

ORDINANCE NO. 1181

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 45.5 TOTAL ACRES PUD ZONING – (APPROXIMATELY 19 ACRES TO ‘RETAIL SERVICES’ ‘RS’) AND (APPROXIMATELY 26.5 ACRES TO ‘MIXED USE’ ‘MXD’) FOR PROPERTY LOCATED AT 20139 IH-35, IN HAYS COUNTY, TEXAS; AUTHORIZING THE CITY SECRETARY TO AMEND THE CITY OF KYLE CODE OF ORDINANCES SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to rezone approximately 45.5 Acres to PUD Zoning (Approximately 19 Acres to Retail Services ‘RS’) (Approximately 26.5 Acres to Mixed Use ‘MXD’) on property located at 20319 IH-35, Hays County, Texas and the property location map labeled ‘Exhibit A’.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein, as such on the zoning district map of the City of Kyle, as shown in ‘Exhibit A’ and by proper endorsement indicate the authority for said notation.

SECTION 3. The associated PUD standards and concept plan are attached as ‘Exhibit B’, and the PUD standards will control over portions of City of Kyle development code where such standards vary from the City of Kyle requirements.

SECTION 4. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 5. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

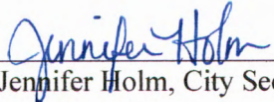
SECTION 6. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the 18th day of January, 2022, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

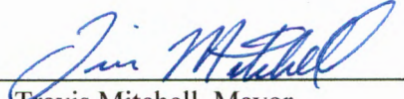
READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the 1st day of February, 2022, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this 1st day of February, 2022.

ATTEST:



