

CITY OF ABILENE
PLANNING COMMISSION
AGENDA

June 16, 2020 at 4:00 p.m.
Abilene Public Library ~ Meeting Room
209 NW 4th Street

Agenda Item
1. Call to Order
2. Roll Call: ____ Robin Black, ____ Jennifer Green, ____ Rod Boyd, ____ Vice Chair: Brenda Finn-Bowers, ____ Chair: Travis Sawyer
3. Approval of Agenda
4. Approval of Minutes from November 13, 2019 and March 3, 2020 Meetings
Business: 5. Apply for in-text amendment to Zoning code Section 27 regarding Electronic Message 6. Apply for in-text amendment to Zoning code Section 29 regarding membership of Heritage Commission 7. Open Public Hearing: for PC 20-6 Public Comment Commission Comment Close Public Hearing 8. Action Date to go before the City Commission: July 13, 2020 9. Critical Drainage Ordinance Review 10. Discussion on updating/review Comprehensive Plan
11. Planning Commission Comments and Staff Updates
12. Adjournment

Next Scheduled Planning Commission Meeting is August 11, 2020



Abilene Planning Commission Minutes
Abilene Public Library - 209 NW Fourth Street
November 13, 2019 @ 4:30 p.m.
Abilene, Kansas

Call to Order The meeting was called to order by Commissioner Sawyer at 4:30 pm.

Roll Call – Planning Commission Present: Robin Black, Brenda Bowers, Rod Boyd, Jennifer Green, Travis Sawyer and Michelle Stephens

Absent: none (1 vacant position)

Staff Present: Jane Foltz, Dennis Kissinger, Aaron Martin, Kara Titus and Jennie Hiatt

Others Present: see attached list

Approval of Agenda

Agenda Approval for the November 13, 2019 Planning Commission meeting

Motion by Commissioner Stephens to approve the agenda, seconded by Commissioner Bowers.
Motion carried unanimously 6-0.

Approval of Minutes

Approval of minutes for the October 17, 2019 Planning Commission meeting

Commissioner Black stated that she would prefer an overview of what the discussion was, instead of just stating that there was discussion, but that she had no changes to the October 17th minutes, just a recommendation moving forward.

Motion by Commissioner Black to approve the minutes, seconded by Commissioner Stephens. Motion carried unanimously 6-0.

Business

1. Public Hearing for PC 19-4 a text amendment to Section 9-11 of the zoning ordinance to establish accessory travel trailer parks as a subcategory of travel trailer parks.

Kissinger presented the staff report.

Commissioner Stephens left the meeting at 5:12 p.m.

Commissioner Sawyer opened the public hearing.

Kelly McKenzie, 2502 Mink Road, stated as a possible future applicant that she wishes to be deemed the same as this applicant.

Gary Longenecker, 1707 Broadfoot Drive, stated that he and his partner own the adjoining land and has no problem with the application, if the water issue is addressed.

Commissioner Sawyer closed the public hearing.

Commissioner Bowers made a motion to approve the text amendment as written, seconded by Commissioner Boyd. Motion carried 4-1, Commissioner Black voted no.

2. Continuation of Public Hearing for PC 19-2 an application for a Conditional Use Permit for an accessory travel trailer park at 2200 N. Buckeye Ave.

Titus presented the staff report.

Commissioner Sawyer opened the public hearing and with no comments from the public, he then closed the public hearing.

Commissioner Boyd made a motion to approve the CUP with staff recommendations, seconded by Commissioner

3. Discussion and Possible Action on amending Planning Commission by-laws to change the commission meeting date to the first week of the month.

4. Staff Updates.

Titus stated that she would like to hold a study session on December 10th to be held at City Hall to look ahead at what is important for 2020

Adjournment

Motion to adjourn the November 13, 2019 Planning Commission meeting.

Motion by Commissioner Boyd, seconded by Commissioner Bowers to adjourn the meeting. Motion carried unanimously 5-0. The meeting was adjourned at 5:42 p.m.

Travis Sawyer, Chair
Brenda Bowers, Vice-Chair

Kara Titus
Assistant to the City Manager



Abilene Planning Commission Minutes
Abilene Public Library - 209 NW Fourth Street
March 3, 2020 @ 4:00 p.m.
Abilene, Kansas

Call to Order The meeting was called to order by Commissioner Sawyer at 4:00 pm.

