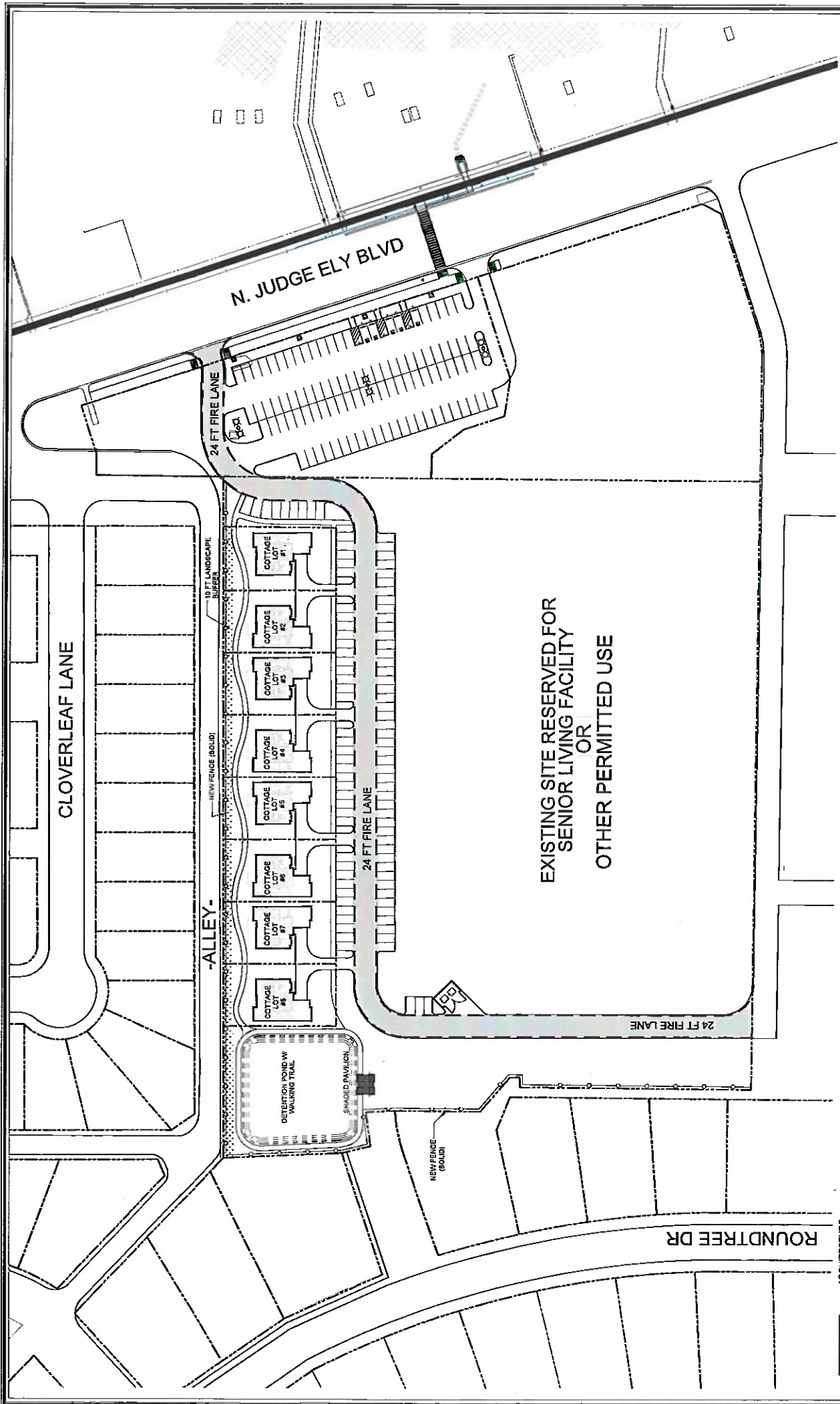
Name of Certifying Person (print): Kelly C. Young, Vice President of ACMA, Agent for Abilene Christian University

Property Owner ☒ Project Representative ☐

Signature of Certifying Person: [Signature]

*Mayor, City Council members, Planning and Zoning Commission members, and Zoning Board of Adjustment members

**City Manager, City Secretary, City Attorney, and all department heads



CONCEPT SITE PLAN
SCALE: 1"=40'-0"

ACU - ACTIVE SENIOR COMMUNITY
ABILENE, TEXAS OCTOBER 4, 2023

GHILA
ARCHITECTURE
PLANNING
INTERIOR DESIGN
817.801.7200
www.ghila-inc.com

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-157 A PLANNED DEVELOPMENT; 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, part known as the Land Development Code 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 25th day of August A.D. 2016.

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 19th day of August, 2016, 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 p.m., on the 8th day of September, 2016, 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 8th day of September, A.D. 2016.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

ORDINANCE NO. 44-2016

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 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, which are hereby incorporated by reference and included as part of this ordinance. All use and development within the Planned Development 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 shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That Chapter 23, Abilene Municipal Code, part known as the Land Development Code of the City of Abilene, is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: From CU/COR (Neighborhood Retail/Corridor Overlay) to PD/COR (Planned Development/Corridor Overlay) zoning.

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.

ORDINANCE NO. 44-2016

EXHIBIT "A"

PAGE 2

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

ACU DRIVE ADDITION, BLOCK A, LOT 1

A0956 SUR 24 B A L SW/4, ACRES 84.23

A0956 SUR 24 B A L SW/4, ACRES 0.35



Location:

The northeast & the northwest corners of Ambler Avenue & N. Judge Ely Boulevard
2209 N JUDGE ELY, 1450 E AMBLER AV

PART 6: Purpose. The purpose of the Planned Development (PD) request is to allow for GR (General Retail), MF (Multi-Family), and TH (Town House) uses, mixed-use development encompassing, office, restaurant retail, multi-family housing, single family residential and parks at the property. Additionally, the conditions shown in the attached exhibits.

PART 7: Specific Modifications. This Planned Development shall be subject to the requirements of the GR (General Retail), MF (Multi-Family), and TH (Town House) zoning districts, except as modified below:

1) PERMITTED USES:

- a. All the land uses permitted in the GR (General Retail), MF (Multi-Family), and TH (Town Home) districts. MF (Multi-Family) shall be allowed in GR (General Retail).

2) DEVELOPMENT REGULATIONS:

A. Setbacks

1. 0' Setback along Judge Ely Boulevard to accommodate ground floor street-oriented retail.
2. 10' Setback along Ambler Avenue.
3. 60' Side and Rear Setbacks abutting Residential Single-Family Districts to the West of Judge Ely Boulevard to provide additional privacy for the existing adjacent residential uses.

B. Height

1. Height approved to not more than 4 stories (55 feet) on the West side of Judge Ely Boulevard, and 4 stories (55 feet) and 7 stories on the East side of Judge Ely Boulevard

C. FAR. 2:1 FAR to accommodate a pedestrian-oriented mixed use district.

D. Landscaping

1. 10' Landscaped buffer along Ambler Avenue to satisfy the COR overlay requirements.
2. Waiving of Landscape requirements along property lines adjacent to a street where ground floor retail is provided to accommodate street oriented retail.

E. Multi-Family. All Multi-family per the Residential Multiple-Family (MF) Standards with the following exceptions:

1. 10' front setback to accommodate for a more urban frontage condition.
2. 60' side and rear setbacks abutting Residential Single-Family Districts to provide additional privacy for the existing adjacent residential uses.
3. Buildings longer than 200' are permitted with approval of the Planning Director upon recommendation of the Development Review Committee provided there is adequate relief on the façade.
4. 30 units permitted per acre.

F. Townhomes. All Townhomes per the Residential Townhome (TH) District with the following exceptions:

1. 25' x 75'; 1875 s.f. minimum lot size to accommodate for a smaller, more urban townhome product.
2. 10' Front Setback to accommodate a more urban frontage.
3. 5' Rear Setback along an alley to accommodate a more urban alley condition.

3) SIGNAGE: Signage within this Planned Development District shall generally comply with provisions and limitations of sign regulations adopted by the City of Abilene and

ORDINANCE NO. 44-2016
EXHIBIT "A"
PAGE 4

generally applicable to General Retail zoning districts, except as modified in attachment labeled "Exhibit B" Comprehensive Sign Plan.

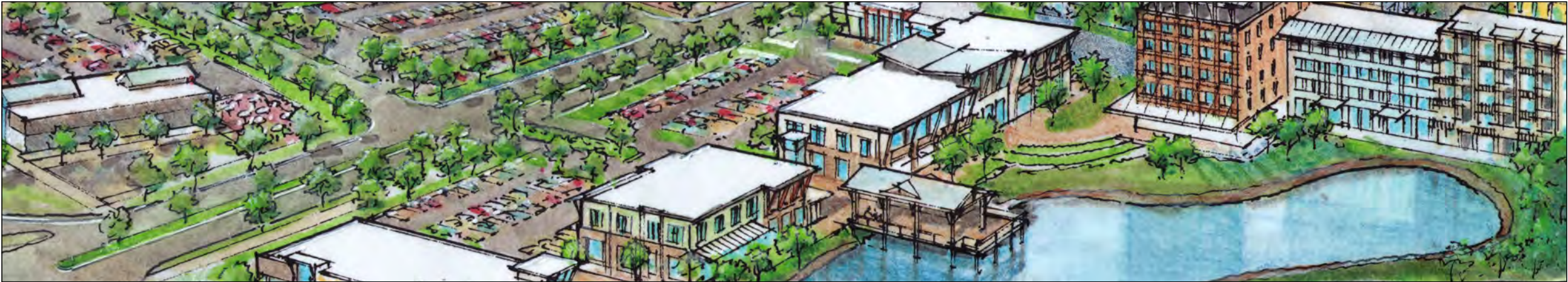
-END-

COMPREHENSIVE SIGN PLAN



The Village at Allen Ridge





TENANT SIGNAGE CRITERIA

Project Description:

The Village at Allen Ridge is a first class open-air retail development that preserves the essence of its natural surroundings. The Village at Allen Ridge will transcend conventional mixed-use developments; it will be constantly alive with activity and commerce. It will contain 180,000 square feet of inspired mixed-use space.

Purpose of Tenant Signage Design Criteria:

This Signage Design Criteria is provided to guide designers, architects, and Tenants in the development of Tenant identity signs at Village at Allen Ridge.

A. The objectives are:

- To generate varied and creative Tenant signage through application of imaginative design treatments and distinctive logos and typestyles.
- To establish signage as a design element that contributes to a “shopping district” environment unique to Village at Allen Ridge.
- To provide standards of acceptability for signs in order to facilitate the review and approval process.

B. A map of designated areas is located on the Tenant Signage Zoning Plan. Tenants and their designers are to refer to that map and select a combination of at least two sign types, and no more than three, from the designated district assigned to their store.

Tenant Signage Within Village at Allen Ridge, Abilene:

All Tenants are encouraged to push the boundaries and design exciting signage. Every signage submission approval is at the discretion of the Landlord and the Landlord may approve signage that exceeds the limits listed in the following criteria on a case-by-case basis. Tenants are required to use LED type lighting in their signage where the lighting source will be hidden from view.

The Tenant signage for Village at Allen Ridge is divided into five (5) distinct “districts” to assist the Tenant in choosing the appropriate signage type, location, and quantity for their identity. All stores and their corresponding elevations fit within a particular district. Please refer to the included Tenant Zoning Plan for the location.

All tenants in each district must abide by signage height restrictions, reference sheet 3 of 20

Tenant Signage Allowed Within Each District:

The Tenants in each district must have certain required sign types. They are listed below. In addition to the two required sign types, Tenants are allowed to have signs selected from the “optional” signage in the indicated areas. A maximum selection of three sign types are allowed per Tenant, as noted in the zone descriptions below.

If a tenant has two distinct retail concepts and a separate entrance for each concept, they are allowed a sign above each entrance. The two concepts will be viewed independently and linear foot of storefront will be calculated based upon demising wall or other significant interior transition between the two concepts.

Variations away from these designated areas need approval from the Landlord prior to being submitted to the City for permit. The maximum allowable square footage area of each sign is to be determined based on the lineal frontage of the storefront, it's location in The Village at Allen Ridge.

Tenants Located in Multiple Districts: When a Tenant's façade is located in multiple signage “districts”, each particular façade is dictated by the regulations for that district.

Note: A separate sign permit is required from the City of Abilene prior to installation. All signs require review by the City of Abilene Architectural Review Committee.

A. Shops District Signage Guidelines:

The Shops District is premium retail in an inviting environment characterized by quality materials, soft light, natural materials and external illumination. A sense of quality is reinforced through a careful attention to scale.

The primary viewing of the Tenant signage will be from the pedestrian areas. As such, Tenant signage should respond to the appropriate scale. Tenant logos will be encouraged and are recommended. To ensure variety in the district, adjacent Tenants will be required to use different sign types, materials, and colors.

Allowable Sign Types:

- Primary Signage: REQUIRED
 - Reverse pan channel halo lit individual dimensional letters with LED type lighting – OR –
 - Dimensional letters, externally illuminated with projecting fixtures i.e. goose neck – OR –
 - Canopy sign
- Secondary Signage: REQUIRED
 - Blade sign
- Optional Signage:
 - Wall mounted plaques
 - Identity on valance of awning

FRONT ELEVATION. Each tenant is allowed 40 square feet regardless of the lineal foot of frontage of the tenant space . Each linear foot of tenant space frontage in excess of twenty-five (25) feet will be allowed one point six (1.6) square feet of additional sign area.

BACK ELEVATION. Tenant will be allowed 80% of the front elevation total allowable square footage.

B. Office District Signage Guidelines:

Located on the second level, over the retail signage, the office signage will be understated and elegant. As such, non-illuminated signage will be the primary signage option. Office signage will only be allowed for Tenants with over 4,000 square feet of leased area.

Allowable Sign Types:

- Primary Signage:
 - Non-illuminated dimensional letters

Signage Calculation Guidelines:

FRONT ELEVATION. For tenants over 4,000 square feet of leased area, tenant is allowed 40 square feet regardless of the lineal foot of frontage of the tenant space . Each linear foot of tenant space frontage in excess of twenty-five (25) feet will be allowed one point six (1.6) square feet of additional sign area.

BACK ELEVATION. Tenant will be allowed 80% of the front elevation total allowable square footage.

The Village at Allen Ridge

Design #	
0612846AR5	
Sheet	2 of 18
Location	
The Village at Allen Ridge	
Address	
ABILENE, TEXAS	
Acct. Rep.	STAN MACRUM
Coordinator	NICOLE VANCE
Designer	P. AGUIAR
Date	05/20/16
Approval / Date	
Client	
Sales	
Estimating	
Art	
Landlord	
Engineering	
Revision / Date	
R1(05/27/16)PA: CHANGES TO GUIDELINES	
R2(06/01/16)PA: REVISED TENANT GUIDELINES, ADDING MORE RULES ABOUT FREESTANDING SIGNS AND TENANT LETTER / LOGO SIGN HEIGHTS PER SQUARE FOOTAGE OF LEASED.	
R3(6/13/16)PA: REVISED DIRECTIONAL DESIGN; DELETED LOCATION OF "D" NEAR PAVILLION TO THE ENTRY ISLAND AT PAVILLION; ADDED MONUMENT "M" TO ENTRANCE AT ACU DRIVE; ADDED "F" FUEL SIGN.	
R4(6/21/16)PA: ADDED INFORMATIONAL BANNERS (ACU BRANDED / COMMUNITY BRANDED); ADDED TO LIST OF PROHIBITED SIGNAGE, PORTABLE SIGNS; TOOK OUT SHEETS 9 & 10 AND SHOWED SITE PLAN WITHOUT LANDSCAPE DETAILS.	
R5(6/24/16)PA: REVISED SPECIFICATIONS ON DIRECTIONALS ON SHEET 3 OF 18; REMOVED SKEWS FROM SITE PLANS ON SHEETS 5,7,8.	



Chandler Signs
Brand Image Begins Here.