Jennifer Holm, City Secretary



Travis Mitchell, Mayor

Exhibit A

Z-21-0092
Proposed PUD
45.5 Acres

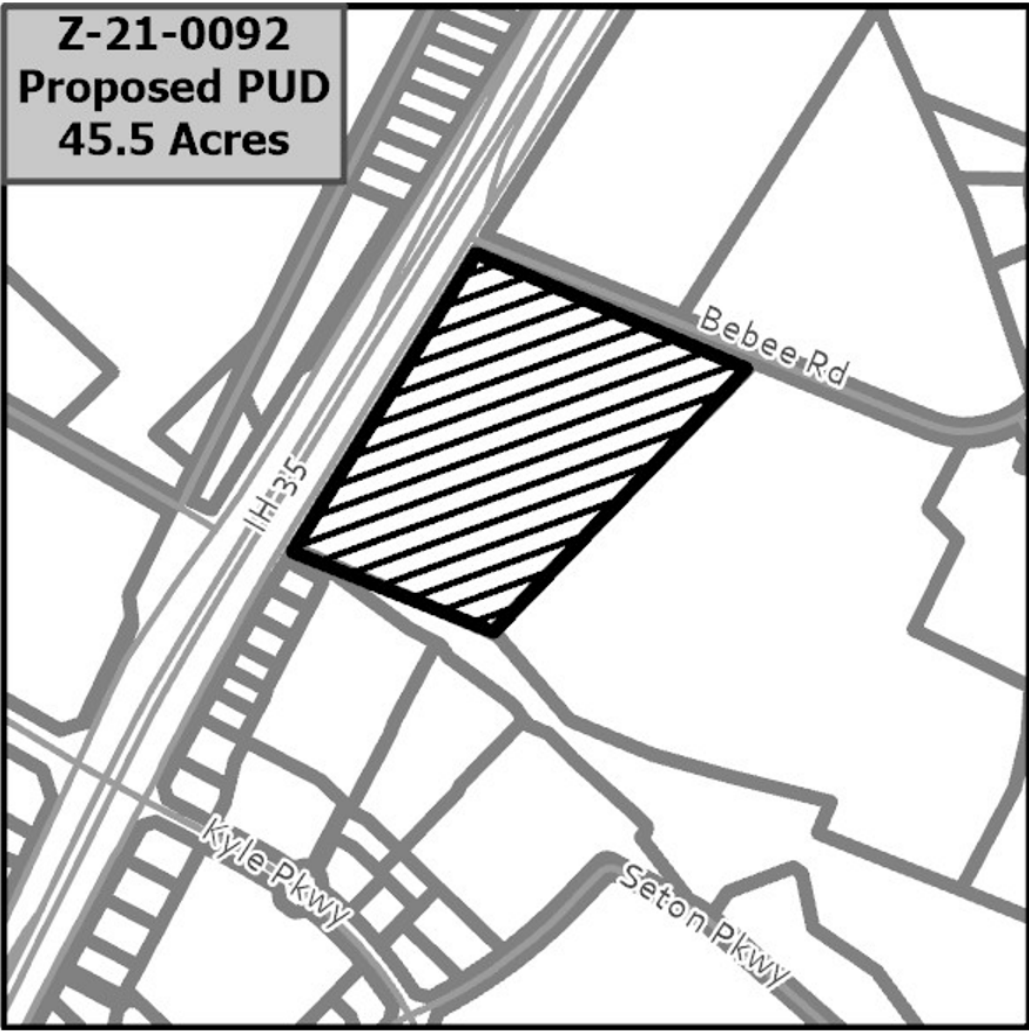


Exhibit B

Bebee Road PUD (Poco Loco)

Development Standards

Section 1. General Provisions

(A) Project Described. The Bebee Road PUD shall include compatible residential and commercial uses as more particularly described on **Exhibit 1** (the “Concept Plan”). The property shall be developed as a combination of commercial, vertical mixed use and multifamily consisting of approximately 19-acres of Retail Services zoning and associated commercial pads, and approximately 26.5-acres of Mixed-Use zoning (VMU). Both zoning districts are integrated as one project per development standards and will include a portion of The Vybe trail and a Vybe spot along the southern boundary of the parcel (along the Bunton Branch of Plum Creek).

(1) Per this PUD, the developers are allowed to develop in the eastern 10-acres of the RS tract as if the zoning was MXD, as further described in Exhibit B, Section 3. Exhibits 1-3 may be referenced for general site design but are not to scale. Further site design may vary as long as the intent of Exhibits 1-3 are upheld.

(B) Project Enhancements The Developer will provide the following enhancements in conjunction with the project:

(1) Dedication of one half of the required Bebee Road right-of-way, if needed (3-lane Collector, 60’ ROW). The developer will widen Bebee Road to account for a 3rd lane, for the length of the property along Bebee Road.

(2) Construction of an internal local, east/west, public street, a design which shall be generally perpendicular to Interstate 35 Service Road and run generally along the gas easement (60’ ROW), to the eastern property line. This internal streetscape shall be urban in nature and shall contain parallel parking and street trees into the design **(Exhibit 1)**.

(3) Construction of a sidewalk parallel to the IH-35 service road that matches the 10’ section constructed by TxDOT north of Bebee Road. Said sidewalk will tie into The Vybe trail stipulated in Sec. 1(B)(4) and extend from Bebee Road to the southern property line, to connect with the driveway access to northwest access point of the Lowe’s parcel. Design will be reviewed at time of subdivision or site development permits. **(Exhibit 2)**.

(4) Construction of The Vybe trail (12’ wide) and associated improvements (lighting, conduit, landscaping, etc.) per the standard detail for the City of Kyle. The required public access easement shall be 20’ wide. The expected length is approximately +/- 600

linear feet, and will be along the north side of the Bunton Branch of Plum Creek (Exhibit 2). The onsite portion of the trail shall be constructed above the floodplain and shall be maintained by the associated property owners and/or property owners association (**Exhibit 2**).

- (5) Construction of a Vybe Spot integrating the trail, at least 3 golf cart parking stalls with charging stations and 20 standard parking spaces between the trail and “Amenity Area” of buildings on southern end of MXD tract. Amenity areas will allow for public access. (**Exhibit 1**).