3201 Manor Way 214-902-2000	Dallas, TX 75235 Fax 214-902-2044
17319 San Pedro, Ste 200 210-349-3604	San Antonio, TX 78232 Fax 210-349-8724
963 Baxter Avenue, Ste 200 502-479-3075	Louisville, KY 40204 Fax 502-412-0013
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1335 Park Center Drive, UNIT C 760-967-7003	Vista, CA 92081 Fax 760-967-7033

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FINAL ELECTRICAL
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CUSTOMER



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C. Out Parcel District Signage Guidelines:

The out-parcel zone is comprised of mainly freestanding Tenants. The energy of the signage will help draw the customer to the out-parcel perimeter locations, thus the need for vibrant colors, dimensional signage, and multiple signs.

Allowable Sign Types:

- 1. Primary Signage: REQUIRED
 - a. Reverse pan channel halo lit individual dimensional letters with LED type lighting – OR –
 - b. Dimensional letters, externally illuminated with projecting fixtures i.e. goose neck
- 2. Secondary Signage: REQUIRED
 - a. Blade sign
- 3. Optional Signage:
 - a. Wall mounted plaques
 - b. Identity on valance of awning
 - c. Canopy sign

Allowable area for primary sign on front elevation is based upon below calculations.

FRONT ELEVATION. Each tenant is allowed 40 square feet regardless of linear foot of frontage of the tenant space. Each linear foot of tenant space frontage in excess of twenty five (25) feet will be allowed one point six (1.6) square feet of additional sign area.

BACK/SIDE ELEVATIONS. If the tenant chooses to only have two wall signs, the area of the secondary wall sign is allowed to be no greater than the primary sign. If tenant chooses to have three wall signs, the area of each secondary sign is allowed to be no greater than 70% of the primary sign.

All Tenants in the Shops / Office / Outparcel Must Comply with Maximum Logo / Letter Heights in chart referenced below:

Tenant Building Square Footage	Maximum Letter/Logo Height Allowed
0 - 2,499	24"
2,500 - 4,999	30"
5,000 - 9,999	36"

D. Power Center District Signage Guidelines:

The Power Center District is primarily occupied by large nationally known retailers. tenants are allowed slightly larger signage and the implementation of a vertical marquee type is encouraged and size will be as approved by Landlord and as negotiated in the lease.

Blade signs are allowed. See exhibit E (Pag. 5) for allowed sign area in Power Center District. Blade signs are not included in the square footage calculation detailed in Exhibit.

Total sign area (Per tenant Space) is 20% of the area of the wall in which the sign is attached.

End caps are allowed a sign on front elevation and either side or back elevation, in-line tenants are allowed a sign on front and back elevation.

Each tenant is allowed 40 square feet regardless of linear foot of frontage of the tenant space.

Each linear foot of tenant space frontage in excess of twenty five (25) feet will be allowed two point zero, (2.0) square feet of additional sign area.

All Tenants in Power Center District must comply with maximum logo/letter heights in chart referenced below.

Tenant Building Square Footage	Maximum Letter/Logo Height Allowed
0 - 4,999	30"
5,000 - 9,999	36"
10,000 - 14,999	40"
15,000 - 28,999	48"
29,000 - 54,999	60"
55,000 - Greater	72"

E. Freestanding Signage:

- 1. There are two (2) Two Multi-Tenant pylon signs on Interstate 20 that are 50' tall and 500 Square feet of signage area.
- 2. There are (3) Three Multi-Tenant entry monument signs that brand the development. These features are limited to 15' in height and each one can't exceed 250 Square Feet.
- 3. There will be multiple vehicular directional Signs throughout the development that will be limited to 8' in height and 50 Square Feet.
- 4. Up to (1) One Fuel pricing display that is limited to 8' in height and 100 Square Feet.

Signage Details and Specifications:

A. Address Signage:

The suite number or building address needs to be applied to the exterior façade as determined by the Landlord and local jurisdiction. The numbers must be visible to the street and color contrast to the façade for visibility. Please refer to design drawing for specifications.

- 1. Numbers to be dimensional metal.
- 2. Out-parcel Tenants primary building address numerals to be 12 inches high, with rear door address 6 inches in height.
- 3. All other Tenants to have a minimum of 6 inches in letter height.
- 4. ¼" Aluminum flat cut-out. Color TBD by landlord.
- 5. Flush to the architecture.
- 6. Mounted on the pier closest to the entrance.
- 7. Vinyl letters applied to glass not allowed.
- 8. Address signs are required for each Tenant and not included in square area calculations or not counted towards the three-maximum sign limit.

B. Blade Signs:

A double-sided sign mounted perpendicular to the building facade and suspended on a decorative metal bracket. Usually placed near the store-front entrances.

- 1. Each tenant is required to have one double-faced hanging sign per public/customer entrance.
- 2. The creative use of logo shapes is encouraged in the design of the blade sign.
- 3. Tenants are encouraged to utilize a variety of colors and graphic elements along with typestyle to create a whimsical and energetic signing solution. Painted flat forms layered to give a 3-dimen-sional effect are encouraged.
- 4. Blade signs are to be fabricated of painted metal only. Sentra and acrylic are not allowable materials for blade signs.
- 5. Signs are to be wall mounted from a metal bracket, or suspended from the canopy with metal supports. If suspended, sign to be centered within the walkway.
- 6. Placement to be reviewed with consideration of all adjacent signs and will be free from visual obstruction. The sign will not be located less than 4' to the adjacent Tenant's blade sign.
- 7. External illumination with Landlord approved fixtures is encouraged.
- 8. Signs to be mounted with minimum of 8' of clearance from finished floor.
- 9. Signs to project a maximum of 4', inclusive of bracket, not to exceed 10 sq. feet, blade sign square footage will not count towards tenant overall allowable area of signage.
- 10. Trade name or logo only, no taglines, slogans, products, services, or advertising allowed. centered within the walkway.

The Village at Allen Ridge

Design #	
0612846AR5	
Sheet	3 of 18
Location	
The Village at Allen Ridge	
Address	
ABILENE, TEXAS	
Acct. Rep.	STAN MACRUM
Coordinator	NICOLE VANCE
Designer	P. AGUIAR
Date	05/20/16
Approval / Date	
Client	
Sales	
Estimating	
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Landlord	
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 **Chandler Signs**

Brand Image Begins Here.

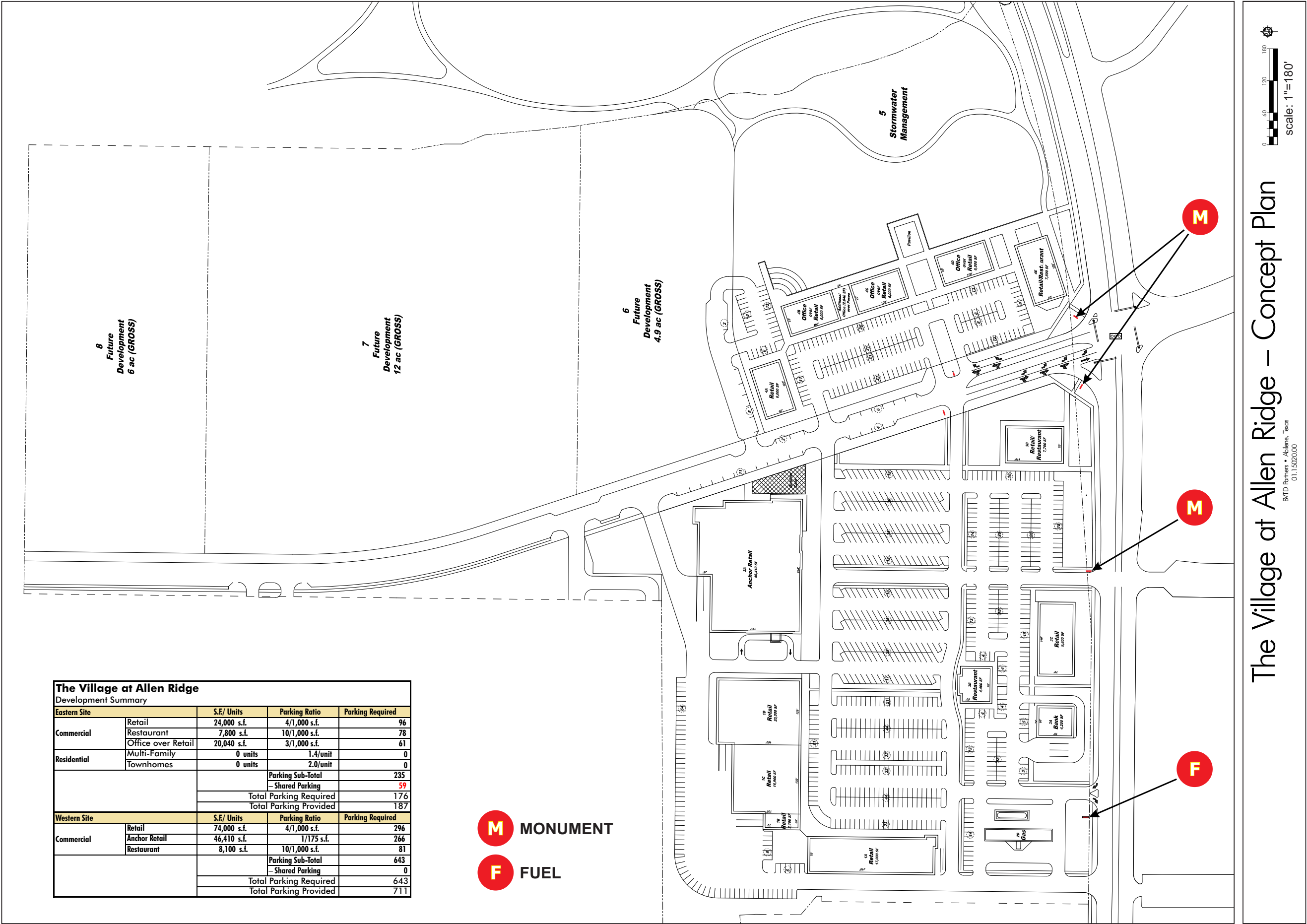
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The Village at Allen Ridge				
Development Summary				
Eastern Site		S.F./ Units	Parking Ratio	Parking Required
Commercial	Retail	24,000 s.f.	4/1,000 s.f.	96
	Restaurant	7,800 s.f.	10/1,000 s.f.	78
	Office over Retail	20,040 s.f.	3/1,000 s.f.	61
Residential	Multi-Family	0 units	1.4/unit	0
	Townhomes	0 units	2.0/unit	0
			Parking Sub-Total	235
			- Shared Parking	59
			Total Parking Required	176
			Total Parking Provided	187
Western Site		S.F./ Units	Parking Ratio	Parking Required
Commercial	Retail	74,000 s.f.	4/1,000 s.f.	296
	Anchor Retail	46,410 s.f.	1/175 s.f.	266
	Restaurant	8,100 s.f.	10/1,000 s.f.	81
			Parking Sub-Total	643
			- Shared Parking	0
			Total Parking Required	643
			Total Parking Provided	711

M MONUMENT

F FUEL



The Village at Allen Ridge – Concept Plan

BYTD Partners • Abilene, Texas
01.1502000

The Village at Allen Ridge

Design #	
0612846AR5	
Sheet	5 of 18
Location	
The Village at Allen Ridge	
Address	
ABILENE, TEXAS	
Acct. Rep.	STAN MACRUM
Coordinator	NICOLE VANCE
Designer	P. AGUIAR
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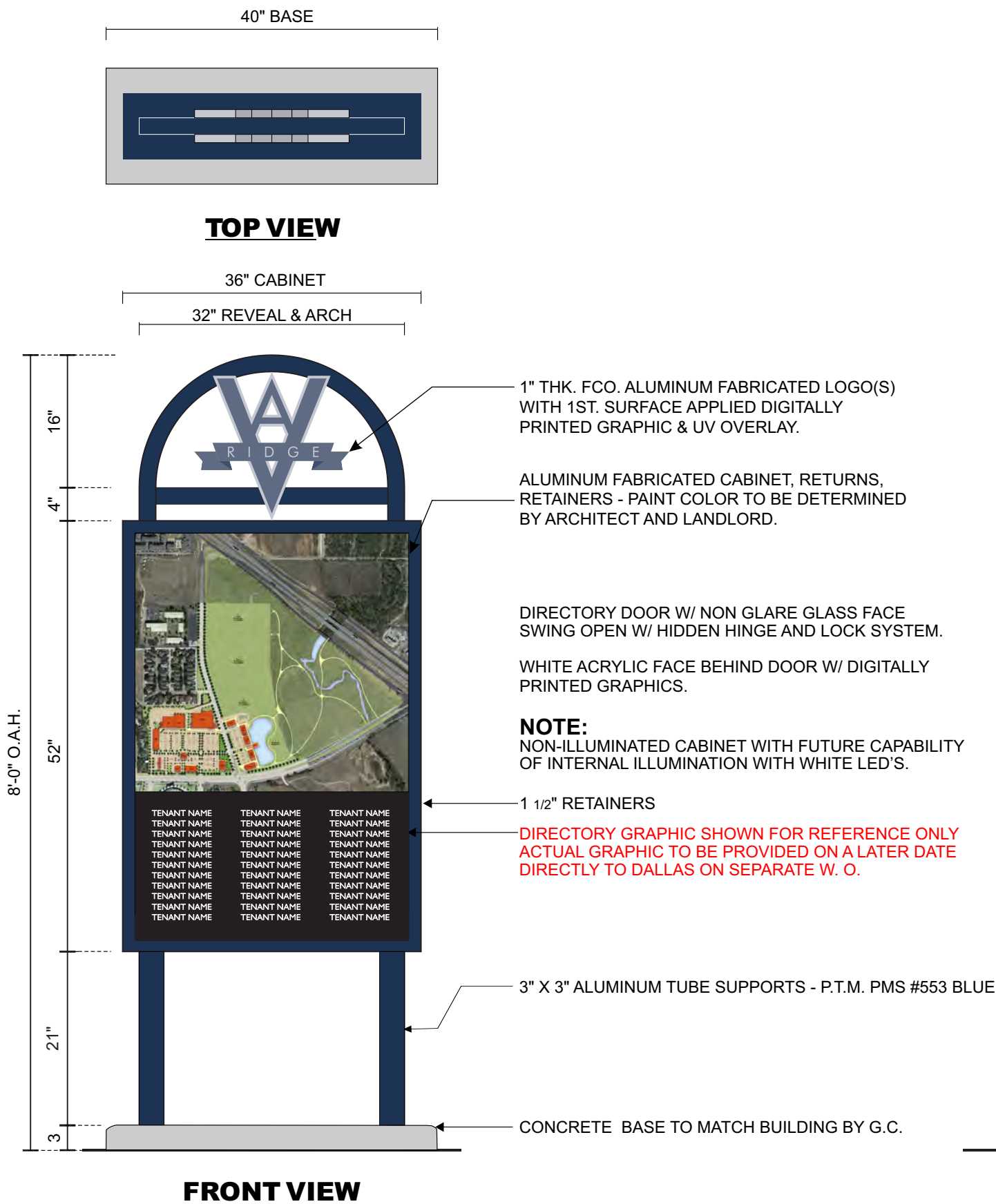
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D PEDESTRIAN DIRECTIONAL SIGN 3/4"=1'-0"
(X) - T.B.D. REQ'D. - MANUFACTURE & INSTALL 18.75 SQ. FT. EA.



ENGINEERING

(1) x 4" (.38) O.D. .237" WALL SQ. STEEL TUBE REQUIRED
(1) x 14" DIA. 4'-6" DEEP FOUNDATIONS REQUIRED W/ 3000 PSI CONCRETE.
NOTE: ENGINEERING DATA IS FOR 80 MPH. WIND LOADS.

CABINET BACK & RETURNS
PAINT COLOR TO BE DETERMINED
BY ARCHITECT AND LANDLORD.

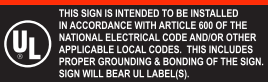
DIGITALLY PRINTED
LOGO GRAPHIC WITH
UV OVERLAY.



The Village at Allen Ridge

Design #	
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Sheet	6 of 18
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Acct. Rep.	STAN MACRUM
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The Village at Allen Ridge

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Town Center at Allen Ridge			
Development Summary			
Eastern Site		S.F./ Units	Parking Ratio
Commercial	Retail	24,000 s.f.	4/1,000 s.f.
	Restaurant	7,800 s.f.	10/1,000 s.f.
	Office over Retail	20,040 s.f.	3/1,000 s.f.
Residential	Multi-Family	0 units	1.4/unit
	Townhomes	0 units	2.0/unit
			Parking Sub-Total
			Shared Parking
			Total Parking Required
			Total Parking Provided
Western Site		S.F./ Units	Parking Ratio
Commercial	Retail	74,000 s.f.	4/1,000 s.f.
	Anchor Retail	46,410 s.f.	1/175 s.f.
	Restaurant	8,100 s.f.	10/1,000 s.f.
			Parking Sub-Total
			Shared Parking
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- M

MONUMENT
- P

PYLON
- F

FUEL

The Village at Allen Ridge – Concept Plan

BVTD Partners • Abilene, Texas
01.15020.00



Scale: 1"=400'



The Village at Allen Ridge				
Development Summary				
Eastern Site				
	S.F./ Units	Parking Ratio	Parking Required	
Commercial	Retail	24,000 s.f.	4/1,000 s.f.	96
	Restaurant	7,800 s.f.	10/1,000 s.f.	78
	Office over Retail	20,040 s.f.	3/1,000 s.f.	61
Residential	Multi-Family	0 units	1.4/unit	0
	Townhomes	0 units	2.0/unit	0
			Parking Sub-Total	235
			- Shared Parking	59
			Total Parking Required	176
			Total Parking Provided	187
Western Site				
	S.F./ Units	Parking Ratio	Parking Required	
Commercial	Retail	74,000 s.f.	4/1,000 s.f.	296
	Anchor Retail	46,410 s.f.	1/175 s.f.	266
	Restaurant	8,100 s.f.	10/1,000 s.f.	81
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- M MONUMENT
- P PYLON
- F FUEL

The Village at Allen Ridge – Concept Plan

The Village at Allen Ridge

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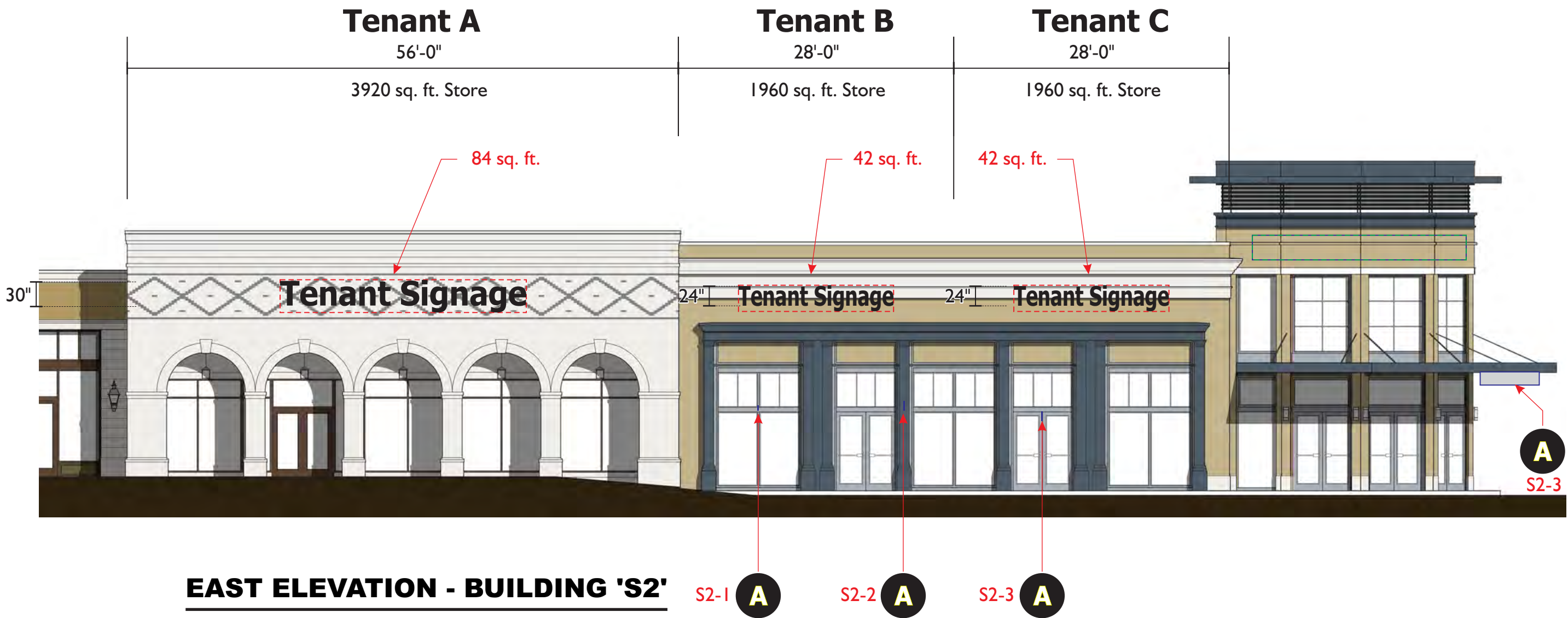
Vista, CA 92081
Fax 760-967-7033

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963 Baxter Avenue, Ste 200 502-479-3075	Louisville, KY 40204 Fax 502-412-0013
2584 Sand Hill Point Circle 863-420-1100	Davenport, FL 33837 Fax 863-424-1160
37 Waterfront Park Court 800-851-7062	Dawsonville, GA 30534 Fax 210-349-8724
P.O. Box 125 206 Doral Drive 361-563-5599	Portland, TX 78374 Fax 361-643-6533
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FINAL ELECTRICAL
CONNECTION BY
CUSTOMER

UL

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING & BONDING OF THE SIGN. SIGN WILL BEAR UL LABEL(S).

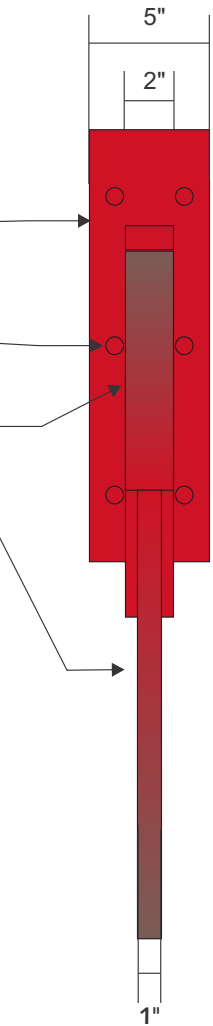


SIGN SUPPORTS 1" x 2" SQ. TUBE ALUM. W/ A 18" x 5" PLAQUE FLUSH MOUNTED TO WALL, PTD PER TENANT LAYOUT.

ATTACH TO WALL W/ NON CORROSIVE HARDWARE AS REQUIRED, PTD. PER TENANT LAYOUT.

CENTRAL SIGN ATTACHED TO BASE W/ 1"x1" WELDED SQ. PIPES PTD. PER TENANT LAYOUT.

CENTRAL FCO. ALUM. PANELS PTD PER TENANT LAYOUT.



SIDE VIEW

A

D/F BLADE SIGN NON-ILLUM. 1 1/2"=1'-0"
7.31 = SQ. FT.

NOTE:

ALL BLADE SIGNS PER TENANT LAYOUT NOT TO PROJECT MOTE THAN 4' FROM WALL & NOT TO EXCEED 10.00 SQ. FT., ALL FACES TO BE PAINTED ALUMINUM ONLY.

COPY SHOWN FOR VISUAL PURPOSES ONLY

The Village at
Allen Ridge

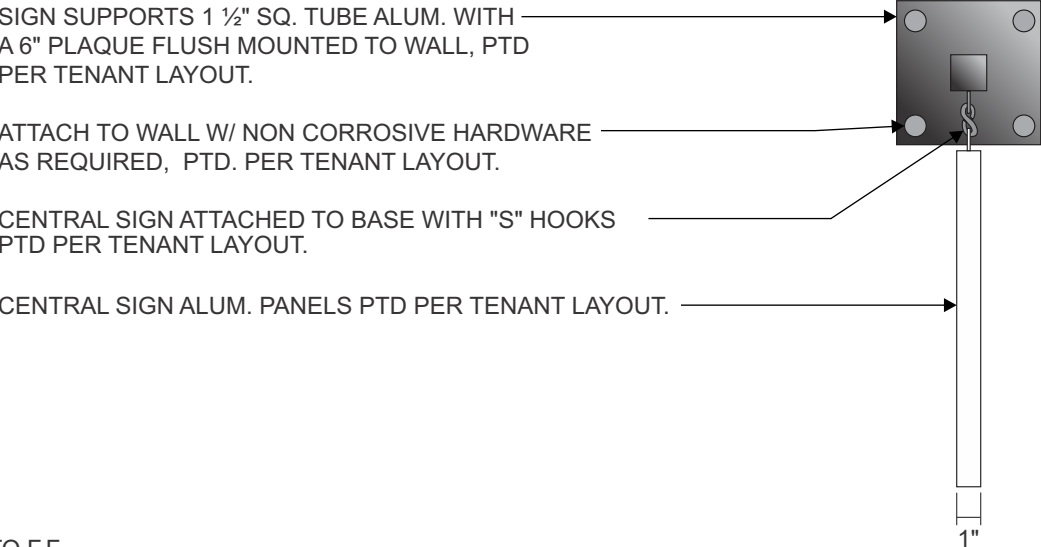
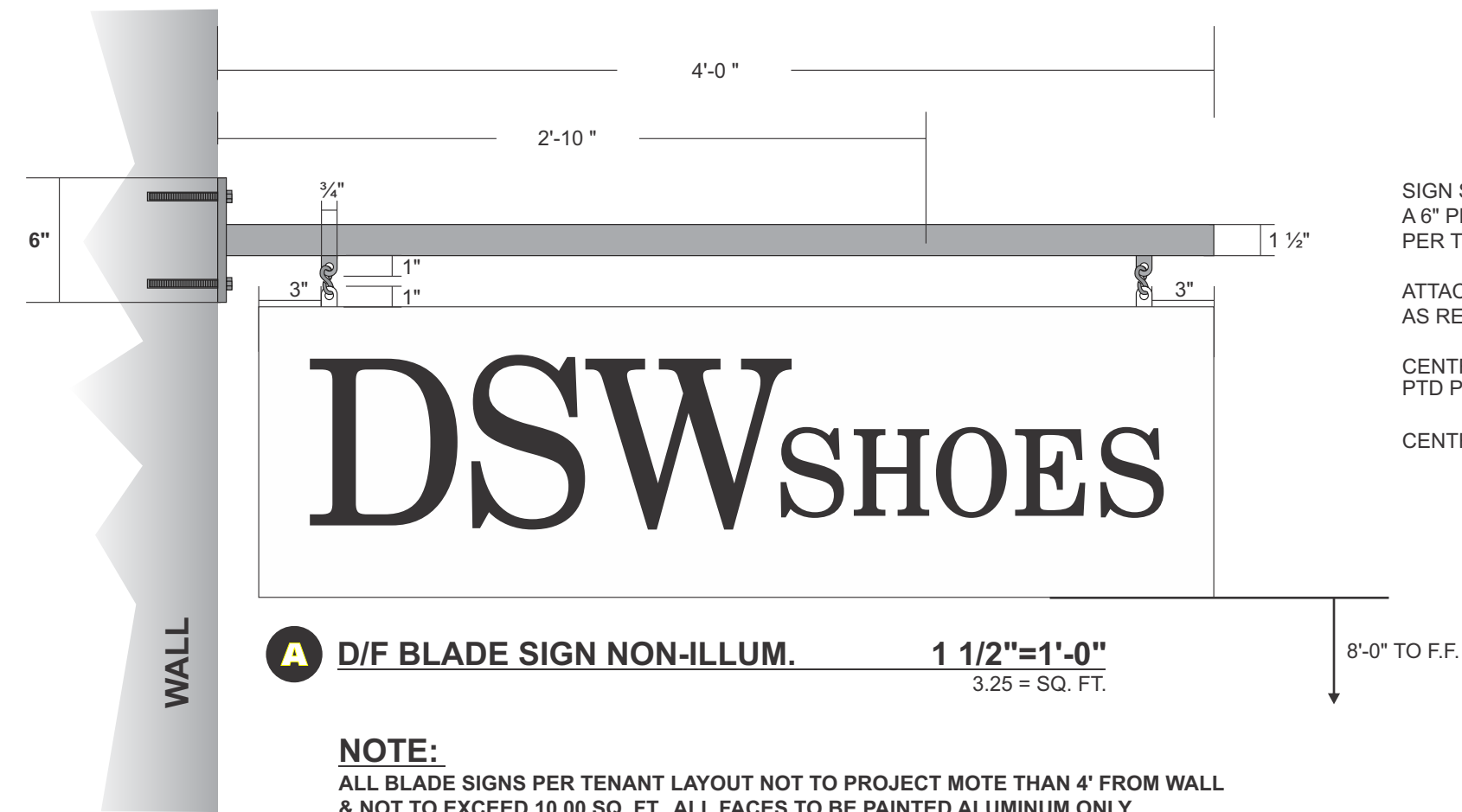
Design #	
0612846AR5	
Sheet	10 of 18
Location	
The Village at Allen Ridge	
Address	
ABILENE, TEXAS	
Acct. Rep.	STAN MACRUM
Coordinator	NICOLE VANCE
Designer	P. AGUIAR
Date	05/20/16
Approval / Date	
Client	
Sales	
Estimating	
Art	
Landlord	
Engineering	
Revision / Date	
R1(05/27/16)PA: CHANGES TO GUIDELINES	
R2(06/01/16)PA: REVISED TENANT GUIDELINES, ADDING MORE RULES ABOUT FREESTANDING SIGNS AND TENANT LETTER / LOGO SIGN HEIGHTS PER SQUARE FOOTAGE OF LEASED.	
R3(6/13/16)PA: REVISED DIRECTIONAL DESIGN; DELETED LOCATION OF "D" NEAR PAVILLION TO THE ENTRY ISLAND AT PAVILLION; ADDED MONUMENT "M" TO ENTRANCE AT ACU DRIVE; ADDED "F" FUEL SIGN.	
R4(6/21/16)PA: ADDED INFORMATIONAL BANNERS (ACU BRANDED / COMMUNITY BRANDED); ADDED TO LIST OF PROHIBITED SIGNAGE, "PORTABLE SIGNS"; TOOK OUT SHEETS 9 & 10 AND SHOWED SITE PLAN WITHOUT LANDSCAPE DETAILS.	
R5(6/24/16)PA: REVISED SPECIFICATIONS ON DIRECTIONALS ON SHEET 3 OF 18; REMOVED SKEWS FROM SITE PLANS ON SHEETS 5,7,8.	

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SIGN WILL BEAR UL LABEL(S).

UL



SIDE VIEW

A D/F BLADE SIGN NON-ILLUM. 1 1/2"=1'-0"
3.25 = SQ. FT.