(C) Applicability. Development of and uses within the Bebee Road PUD shall conform to the limitations and conditions set forth herein. If the regulations of the Bebee Road PUD and the attached exhibits conflict with the City Code, the regulations set forth herein shall control. Except as otherwise specifically modified by the Bebee Road PUD, all other rules, regulations, and ordinances of the City in effect at the time of the permit application apply to development within the Bebee Road PUD.

Section 2. Development Standards

(a) Development Requirements.

- (i) Subject to approval of zoning that authorizes the land uses set forth in this Agreement as to the Retail Services Tract and MXD Tract, the Development will be designed and constructed in accordance with **Exhibit 2**, and shall include an active trail network (“Vybe’), open space, and other enhancements to maximize placemaking and experience within the development. The Vybe, generally in the location shown in **Exhibit 1**, and shall be designed with a water feature or other similar centerpiece approved by the City and vegetative buffer approved by the City in the site development permit, along the southern boundary of the Retail Services Tract and MXD Tract in substantial compliance with this Agreement. The Developer shall obtain City approval of the plans for the Vybe prior to commencing construction of that portion of the improvements covered by a given set of plans, which approval shall not be unreasonably delayed, conditioned, or withheld (site development and subdivision plans). Completion of the Vybe shall be a condition of the City’s issuance of the Certificate of Occupancy for the last retail building on the Retail Services Tract and Mixed-Use building on the MXD Tract (per development tract). The Vybe will be maintained initially by the developer and ultimately may be maintained by a property owner’s association or other qualified party designated by Developer. Maintenance of the Vybe and all public and common areas shall be to a standard consistent with first-class standards found in other commercial Class A, Mixed Use developments. The City may review these maintenance standards and adjust them from time to time during the term of this

agreement. Construction of a Vybe Spot integrating the trail, parking between the trail and “Amenity Area” of buildings on southern end of MXD tract is required. Pavement in this area will be a herringbone pattern and a minimum of 3 golf cart parking spaces with associated charging stations are required. An area may be designed to allow for food trucks to operate as a temporary vendor, but food trucks do are not intended to be a permanent fixture within a Vybe Spot. The Vybe Spot may have an area for a small outdoor stage and shall a publicly accessible restroom. The restroom will be owned/maintained by the property owner and will be accessible daily from 6 AM until 10 PM. Use of the Vybe shall always be accessible to the public and include but not limited to recreational amenities and open space.

(ii) Parking ratios shall meet at minimum the following requirements, but may be reduced through a shared mixed-use parking strategy, which will be approved through the administrative site planning process:

- Commercial Uses, not including restaurants = 3 spaces per 1,000 sq. ft. of GFA, minimum.
- Multifamily (including VMU) = 1.3 spaces per residential unit.
- Golf cart parking is allowed to encourage the use of The Vybe trail network. Minimum dimensions will be 4-feet wide and 6-feet deep. If golf cart parking is installed, golf cart charging stations are required, with a minimum of 2 charging stations for the first 20,000 sq. ft. of a building. Golf cart parking is allowed to replace standard parking spaces at a 2:1 ratio (maximum of 20% of required parking).

(iii) Sidewalks. All public roads, except the IH-35 service road, shall include a parallel sidewalk of at least 5’ wide. The sidewalk along the IH-35 service road will match the 10’ wide section that TxDOT has recently constructed north of Bebee Road. Both north/south drives in the MXD tract, connecting to Bebee Road will have a minimum 5’ wide sidewalk. All buildings within the PUD will have perimeter sidewalks connecting to public sidewalks. –conceptually shown on **Exhibit 2**.

*The required sidewalk along Bebee Road should be designed to be within the property lines, as Bebee Road may be subject to a future bond program.