NOTE:
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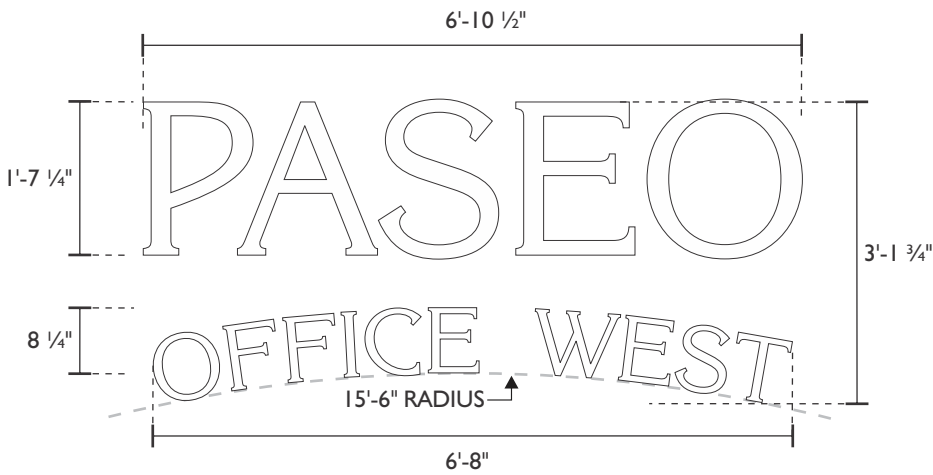
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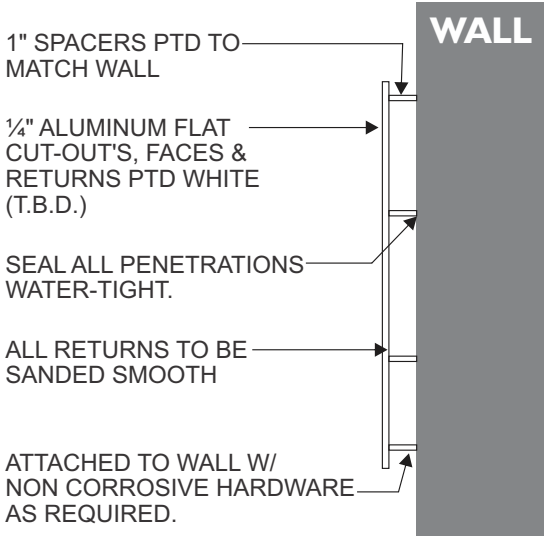


BUILDING "K" EAST ELEVATION DETAIL 1/4" = 1'



B NON ILLUMINATED FLAT CUT-OUT'S
ONE SET REQUIRED - MANUFACTURE & INSTALL

1/2" = 1'



The Village at Allen Ridge

Design #	
0612846AR5	
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The Village at Allen Ridge	
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1335 Park Center Drive, UNIT C Vista, CA 92081 760-967-7003 Fax 760-967-7033	
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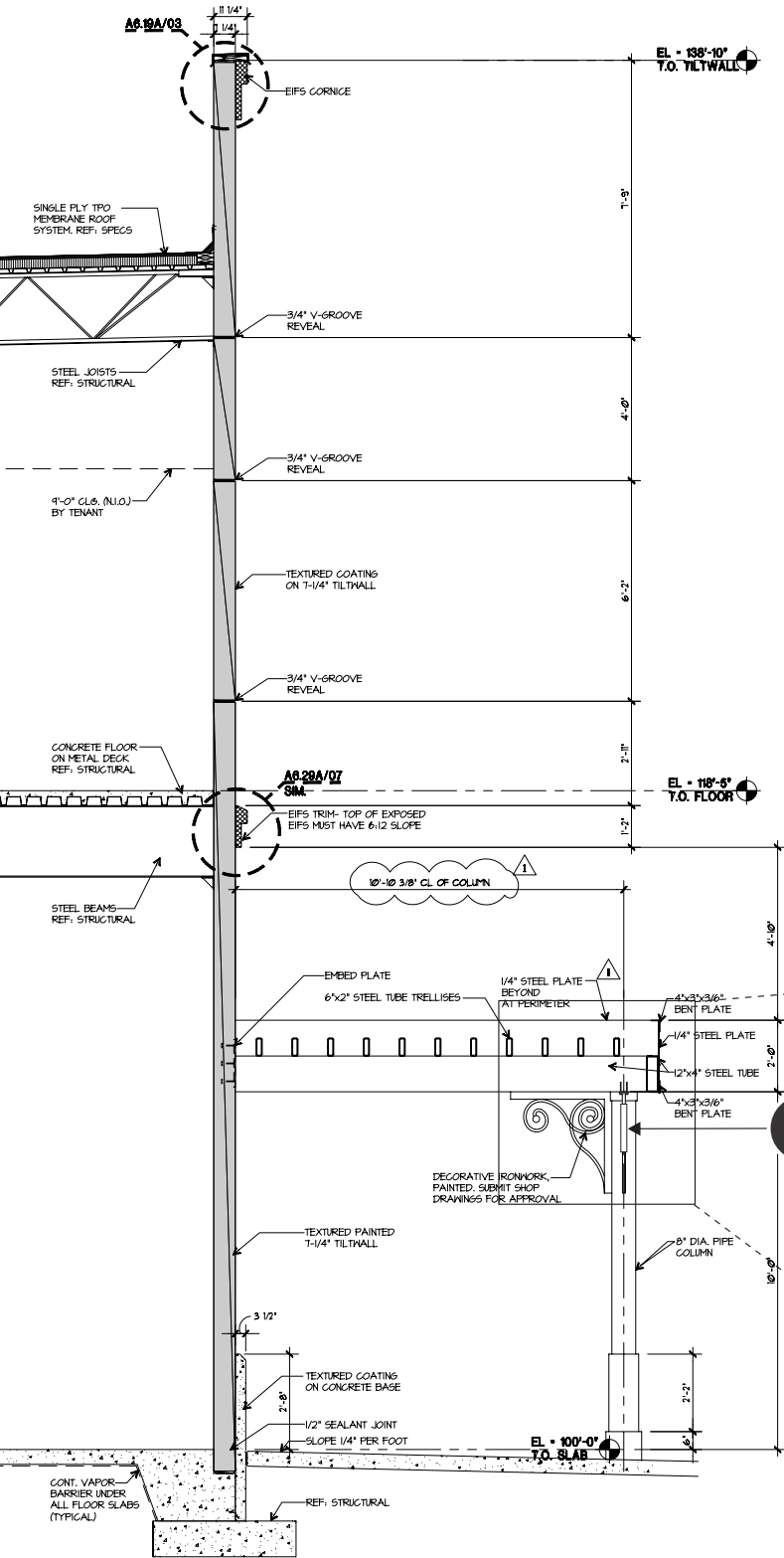
001 Manor Way 44-902-2000	Dallas, TX 75235 Fax 214-902-2044
3319 San Pedro, Ste 200 10-349-3804	San Antonio, TX 78232 Fax 210-349-8724
323 Baxter Avenue, Ste 42-479-3075	Louisville, KY 40204 Fax 502-412-0031
284 Sand Hill Point Circle 43-620-1100	Davenport, IA 38337 Fax 863-424-1160
Waterfront Park Court 90-851-7052	Dawsonville, GA 30534 Fax 210-349-8724
Box 125 206 Doral Drive 511-563-5533	Portland, TX 78374 Fax 361-464-6559
135 Park Center Drive, UNIT C 760-767-7003	Vista, CA 92081 Fax 760-767-7033

FINAL ELECTRICAL CONNECTION BY CUSTOMER

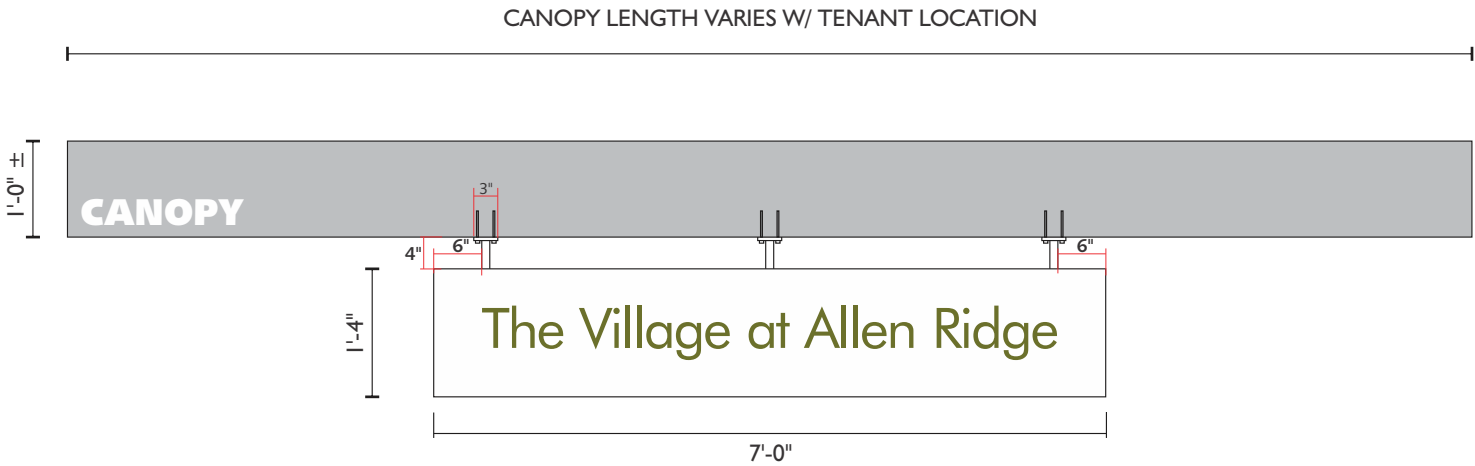
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The Village at
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WALL SECTION 3/16" = 1'



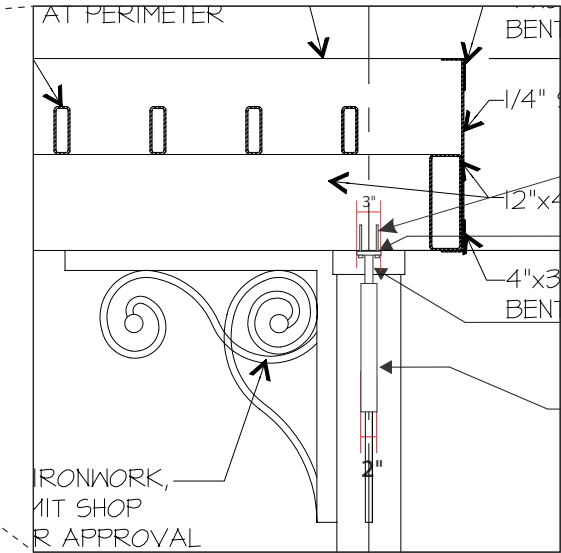
D ALUM. FCO. NON-LIT CANOPY MOUNTED 1/2" = 1'-0" 9.33 SQ. FT.

ALUM. NON-LIT CHANNEL LETTERS, FACES & RETURNS PTD.
PER TENANTS LAYOUT

(COPY SHOWN FOR VISUAL PURPOSES ONLY)

CANOPY SIZES VARY PER TENANT LOCATION

NOTE:
ALL UNDER CANOPY SIGNS PER TENANT LAYOUT NOT TO EXCEED
10.00 SQ. FT., ALL FACES TO BE PAINTED ALUMINUM ONLY.



SIDE VIEW NTS

ANY FASTENERS PENETRATING
AWNING OR CANOPY, NEED
TO BE SEALED/GASKET TO PRE-
VENT LEAKING.

ATTACH TO CANOPY W/ NON CORROSIVE HARDWARE
AS REQUIRED, PTD. PER TENANT LAYOUT.

CENTRAL SIGN ATTACHED TO CANOPY W/1" SQ. PIPE
& 3" MOUNTING PLATES AS REQUIRED PTD PER TENAT LAYOUT.

CENTRAL SIGN ALUM. PANELS PTD PER TENANT LAYOUT.

Design #	
0612846AR5	
Sheet	14 of 18
Location	
The Village at Allen Ridge	
Address	
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Acct. Rep.	STAN MACRUM
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UL

The Village at
Allen Ridge

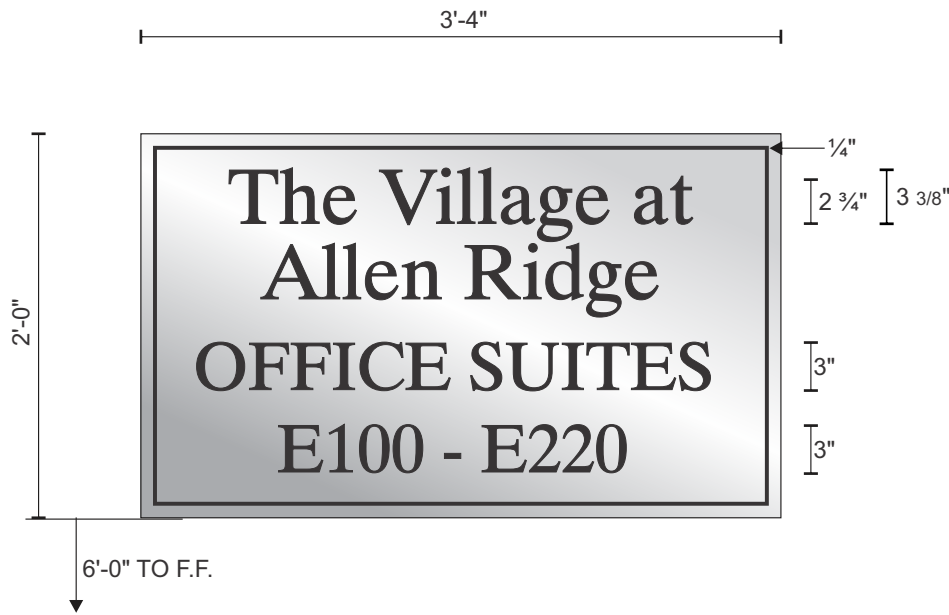
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E1-E2

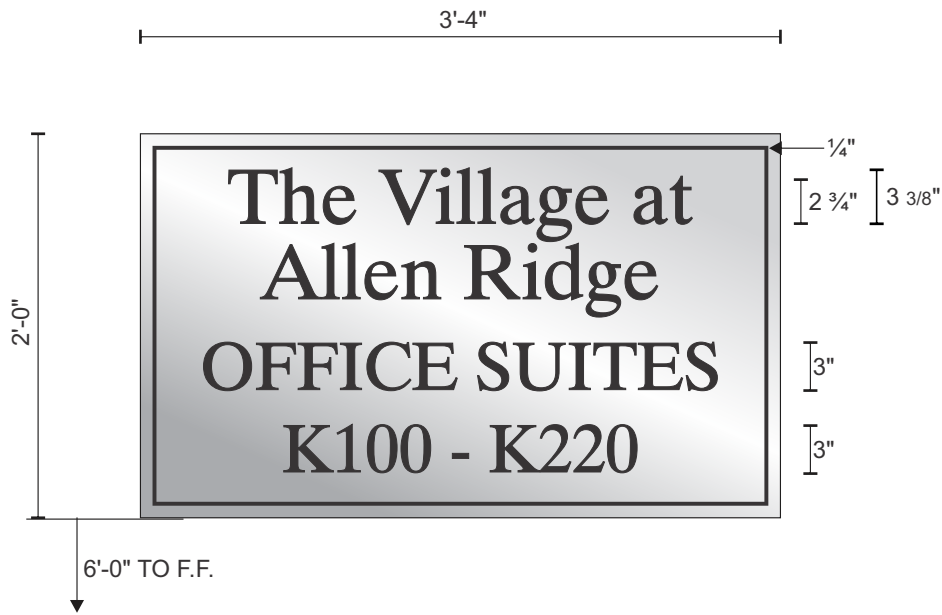
BRUSHED STAINLESS STEEL PLAQUE NON-ILLUM.

2 REQUIRED - MANUFACTURE & INSTALL.

1"=1'-0"

6.6 SQ. FT.

- BRUSHED STAINLESS STEEL PLAQUE
- 1/8" ENGRAVED COPY PTD. BLACK
- ATTACHED TO WALL W/ NON-CORROSIVE HARDWARE & 1" SPACERS PTD TO MATCH WALL.
- SEAL ALL PENETRATIONS WATER TIGHT.
- ALL CORNERS TO BE SANDED SMOOTH.



F1-F2

BRUSHED STAINLESS STEEL PLAQUE NON-ILLUM.

2 REQUIRED - MANUFACTURE & INSTALL.

1"=1'-0"

6.6 SQ. FT.

- BRUSHED STAINLESS STEEL PLAQUE
- 1/8" ENGRAVED COPY PTD. BLACK
- ATTACHED TO WALL W/ NON-CORROSIVE HARDWARE & 1" SPACERS PTD TO MATCH WALL.
- SEAL ALL PENETRATIONS WATER TIGHT.
- ALL CORNERS TO BE SANDED SMOOTH.

SURVEY NOTE

CONFIRM ALL COPY PRIOR TO MANUFACTURE

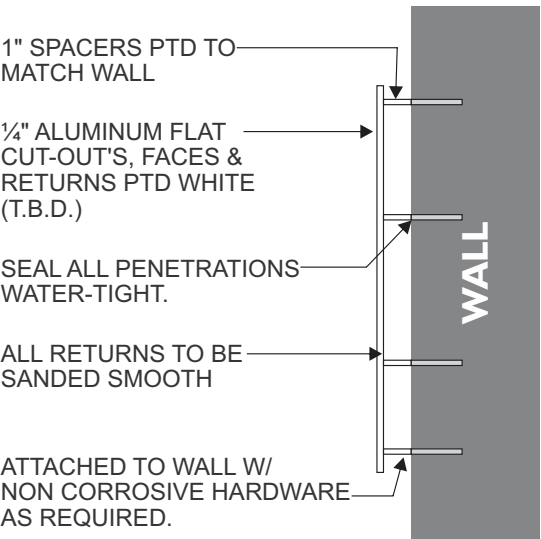
OPTION
1



G NON ILLUMINATED FLAT CUT-OUT'S **1" = 1'-0"**
ONE SET REQUIRED - MANUFACTURE & INSTALL SQ. FT. = 3.33

FIELD SURVEY REQUIRED

CONFIRM SIGN LOCATION & DIMENSIONS
OF SIGN AREA PRIOR TO MANUFACTURE.



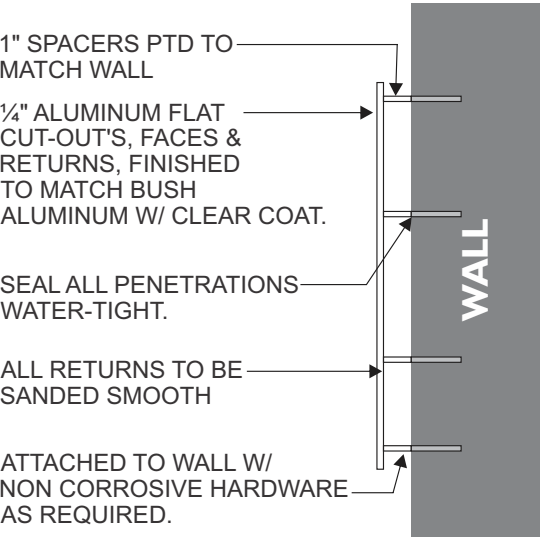
OPTION
2



G NON ILLUMINATED FLAT CUT-OUT'S **1" = 1'-0"**
ONE SET REQUIRED - MANUFACTURE & INSTALL SQ. FT. = 3.33

FIELD SURVEY REQUIRED

CONFIRM SIGN LOCATION & DIMENSIONS
OF SIGN AREA PRIOR TO MANUFACTURE.



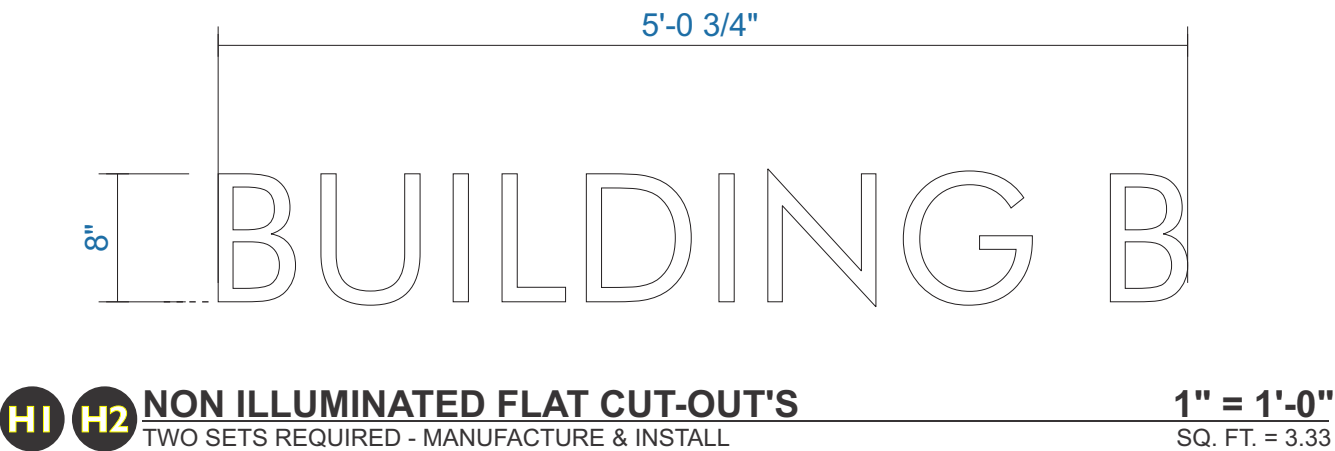
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FINAL ELECTRICAL CONNECTION BY CUSTOMER

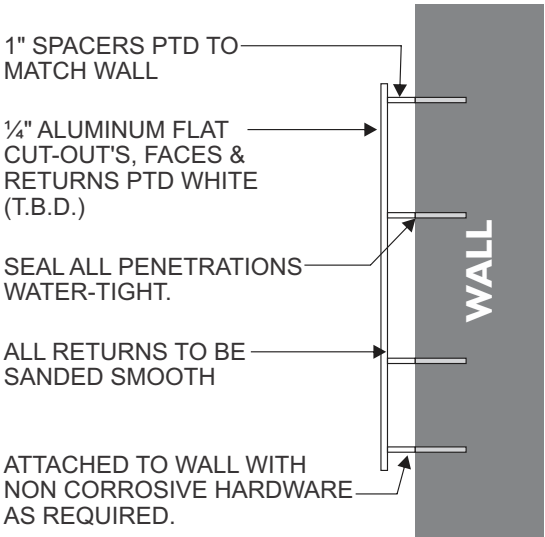
 THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING & BONDING OF THE SIGN. SIGN WILL BEAR UL LABEL(S).

OPTION
1

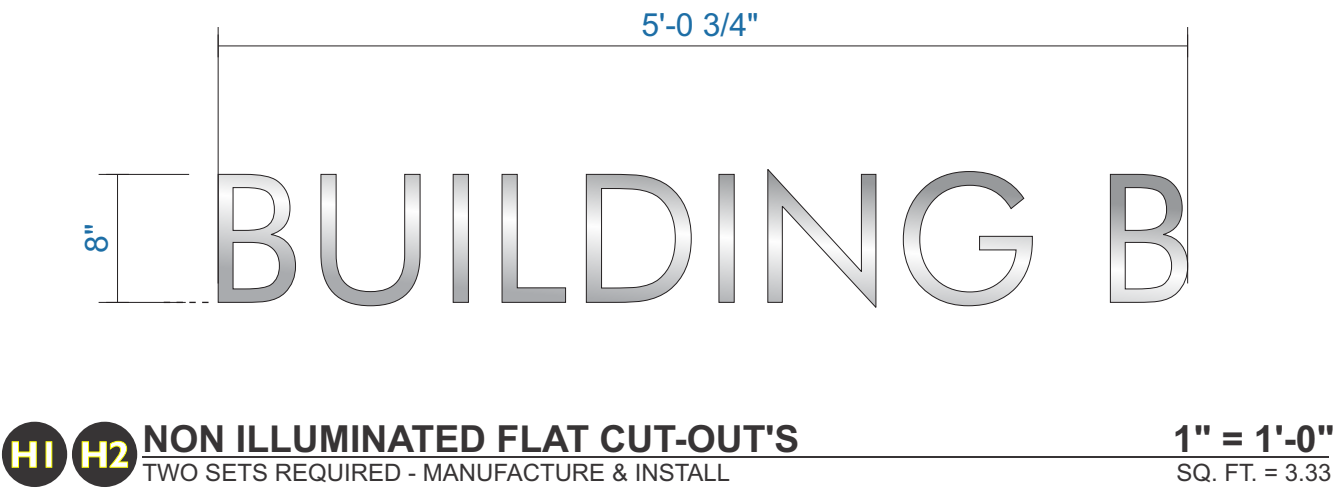


FIELD SURVEY REQUIRED

CONFIRM SIGN LOCATION & DIMENSIONS
OF SIGN AREA PRIOR TO MANUFACTURE.

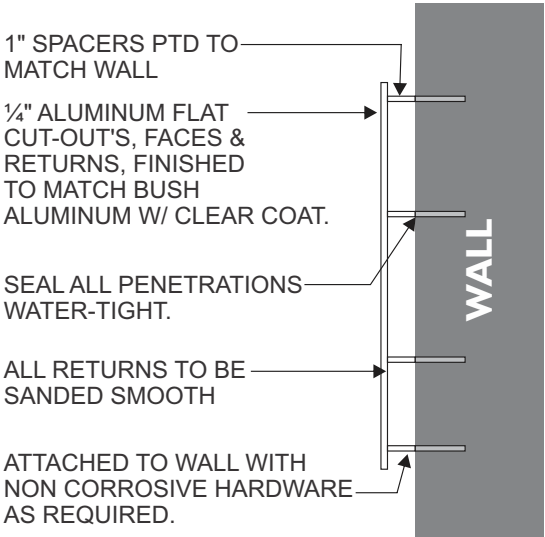


OPTION
2



FIELD SURVEY REQUIRED

CONFIRM SIGN LOCATION & DIMENSIONS
OF SIGN AREA PRIOR TO MANUFACTURE.



The Village at
Allen Ridge

Design #															
0612846AR5															
Sheet	17 of 18														
Location															
The Village at Allen Ridge															
Address															
ABILENE, TEXAS															
Acct. Rep.	STAN MACRUM														
Coordinator	NICOLE VANCE														
Designer	P. AGUIAR														
Date	05/20/16														
Approval / Date															
Client															
Sales															
Estimating															
Art															
Landlord															
Engineering															
Revision / Date															
R1(05/27/16)PA: CHANGES TO GUIDELINES															
R2(06/01/16)PA: REVISED TENANT GUIDELINES, ADDING MORE RULES ABOUT FREESTANDING SIGNS AND TENANT LETTER / LOGO SIGN HEIGHTS PER SQUARE FOOTAGE OF LEASED.															
R3(6/13/16)PA: REVISED DIRECTIONAL DESIGN; DELETED LOCATION OF "D" NEAR PAVILLION TO THE ENTRY ISLAND AT PAVILLION; ADDED MONUMENT "M" TO ENTRANCE AT ACU DRIVE; ADDED "F" FUEL SIGN.															
R4(6/21/16)PA: ADDED INFORMATIONAL BANNERS (ACU BRANDED / COMMUNITY BRANDED); ADDED TO LIST OF PROHIBITED SIGNAGE, "PORTABLE SIGNS"; TOOK OUT SHEETS 9 & 10 AND SHOWED SITE PLAN WITHOUT LANDSCAPE DETAILS.															
R5(6/24/16)PA: REVISED SPECIFICATIONS ON DIRECTIONALS ON SHEET 3 OF 18; REMOVED SKEWS FROM SITE PLANS ON SHEETS 5,7,8.															
Chandler Signs Brand Image Begins Here.															
<table><tr><td>3201 Manor Way 214-902-2000</td><td>Dallas, TX 75235 Fax 214-902-2044</td></tr><tr><td>17319 San Pedro, Ste 200 210-349-3604</td><td>San Antonio, TX 78232 Fax 210-349-8724</td></tr><tr><td>963 Baxter Avenue, Ste 200 502-479-3075</td><td>Louisville, KY 40204 Fax 502-412-0013</td></tr><tr><td>2584 Sand Hill Point Circle 863-420-1100</td><td>Davenport, FL 33837 Fax 863-424-1160</td></tr><tr><td>37 Waterfront Park Court 800-851-7062</td><td>Dawsonville, GA 30534 Fax 210-349-8724</td></tr><tr><td>P.O. Box 125, 206 Doral Drive 361-563-5599</td><td>Portland, TX 78374 Fax 361-643-6533</td></tr><tr><td>1335 Park Center Drive, UNIT C 760-967-7003</td><td>Vista, CA 92081 Fax 760-967-7033</td></tr></table>		3201 Manor Way 214-902-2000	Dallas, TX 75235 Fax 214-902-2044	17319 San Pedro, Ste 200 210-349-3604	San Antonio, TX 78232 Fax 210-349-8724	963 Baxter Avenue, Ste 200 502-479-3075	Louisville, KY 40204 Fax 502-412-0013	2584 Sand Hill Point Circle 863-420-1100	Davenport, FL 33837 Fax 863-424-1160	37 Waterfront Park Court 800-851-7062	Dawsonville, GA 30534 Fax 210-349-8724	P.O. Box 125, 206 Doral Drive 361-563-5599	Portland, TX 78374 Fax 361-643-6533	1335 Park Center Drive, UNIT C 760-967-7003	Vista, CA 92081 Fax 760-967-7033
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FINAL ELECTRICAL
CONNECTION BY
CUSTOMER

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The Village at Allen Ridge

Design #	
0612846AR5	
Sheet	18 of 18
Location	
The Village at Allen Ridge	
Address	
ABILENE, TEXAS	
Acct. Rep.	STAN MACRUM
Coordinator	NICOLE VANCE
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Date	05/20/16
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Client	
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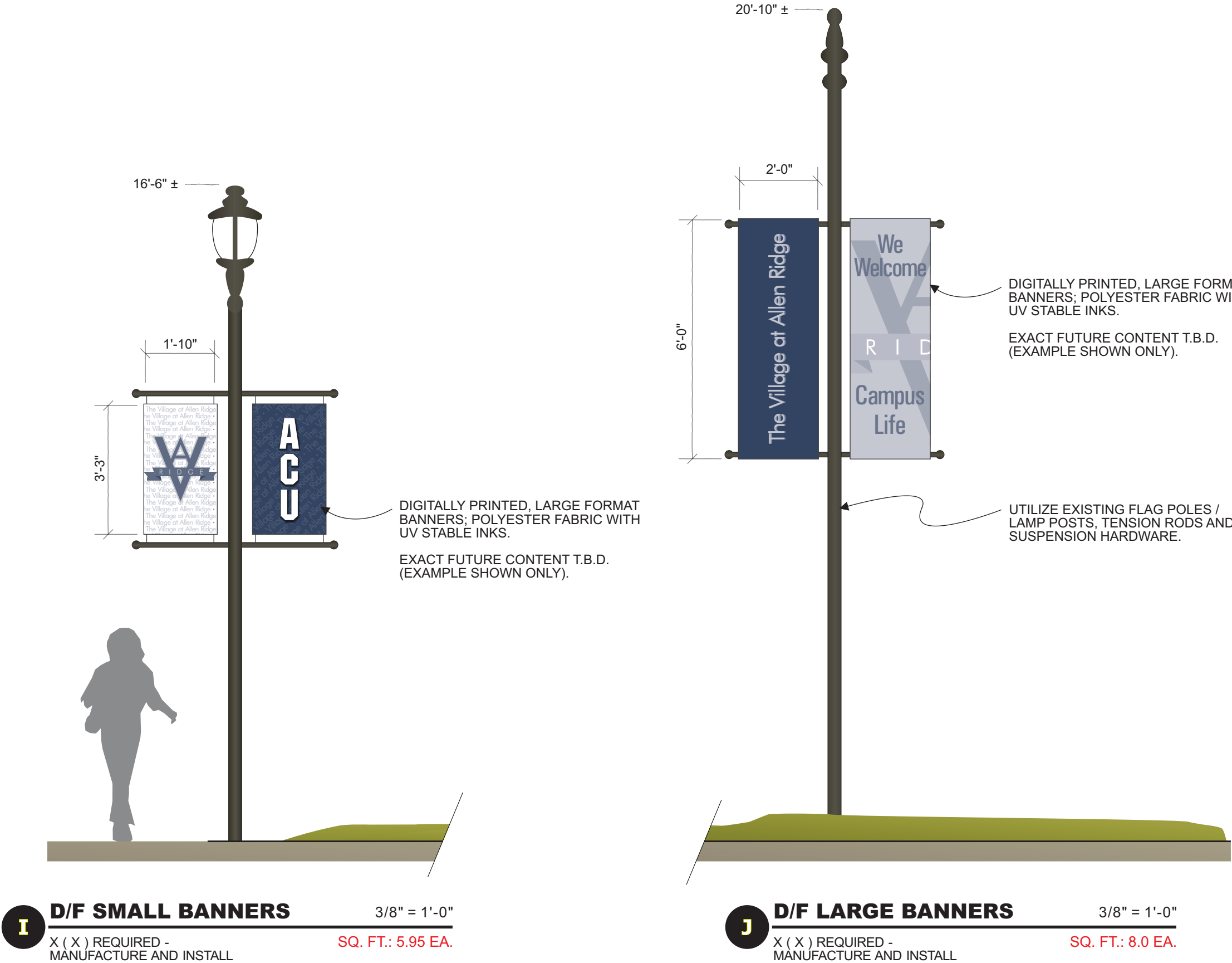
 **Chandler Signs**
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AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF PUBLIC RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

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

PART 1: That the following described portion of a Public Right of Way, as described on Exhibit "A," attached hereto and made a part of this ordinance for all purposes, be, and the same is hereby abandoned, vacated and closed insofar as the right, title or easement of the public is concerned, subject to conditions as stated in Exhibit A.