(iv) Security Fencing. Fencing shall be limited, where possible. Developer reserves the right to limit direct access (from the street) to the property as shown in the exhibit, however, Developer shall use building design, landscaping, and other features to function as transitions and dividers of different areas, rather than fencing where possible. Nothing shall limit the use of fences around private yards, enclosing dog parks, pool areas, and other similar areas, as needed, except for the area between the courtyards of the buildings and the Vybe Spot.

- (v) Buffers. Meter screens shall be buffered from street view.
- (vi) Fencing / Barriers. Any fencing at the perimeter, and interior of the project shall be steel tubing (wrought iron) or wire mesh with steel perimeter frame. There may be some areas where contemporary decorative wood slat fencing will be utilized, but this will be minimal, and shall be approved by the Planning Director.
- (vii) Trash / Dumpster Screens. All dumpster or compactors shall be screened with masonry walls and screened with an opaque metal frame gate system.
- (viii) Public Art. Public art pieces, preferably from local artists, will be included in the Development as appropriate in the discretion of the Developer, subject to reasonable approval of the City.
- (ix) Adjacent Lane Mile Fee. Improvement cost of Bebee Road may be credited towards the estimated ALM fee for the entire project.

(b) **Use Restrictions.** The following uses are prohibited on any lots within the Development.

- (i) More than one Gas Station (limited to one within the RS zoning tract).
- (ii) More than one Convenience Store (limited to one within the RS zoning tract).
- (iii) Daycare facility
- (iv) "Second Hand" store or/ "Surplus" Store, however, this provision shall not apply to a Nike Factory Outlet, Last Call, Nordstrom Rack, or other similar national discount retailer
- (v) Automotive service/repair facility
- (vi) Freestanding financial Institutions
- (vii) Freestanding mattress store
- (viii) Car Washes

Section. 3 MXD Tract.

The MXD tract(s) must have vertical mixed-use design for Buildings facing Bebee and west along the property facing the Commercial/RS tract as shown on Exhibit 1 . Ground floor live/work units are not allowed in the buildings adjacent to Bebee Road and all ground floor retail is required for said buildings as shown in the "hatched area" in Exhibits 1-3. Live/Work units are not allowed in the MXD tract. Buildings shall be oriented toward the major street and The Vybe, with primary entrances along major streets and The Vybe to encourage pedestrian activity, and shall also conform to the following standards:

- Commercial frontage shall have commercial oriented storefronts with vertical proportioned windows and doors.

- At least 50% of the storefronts shall be transparent materials.
- Building massing shall serve to identify entry points. Porches, stoops, eaves, awnings, blade signage, arcades, colonnades, shall be used along commercial storefronts, and may protrude within the setback line so long as they do not impede pedestrian movement within the public right of way. Balconies on all residential units should be inset rather than protruding.
- Variations in the rhythms within individual building façades shall be achieved within any block of building façades with architectural elements such as bays, columns, doors, windows, etc.
- An expression line or equivalent architectural element shall delineate divisions between floors of all buildings, and a cornice shall delineate the tops of building façades that do not utilize a pitched roof.
- For retail storefronts, a transom, display window area and bulkhead at the base shall be utilized.
- Breaks in the predominant rhythm should also be used to reinforce changes in massing and important elements such as building entrances, terminated vistas, or corner sites.
- All retail space shall be constructed using first-class commercial standards and accommodate ground floor commercial shall have minimum floor to ceiling height of 12 feet with a minimum depth of 40 feet and maximum width of 100'.
- Minimum 70 percent of ground floor wall area shall be windows.
- Infrastructure shall be provided to support retail and restaurant uses.

(c) **Exhibit 1).**

- (i) Front Build to Line = 0'-90'
- (ii) Side Build to Line to Retail Services Tract = 0'-90'
- (iii) Side Setback = 0'
- (iv) Rear Setback = 0'
- (v) Maximum Residential Density = 40 units per buildable acre
- (vi) Sec. 53-677(a-c) are exempted in the PUD, except ground floor residential is allowed for non-vertical mixed-use buildings. as shown on the attached **(Exhibit 1).**
- (vii) Sec. 53-679(b) is exempted in the PUD.
- (viii) Non-vertical mixed-use buildings are exempted from Sec. 53-686.