PART 2: That said portion of a Public Right of Way is not needed for public purposes and it is in the public interest of the City of Abilene to abandon said described portion of a Public Right of Way.

PART 3: That the abandonment provided for herein shall extend only to the public right, title and easement in and to the tracts of land described in Part 1 of this ordinance, and shall be construed only to that interest the governing body of the City of Abilene may legally and lawfully abandon.

PASSED ON FIRST READING this 27th day of March, A.D. 2014.

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 14th day of February, 2014, the same being more than twenty-four (24) hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on second and final reading.

PASSED ON FINAL READING THIS 10th day of April, A.D. 2014.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:

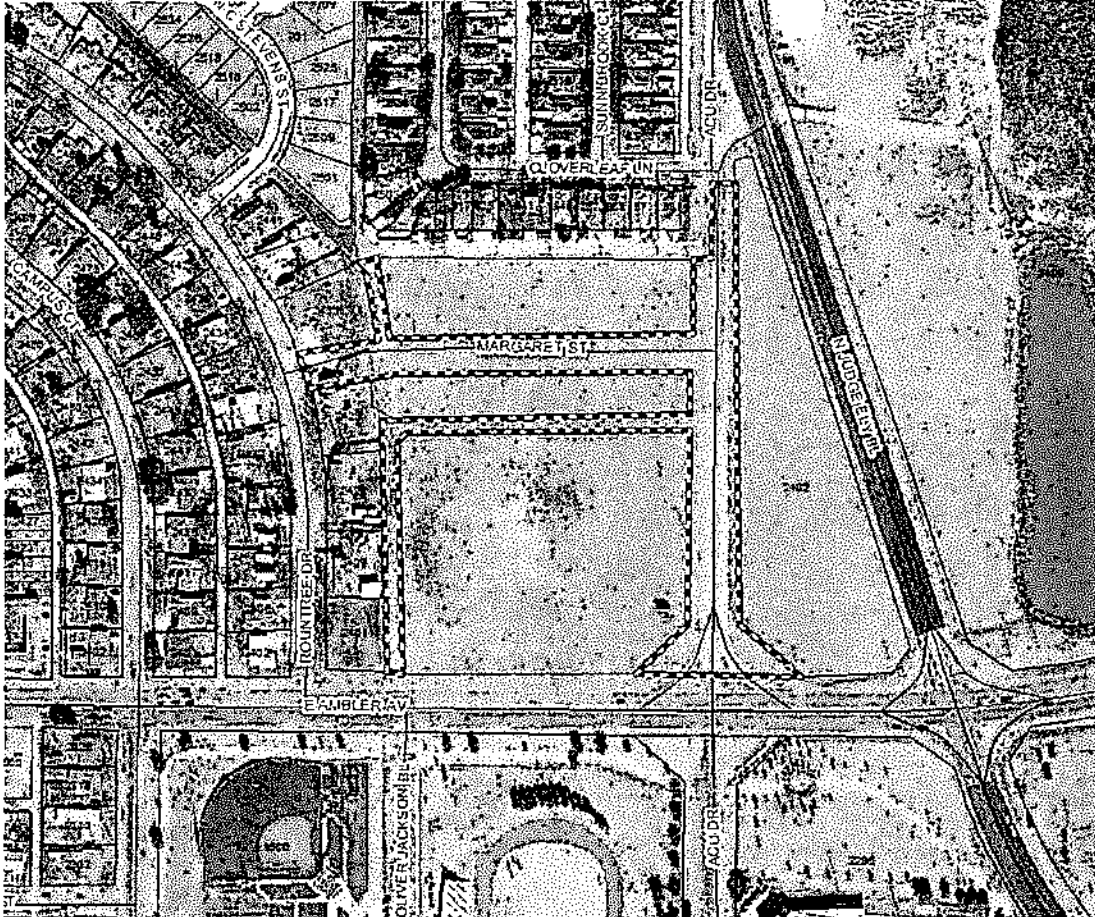
CITY ATTORNEY

ORDINANCE NO. 22-2014

EXHIBIT "A"

The City of Abilene hereby abandons: ACU Drive north of Ambler Avenue, abandon Margaret Street, and abandon the adjacent alleys totaling approximately 1,200 feet.

All Public Right of Way as indicated and shown in the map below within the dashed area:



With the following conditions:

1. Utility Easements shall be required for existing public and private utilities (i.e., gas, phone, electricity, water & sewer) or relocation shall be the responsibility of the applicant.
2. Address the alley connection to Cloverleaf Ln and street alignment of Cloverleaf Ln to N. Judge Ely Blvd.
3. A "No Access Easement" shall be required along the south side of the southern alley in the Cloverleaf Subdivision. A 7', solid fence shall be required upon development of the property adjacent to the alley.
4. The applicant must replat within 12 months, at which time any issues regarding access to utilities and/or relocation of utilities will be resolved. The replat must not create any non-conforming lots.

-END-



REZONE REQUEST

Case: Z-2023-31

Owner: Abilene Christian University

Agent: TJC Development
McMahon Surovik Suttle, PC

Request: Amend the terms of PDD-157

Location: 2500 Block of North Judge Ely Blvd.

Notification: 0 in Favor, 0 Opposed

Planning & Zoning: November 7, 2023

Council Hearing: November 16, 2023
December 6, 2023





AERIAL LOCATION MAP

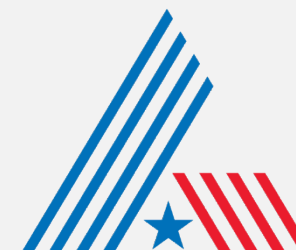


Aerial Map



Legend

- Z-2023-31
- Roads
- Z-2023-31
- Z-2023-31



CITY OF
ABILENE
TEXAS



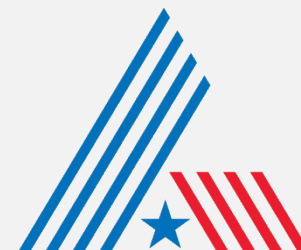
ZONING MAP



Zoning Map



- Legend**
- 2-2023-31
 - Roads
 - County/Parcels
 - 2-2023-31
 - AO - Agricultural Open Space
 - RS-6 - Rural Residential
 - RS-8 - Residential Single-Family
 - RS-12 - Residential Single-Family
 - PH - Residential Single-Family/Patio Home
 - MD - Medium Density Residential
 - MM - Manufactured/Mobile Home
 - RM - Residential Townhome
 - MP - Multi-Family Residential
 - CU - College/University
 - CB - Central Business
 - NO - Neighborhood Office
 - CO - Office
 - ML - Medical Use
 - RI - Neighborhood Retail
 - GR - General Retail
 - GC - General Commercial
 - HC - Heavy Commercial
 - LI - Light Industrial
 - HI - Heavy Industrial
 - MA - Mixed-Use
 - PD - Planned Development
 - City of Impact
 - 2-2023-31



CITY OF
ABILENE
TEXAS



VIEWS OF SUBJECT PROPERTY



Subject Property



East Neighboring Property



South Neighboring Property



Subject Property



East Neighboring Property



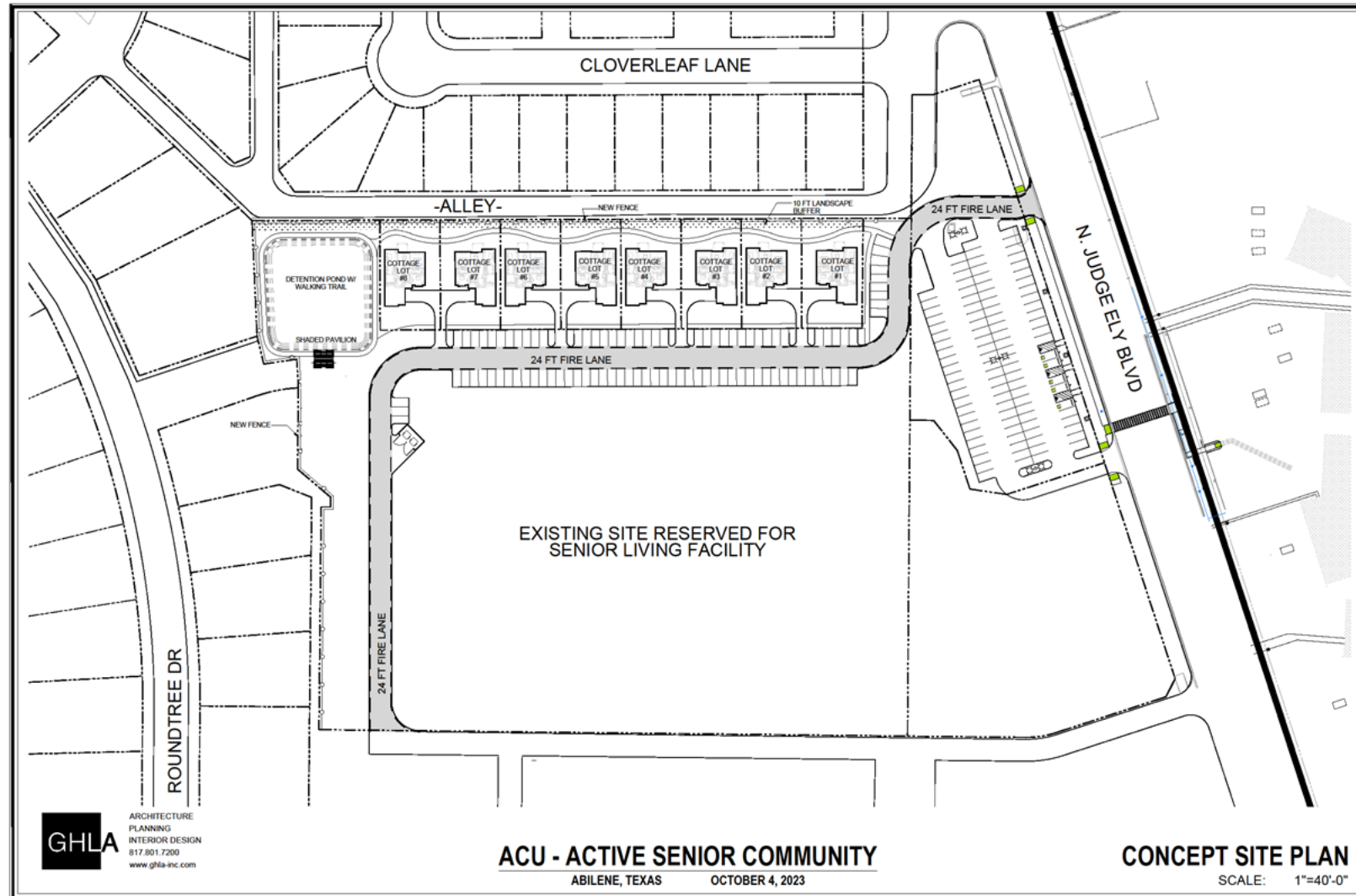


SIMILAR ACTIVE SENIOR DEVELOPMENT





AMENDED CONCEPT PLAN



CITY OF
ABILENE
TEXAS



AMENDED CONCEPT PLAN

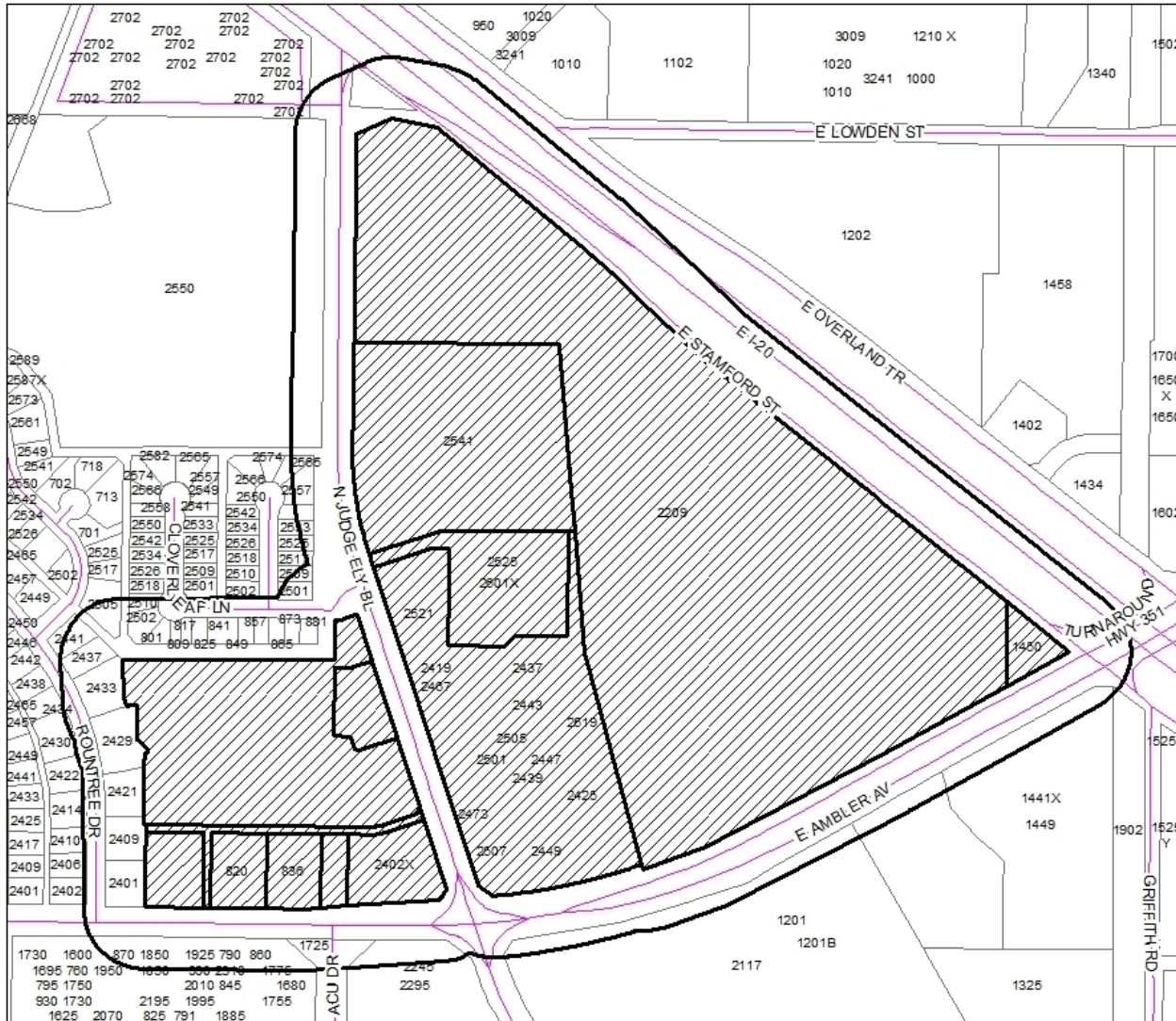
Below are the major changes to the Concept Plan:

1. A private alley behind the proposed homes that provides emergency access to the alley to the north is not proposed.
2. A new driveway off Judge Ely Blvd. near Cloverleaf Lane is no longer proposed. Access will be provided from an existing driveway farther south of Cloverleaf Lane.
3. All conditions of the 2014 abandonment of ACU Drive, namely a non-access agreement, buffer yard, and a screening fence will be fully honored.