- (ix) The buildings along public roadways and the Vybe shall, at a minimum, be four (4)-story buildings, at a maximum five (5) story or 65 feet high buildings. Interior buildings shall have a minimum height of two (2) stories and no maximum height.
 - (x) Any unleased commercial space may be “shadowboxed” until leased.
 - (xi) Any commercial space in a building on the MXD Tract may be converted into a condominium regime.
- (d) **Traffic.** Developer shall not be required to provide traffic studies for the development of the Property.
- (e) **Building Permits.** The Developer acknowledges and agrees that compliance with Section 3 will be a condition of issuance of building permits and certificates of occupancy for the applicable portion of the Retail Services Tract or the MXD Tract. Developer further agrees that the City may use its building permitting, inspection, and enforcement processes and procedures to enforce the requirements of Section 2 governing building materials with respect to each Development, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that does not comply with this Agreement. Applications and plans for a building permit must demonstrate compliance with this Agreement in order for a building permit to be issued. Applications for building permits must comply with this Agreement, as well as the Applicable Regulations, in order for such application to be approved and a building permit issued. Plans demonstrating compliance with this Agreement must accompany a building permit application and will become a part of the approved permit. Any structure constructed on the Property must comply with this Agreement and the Applicable Regulations for a certificate of occupancy to be issued for such structure.
- (f) **Stormwater.** Stormwater drainage infrastructure and detention facilities shall be provided to accommodate for the development of the Property, per City requirements.
- (g) **Shared Use Path.** Developer shall be responsible for the design, construction and maintenance for the portions of The Vybe trail network generally shown on **Exhibit 2** and such portion of The Vybe Trail shall be constructed with the phase in which it is located. The Vybe Trail shall be composed of concrete or other material acceptable by City, and no replacement requirements, fees in lieu, or other penalties will be imposed on the Development for removal of trees, landscaping, or other features in the right of way or site as required to construct the Shared Use Path. The Developer shall obtain City approval of the design and materials for The Vybe Trail before commencing construction.
- (h) **Landscaping.** Landscaping will be accounted for on a per lot basis.
- Minimum of 10% of lot area
 - 2 trees and 6 shrubs for every 600 sq. ft. of minimum lot area

- Trees to be planted with a 2" caliper minimum
- All parking spaces must be within 50' of a tree trunk

Streetscapes (public or private) will require street trees planted every 30-50 linear feet (spacing depends on species, practical design etc). A planting of strip of at least 5' wide will be required for the street trees. The planting strip will be between the sidewalk and back of curb for all public and private streets. Required areas for street trees are generally shown in **Exhibit 3**, but internal areas may be adjusted upon final site plan approval.

*Relating to Bebee Road, street trees may be inside the property line. Bebee Road may be subject to a future bond program.

Exhibit 1



Exhibit 2

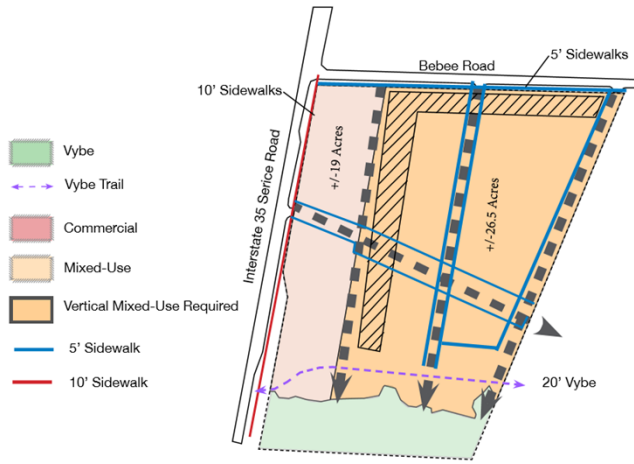


Exhibit 3