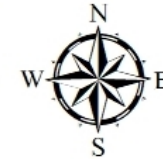




NOTIFICATION AREA MAP



Notification Map



Legend

- Z-2023-31
- Buffer (Not affected)
- Roads
- CourierParcels

0- In Favor-

0- Opposed-

0 % OPPOSITION



CITY OF
ABILENE
TEXAS



FINDINGS

The proposed request is consistent with:

- The spirit and intent of PDD-157;
- Comprehensive Plan;
- The surrounding uses and zoning;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.





RECOMMENDATION

P&Z Recommendation:

The Planning and Zoning Commission recommends **approval**, subject to the following conditions:

1. The amendment shall be subject to the amended Concept Plan;
2. A Type A buffer yard shall be provided, as shown on the amended Concept Plan.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **20. Ordinance (Final Reading) Z-2023-35:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Hoemke Property LLC Represented By Seth Merritt, To Change The Zoning Of Approximately 0.33 Acres From Heavy Industrial To Light Industrial. Located At 409 S Treadaway Blvd. *(Tim Littlejohn)*

GENERAL INFORMATION

Change the zoning of approximately 0.33 acres from Heavy Industrial (HI) to Light Industrial (LI)

SPECIAL CONSIDERATIONS

The property is home to a commercial building that was built in 1958. For the last decade the property has been used for various uses that include retail (Smitty's Tabbaco) and manufacturing (Pappy Slokum Brewing Co.).

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 5-0.

ATTACHMENTS:

1. Z-2023-35 Ordinance (409 S Treadaway Blvd)
2. Z-2023-35 Staff ReportRSA
3. Bike ABI, LLC
4. Z-2023-35 Presentation(CHI)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES 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 2 (Zoning Regulations) of the Land Development Code 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.

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 16th day of November, 2023.

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 20th day of October, 2023, 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 7th day of December, 2023, 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 7th day of December, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Change the zoning classification of the following described land from the Heavy Industrial (HI) District to the Light Industrial (LI) District.

Legal description being Lots 1, 2, 3, Block 94, Original Town Abilene, Abilene, Taylor County, Texas.

Located at 409 S Treadaway Blvd, Abilene, Taylor County, Texas.



-END-

ZONING CASE Z-2023-35

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: November 7, 2023
City Council 1st Reading: November 16, 2023
City Council 2nd Reading: December 7, 2023

Applicant

Owner: Hoemke Property LLC
Agent: Seth Merritt

Case Manager

Clarissa Ivey – Planner

Request

Change the zoning of approximately 0.33 acres from Heavy Industrial (HI) to Light Industrial (LI)

Location

409 S Treadaway Blvd
Lots 1, 2, 3, Block 94, Original Town Abilene, Abilene, Taylor County, Texas.

Background

The property is home to a commercial building that was built in 1958. For the last decade the property has been used for various uses that include retail (Smitty's Tabbaco) and manufacturing (Pappy Slokum Brewing Co.).

Zoning, Existing and Proposed Land Use

The properties directly to the north and west are zoned Light Industrial (LI). Properties to the south and east are zoned Heavy Industrial (HI).

The agent proposes to use this building as a bar and as a warehouse to store bikes used for the bike tour service to be known as ABI Bikes.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

(1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan Map, as amended.

The proposed request is consistent with the Comprehensive Plan and Future Land Use Map (FLUM), which both recommend Light Industrial.

(2) Whether the uses permitted by the proposed change in zoning classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.

The proposed uses are appropriate in the immediate area as light industrial is intended for uses such as warehousing. The bar aspect of this business is also compatible with the area.

(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.

This property has access to all required utilities.

(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.

None known relating to zoning. Safety for the proposed bike tours, agent has been in contact with various departments regarding that use.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval**.

NOTIFICATIONS

Legend:
O- Opposed
F- In Favor

PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
BOYD VANCE W	10266	334 S TREADAWAY BL	
	10866	317 WILLOW ST	
	10866	442 S 4TH ST	
UNION PACIFIC SYSTEM	59563	433 CHINA ST	
LYDICK-HOOKS ROOFING INC	59834	409 CHINA ST	
LYDICK-HOOKS ROOFING INC	59834	401 CHINA ST	
LYDICK-HOOKS ROOFING INC	59967	341 CHINA ST	
LYDICK-HOOKS ROOFING INC	60109	333 CHINA ST	
HOEMKE PROPERTY LLC	75775	409 S TREADAWAY BL	
HOEMKE PROPERTY LLC	76279	425 S TREADAWAY BL	
HOEMKE PROPERTY LLC	76405	441 S TREADAWAY BL	
ADVANTAGE OUTDOOR COMPANY LP	76522	446 S TREADAWAY BL	
ROBINSON PATRICIA N	77269	433 WILLOW ST	
ROBINSON PATRICIA N	106773	402 S TREADAWAY BL	

PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
	10866	317 WILLOW ST	
	10866	442 S 4TH ST	
ADVANTAGE OUTDOOR COMPANY LP	76522	446 S TREADAWAY BL	
BOYD VANCE W	10266	334 S TREADAWAY BL	
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HOEMKE PROPERTY LLC	76405	441 S TREADAWAY BL	
LYDICK-HOOKS ROOFING INC	59834	409 CHINA ST	
LYDICK-HOOKS ROOFING INC	59834	401 CHINA ST	
LYDICK-HOOKS ROOFING INC	59967	341 CHINA ST	
LYDICK-HOOKS ROOFING INC	60109	333 CHINA ST	
ROBINSON PATRICIA N	77269	433 WILLOW ST	
ROBINSON PATRICIA N	106773	402 S TREADAWAY BL	
UNION PACIFIC SYSTEM	59563	433 CHINA ST	

LOCATION MAP



ZONING MAP



City of Abilene
Planning & Zoning Dept.
October 3rd, 2023

To whom it my concern,

Bike ABI, LLC would like to request rezoning of our leased property owned by Hoemke Properties located at 409 S Treadaway Blvd Abilene, TX 79602. We are requesting the property be rezoned from "Heavy Industrial" to "Light Industrial" to allow us the ability to open a small on premises bar after obtaining our Wine & Malt Beverage Retailers Permit to sell alcohol for on premises and off premises consumption (Wine & Beer only).

The previous tenant had the ability to operate as a brewpub since they were utilizing the space to manufacture alcohol, we do not intend to manufacture in the warehouse, but plan to use the space for storage for our Party Bikes, Pedicabs, and Bicycles. We do not plan to serve food and will only allow adults 18 and older into our establishment.

Our goal is to create a fun and exciting atmosphere for patrons to enjoy while waiting to depart on a bike tour or enjoy after completion of a bike tour. We plan to utilize the indoor and patio area for bar seating and utilize the warehouse for tool and bike storage.

The ability to serve wine and malt beverages for on-premises and off-premises consumption would allow us the ability to serve our patrons who forgot to BYOB for their party bike tour a closed container of wine or beer to take on the tour or drinks to enjoy onsite in the bar areas. Many surrounding buildings of the property are zoned as light industrial, our request would keep the integrity of the city zoning whilst allowing us to operate as requested.

After discussing with Robert Hoemke landlord, he gave us his permission to submit this application for the property to be rezoned, and it was also mentioned that the connecting property is used for fire extinguisher repair and sales so the re-zoning to Light Industrial would not negatively affect the businesses day to day operations.

Seth Merritt, Co-Owner

Bike ABI, LLC

10/3/2023

A handwritten signature in black ink, reading "Seth Merritt", is written over a horizontal line. To the left of the signature, there is a small "X" mark.



REZONE REQUEST

Case: Z-2023-35

Owner: Hoemke Properties LLC

Agent: Seth Merritt

Request: Rezone from HI to LI

Location: 409 S Treadaway Blvd.

Notification: 0 in Favor, 0 Opposed

Planning & Zoning: November 7, 2023

City Council Hearing: November 16, 2023
December 7, 2023





AERIAL LOCATION MAP

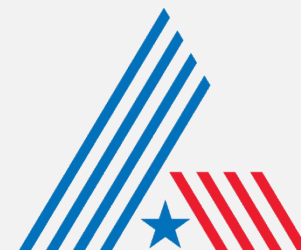


Aerial Map



Legend

- Z-2023-35
- CourierParcels



CITY OF
ABILENE
TEXAS



ZONING MAP

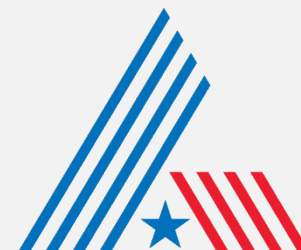


Zoning Map

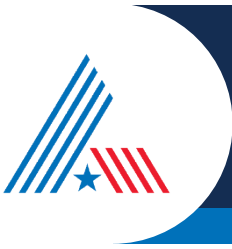


Legend

- Z-2023-35
- Arterial
- RS-6: Residential Single-Family
- HC: Heavy Commercial
- LI: Light Industrial
- HI: Heavy Industrial



CITY OF
ABILENE
TEXAS



PERMITTED USES IN HI ZONING

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- TP Field Office or Construction Office (temporary)
- P Freight Container
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recycling Collection Point
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Adult Entertainment Enterprise
- C Motorized Racing

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Fire/Police Station
- P Homeless/Emergency Shelter
- P Post Office
- P Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- P Church or Place of Worship
- P Educational and Scientific Research
- P School: Public/Private

SERVICE

- P Contractor Services
- P Recycling Collection and Processing Center
- P Scales (public)
- P Wrecker/Towing

TRADE – RETAIL USES

- P Head Shop
- C Scrap and Waste Material

TRADE – WHOLESALE USES

- C Livestock – Wholesale or Auction
- P Wholesaling and Storage (indoor)
- P Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
- P Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Pressure Control Station
- P Public Utility Facility
- P Railroad Switching and Marshaling Yard
- P Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Mining
- P Petroleum or Gas Well
- P Liquor
- P Manufacturing (light)
- P Manufacturing (heavy)
- P Urban Garden

LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
- C Permitted as a Conditional Use Permit, Requiring Approval by City Council
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment





PERMITTED USES IN LI ZONING

ACCESSORY AND INCIDENTAL USES:

P Accessory Structure (Also see Division 4 of this article)
P Antenna, Non-Commercial/Amateur
P ATM's, Self-Serve Kiosks, and Similar Facilities
P Drive-Through Facility
TP Field Office or Construction Office (temporary)
P Freight Container
P Fuel Sales
TP Itinerant Business
P Manufacturing (incidental)
C Mobile Home (permanent security residence)
TP Mobile Home (temporary security residence)
P Mobile Home or Temporary Building (office for sales and service)
P Recreation Building, Multipurpose
P Recycling Collection Point
P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

P Adult Entertainment Enterprise
C Cultural Facilities
P Drive-in Theater
C Motorized Racing
P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

P Ambulance Service
P Correction, Detention, or Penal Facilities
P Fire/Police Station
P Homeless/Emergency Shelter
P Medical/Dental Laboratory
P Military and Armed Forces Reserve Center
P Post Office
C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

C Cemetery, Crematorium, and Mausoleum
P Church or Place of Worship
P Educational and Scientific Research
P School: Public/Private
P Trade/Business School

SERVICE

P/C Automobile Wash
P Contractor Services
P Funeral Home/ Mortuary/Morgue
P Kennel (With Outdoor Pens)
P Kennel (Without Outdoor Pens)
P Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
P Laundry/Dry Cleaning Services & Facilities
P Office (general, professional, financial)
P Printing, Copying, Reproduction, Publishing
P Recycling Collection and Processing Center
P Repair and Maintenance Services - Automobile/Small Truck (major)
P Repair and Maintenance Services - Automobile/Small Truck (minor)
P Repair and Maintenance Services (indoor)
P Repair and Maintenance Services (outdoors)
P Repair and Maintenance Services (truck and other large vehicles)
P Scales (public)
P Storage - Self-Service Units
P Tattoo Parlor
P Taxidermist
P Veterinary Service (all size animals)
P Veterinary Service (small animals)
P Wrecker/Towing

TRADE – RETAIL USES

P Aircraft and Accessories
P ATM's, Self-Serve Kiosks, and Similar Facilities
P Fuel Sales
P Head Shop
P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
P Retail Sales/Rental (automobile/small truck)
P Retail Sales/Rental (indoor)
P Retail Sales/Rental (outdoors, non-vehicle)
P Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

P Liquor, Wholesale/Distribution
C Livestock – Wholesale or Auction
P Wholesaling and Storage (indoor)
P Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

P Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
P Antenna Tower - Commercial
P Automobile Parking Lot or Structure - Commercial
P Broadcast Studio
P Passenger Ground Transportation Terminal
P Pressure Control Station
P Public Utility Facility
P Railroad Switching and Marshaling Yard
P Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

C Mining
P Petroleum or Gas Well
P Liquor
P Manufacturing (light)
P Urban Garden

LEGEND

P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
C Permitted as a Conditional Use Permit, Requiring Approval by City Council
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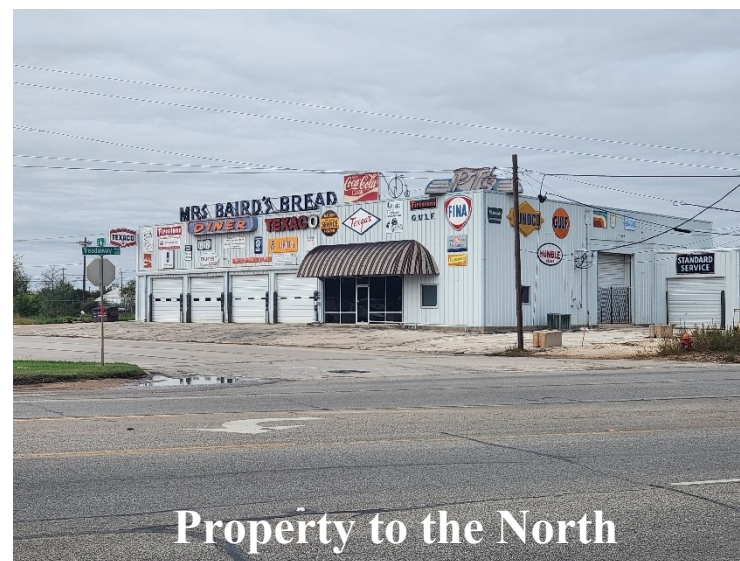
VIEWS OF SUBJECT PROPERTY



Subject Property



Property to the East



Property to the North



Property to the West

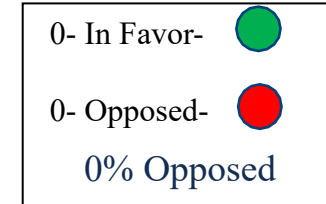


Property to the South





NOTIFICATION AREA MAP





FINDINGS AND RECOMMENDATIONS

The proposed request for Light Industrial (LI) rezoning is *consistent* with:

- The *Comprehensive Plan*;
- The surrounding uses and zoning;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

P&Z Recommendation:

The Planning and Zoning Commission recommends **approval**.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **21. Ordinance (Final Reading) Z-2023-38:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Nathan Hathorn, Represented By Jacob & Martin, To Change The Zoning Of Approximately 12.97 Acres From Agricultural Open And General Commercial To General Commercial. Located at 1209 Spur 707. *(Tim Littlejohn)*

GENERAL INFORMATION

Change the zoning of approximately 12.97 acres from Agricultural Open (AO) and General Commercial (GC) to General Commercial (GC).

SPECIAL CONSIDERATIONS

The property was annexed in 1980 and has been used for residential purposes since. The residence on the lot was built in 1974.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 5-0.

ATTACHMENTS:

1. Z-2023-38 Ordinance (1209 Spur 707)
2. Z-2023-38 Staff Report RSA
3. Z-2023-38 Presentation(CHI)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES 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 2 (Zoning Regulations) of the Land Development Code 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.

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 16th day of November, 2023.

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 20th day of October, 2023, 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 7th day of December, 2023, 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 7th day of December, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

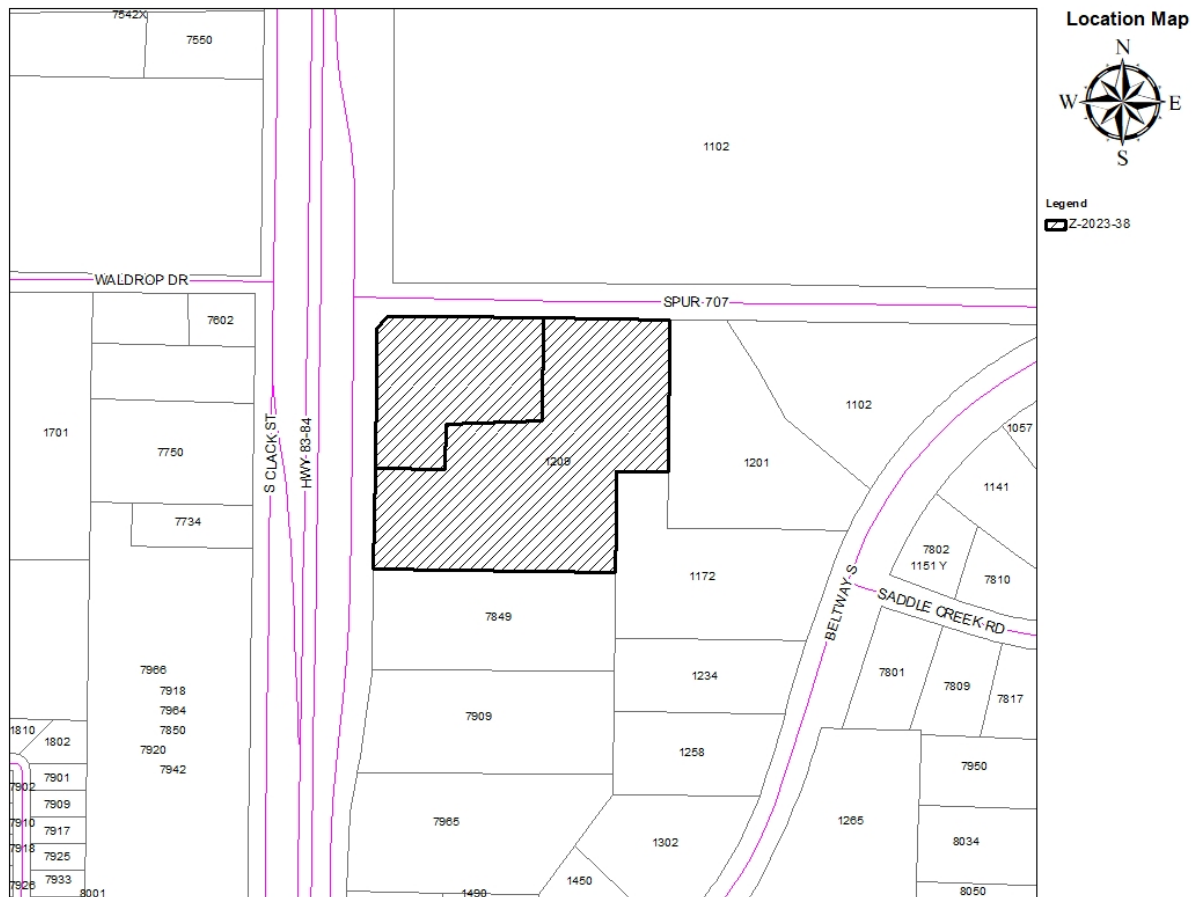
ORDINANCE NO. _____

EXHIBIT A

Change the zoning classification of the following described land from the Agricultural Open (AO) District and the General Commercial (GC) District to the General Commercial (GC) District.

Legal description being 12.97 acres out of the north half of the southwest quarter of Lunatic Asylum Lands, Abilene, Taylor County, Texas.

Located at 1209 Spur 707, Abilene, Taylor County, Texas.



-END-

ZONING CASE Z-2023-38

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: November 7, 2023
City Council 1st Reading: November 16, 2023
City Council 2nd Reading: December 7, 2023

Applicant

Owner: Nathan Hathorn
Agent: Jacob & Martin

Case Manager

Clarissa Ivey – Planner

Request

Change the zoning of approximately 12.97 acres from Agricultural Open (AO) and General Commercial (GC) to General Commercial (GC).

Location

1209 Spur 707, with the legal description being 12.97 acres out of the north half of the southwest quarter of Lunatic Asylum Lands, Abilene, Taylor County, Texas.

Background

The property was annexed in 1980 and has been used for residential purposes since. The residence on the lot was built in 1974.

Zoning, Existing and Proposed Land Use

The properties directly to the north, east, and south are zoned Agricultural Open (AO). Across Highway 83-84 General Commercial (GC) zoning exists, along with a Planned Development (PDD-150) for a public utility agency.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

(1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan Map, as amended.

The proposed request is consistent with the Comprehensive Plan and Future Land Use Map (FLUM), Although shown as to be Parks and Open Space. General Commercial (GC) is an allowable secondary zoning district.

(2) Whether the uses permitted by the proposed change in zoning classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.

The permitted uses within this zoning district will act as a transition from the busy highway to the residential area just to the east of Beltway S.

- (3) **Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

This property has access to all required utilities.

- (4) **Any other factors, which will substantially affect the public health, safety, morals, or general welfare.**

None known.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval**.

NOTIFICATIONS

Legend:

O- Opposed

F- In Favor

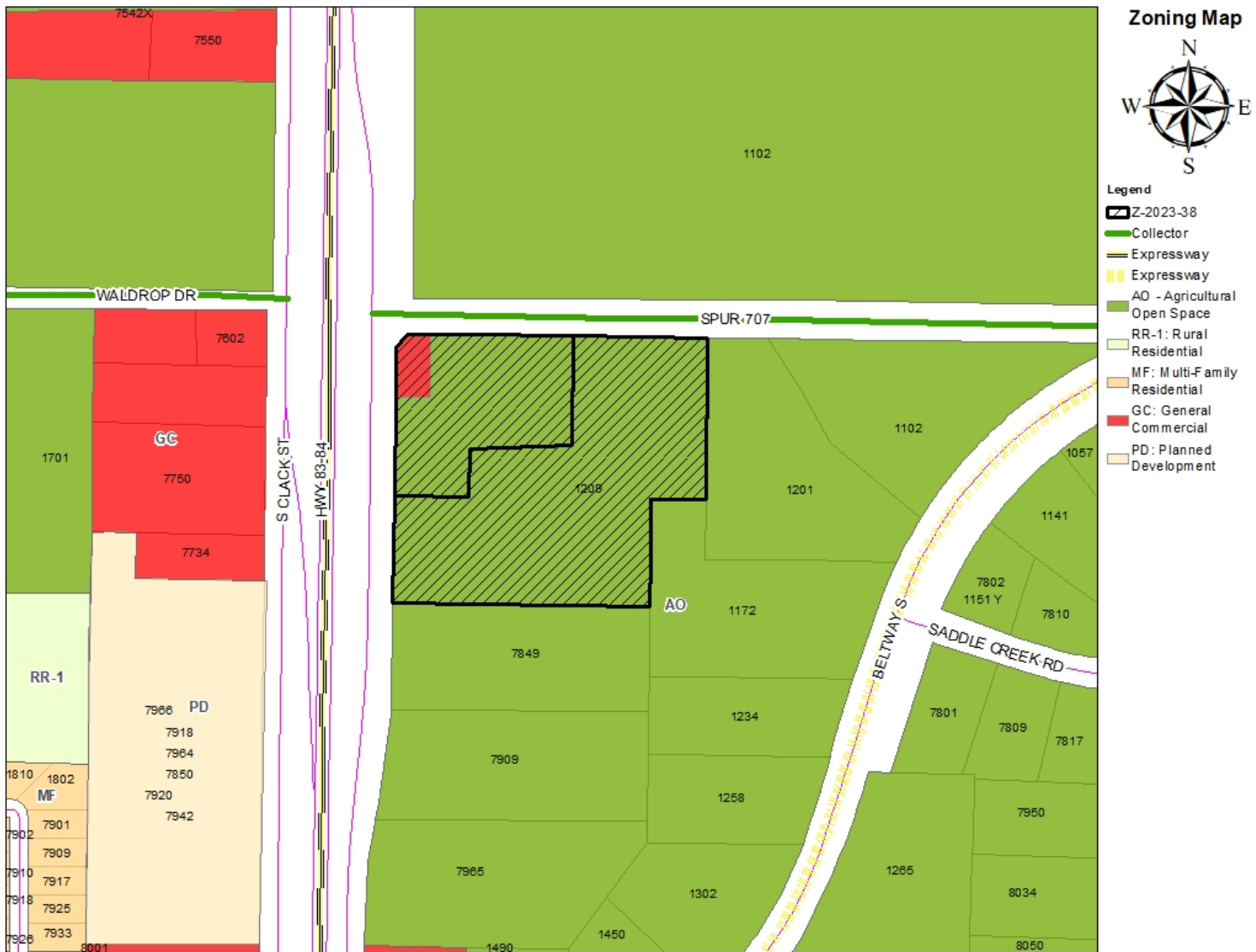
PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
MONTERROSA JAVIER A & RITA	31843	1234 BELTWAY S	
CITY OF ABILENE	44112	1102 SPUR 707	
HATHORN NATHAN & KATIE	73366	1209 SPUR 707	
TERRY CODY D	74057	7849 HWY 83-84	
TERRY GARY & CONNIE	74284	1172 BELTWAY S	
ABILA RAUL & STACI	74400	1201 SPUR 707	
CITY OF ABILENE	74512	1102 BELTWAY S	
EDGE STREET CAPITAL LLC &	1002583		

PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
ABILA RAUL & STACI	74400	1201 SPUR 707	
CITY OF ABILENE	44112	1102 SPUR 707	
CITY OF ABILENE	74512	1102 BELTWAY S	
EDGE STREET CAPITAL LLC &	1002583		
HATHORN NATHAN & KATIE	73366	1209 SPUR 707	
MONTERROSA JAVIER A & RITA	31843	1234 BELTWAY S	
TERRY CODY D	74057	7849 HWY 83-84	
TERRY GARY & CONNIE	74284	1172 BELTWAY S	

LOCATION MAP



ZONING MAP





REZONE REQUEST

Case: Z-2023-38

Owner: Nathan Hathorn

Agent: Jacob & Martin

Request: Rezone from AO/GC to GC

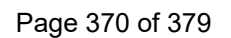
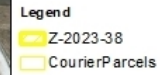
Location: 1209 Spur 707

Notification: 0 in Favor, 0 Opposed

Planning & Zoning: November 7, 2023

City Council Hearing: November 16, 2023
December 7, 2023



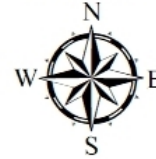




ZONING MAP



Zoning Map



Legend

- Z-2023-38
- Collector
- Expressway
- Expressway
- AO - Agricultural
- Open Space
- RR-1: Rural Residential
- MF: Multi-Family Residential
- GC: General Commercial
- PD: Planned Development



CITY OF
ABILENE
TEXAS



PERMITTED USES IN AO ZONING

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling– Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P Animal Lot
- P/C Day Care Operation – Home-Based*
- P Dwelling – Accessory*
- TP Field Office or Construction Office (temporary)*
- P Freight Container*
- P Garage Sale
- P Home Occupation
- C Mobile Home (permanent security residence)
- C Mobile Home (temporary security residence)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems*

CULTURAL AND RECREATIONAL USES:

- p Civic, Social, and Fraternal Organization
- P Fairgrounds/Rodeo
- C Motorized Racing
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Zoo

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- C Correction, Detention, or Penal Facilities
- P Fire/Police Station
- C Military and Armed Forces Reserve Center
- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P School: Public/Private

SERVICE

- C Kennel (with outdoor pens)
- P Kennel (without outdoor pens)
- P Veterinary Service (all size animals)

TRADE – RETAIL USES

- C Liquor Store (on premises consumption) (Defined under Liquor Store)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Airport, Heliport and Flying Field Terminals – Commercial
- C Antenna Tower – Commercial
- P Public Utility Facility
- C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Farming, Ranching & Livestock, Hatchery
- C Mining
- C Petroleum or Gas Well
- P Urban Garden

LEGEND

P

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)

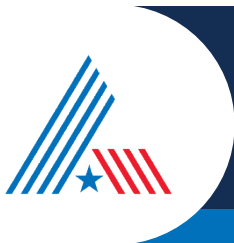
C

Permitted as a Conditional Use Permit, Requiring Approval by City Council

TP

Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment





PERMITTED USES IN GC ZONING

RESIDENTIAL USES:

- P Hotel/Motel
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- C Mobile Home or Temporary Building (office for sales and service)
- P Recycling Collection Point
- C Travel Trailers (accessory to hospitals)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- P Drive-in Theater
- P Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment – Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Fire/Police Station
- C Homeless/Emergency Shelter
- P Hospital
- P Medical/Dental Laboratory
- P Post Office
- C Rehabilitation Facility
- P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- P Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Contractor Services
- P Funeral Home/ Mortuary/Morgue
- C Kennel (With Outdoor Pens)
- P Kennel (Without Outdoor Pens)
- P Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- P Printing, Copying, Reproduction, Publishing
- C Recycling Collection and Processing Center
- P Repair and Maintenance Services - Automobile/Small Truck (major)
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Repair and Maintenance Services (outdoors)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (small animals)

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

TRADE – RETAIL USES

- C Aircraft and Accessories
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) *(Defined under Liquor Store)*
- P Liquor Store (On Premises Consumption) *(Defined under Liquor Store)*
- P Restaurant, Brew Pub
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- C Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

- C Wholesaling and Storage (indoor)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Passenger Ground Transportation Terminal
- P Pressure Control Station
- P Public Utility Facility

LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
- C Permitted as a Conditional Use Permit, Requiring Approval by City Council
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment





VIEWS OF SUBJECT PROPERTY



Subject Property



Property to the North

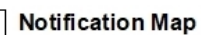


Property to the West



Area to the Southwest





Legend

Z-2023-38

☐ Notification Area

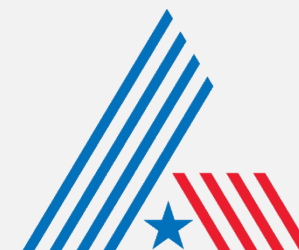
0- In Favor-



0- Opposed-



0% Opposed



**CITY OF
ABILENE
TEXAS**



FINDINGS AND RECOMMENDATIONS

The proposed request for General Commercial (GC) rezoning is *consistent* with:

- The surrounding uses and zoning;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

The proposed request is consistent with the Comprehensive Plan and Future Land Use Map (FLUM), Although shown as to be Parks and Open Space. General Commercial (GC) is an allowable secondary zoning district.

P&Z Recommendation:

The Planning and Zoning Commission recommends **approval.**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/7/2023

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 22. The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

GENERAL INFORMATION

The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
3. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
4. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
5. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
6. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
7. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
8. Richard Scheriger, et al. v. City of Abilene; Cause No. CV33253, In the 90th Judicial District Court, Stephens County, Texas, filed April 21, 2023
9. The Woodlands Pride, Inc., et al. v. Angela Colmenero, Interim Attorney General of Texas, et al., Case No. 4:23-cv-02847, In the United States District Court, Southern District of Texas, Houston Division, filed August 2, 2023
10. City of Abilene, Texas v. 3W Brands, LLC; Cause No. 7820, In the County Court at Law #2, Taylor County, Texas; filed August 11, 2023
11. Abilene Apartments, LLC v. City of Abilene, Texas; Cause No. 51762-A, in the 42nd Judicial District

Court, Taylor County, Texas; filed October 26, 2023

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members
2. City of Abilene Boards and Commissions may be discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F.551.087 (Business Prospect/Economic Development)

1. 718 Mulberry Development
2. Old Abilene Reporter News Building Site

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None