Roll Call – Planning Commission Present: Robin Black, Brenda Finn-Bowers, and Travis Sawyer

Absent: Rod Boyd, Jennifer Green (2 vacant position)

Staff Present: Clinton Franey

Others Present: Chuck Scott (Dickinson County EDC), Duane Scragg

Approval of Agenda

Due to lack of quorum items were discussed.

Minutes

Commissioner Black stated that she would prefer an overview of what the discussion was, instead of just stating that there was a discussion, not enough information was in the minutes for a refresher.

Business Discussion

1. EMC (Electronic Messaging Centers)

There was discussion regarding a text amendment to Section 27-4 of the zoning code to change time on the Electronic Messaging Center to 3 seconds.

Franey read the staff report. Discussion was brought up on animations, and what the definition of an animation was. Commercials were not wanted, only still images. The discussion was made on EMC's and their locations in the historical and residential districts. EMC's require a conditional use permit and are approved individually.

Duane Scragg voiced his concerns over moving text and numbers. He saw not problem with the three (3) second change.

2. Changes to Heritage Commission membership requirements

Franey read the staff report.

3. Free Land Policy Discussion

Franey read the staff report and recommendations of the Free Land Industrial Policy. Chair Sawyer had concerns about \$20.00 dollars an hour for four (4) employees and voiced concern many companies could not pay that amount. Chuck Scott said the \$20.00 dollars an hour was not out of line, as the land is an asset, and the city is giving it away. He also stated an average wage would not be beneficial and that it would be better to keep it at \$20.00 dollars an hour for four (4) individuals.

A study session was recommended by the board but due to the Covid-19 it had to be cancelled.

Adjournment

Meeting Concluded.

Travis Sawyer, Chair
Brenda Finn-Bowers, Vice Chair

Memorandum

JANUARY 6, 2020

To: Jane Foltz, Interim City Manager
From: Kara Titus, Asst. to the City Manager
Subj: Electronic Media Centers

Process

In order to amend the EMCs provision in Section 27 of the zoning regulations, the Planning Commission will need to make a motion to apply for an in-text amendment. This will trigger the public hearing notice. At the public hearing, Aaron should have a draft ordinance ready to fill in specifics as determined by the Planning Commission, or if you would like to recommend exact language, it could be in a readied form. If they vote during their February meeting to make the application, then the public notice process would be complete in time for their March meeting. After their recommendation is made, the City Commission will vote to adopt it after the 14-day protest period has expired.

Background

In late 2019, we discovered that all of the Electronic Media Centers (EMCs) are out of compliance with their Conditional Use Permit (CUP) in regard to message transition timing.

Currently, nearly all eight CUPs require the message change to be "no less than 15 seconds". It has been found by staff that the average transition time of all EMCs in town is closer to five seconds. One EMC owner expressed that 15 seconds was too long, and requested it be considered to be changed.

Staff researched where the 15 second rule came from. In that research, staff found that the rules regarding EMC's was changed in 2015. The original rules (they were amended once in 2012 to address historic districts via ordinance 3205) included the 15 second rule. In 2015, Jim Kaup, who consulted the city on zoning regulation updates, recommended that EMC rules be changed from 15 seconds to 3 seconds along with some other updated prescriptive requirements, some of which were in the original ordinance. During public hearings of the new proposed zoning regulations, community members criticized the EMC rules stating they were too burdensome. So, the final Zoning Regulations gave no prescriptive rules or guidance and only required a CUP to be issued by the Planning Commission – giving them discretion to determine on a case by case scenario what the rules should be for each sign that comes before them.

Having no guidance in the code, this language resulted in staff using the old retired rules as their staff recommendation for each CUP application, which was adopted by the Planning Commission and City Commission for each application.

That recommendation consistently included:

1. Only one (1) Electronic Media center per property



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2. Static, non-animated messages and image only (no video)
3. Message change no less than every 15 seconds
4. Dimming device or means of glare reduction must be installed and implemented after sundown.

Further research into the 15 second condition also determined that there is no public safety caution to a transition time of less than 15 seconds. Communities across Kansas require transition times as fast as 3 seconds or as slow as 20 seconds. The U.S. Department of Transportation, Federal Highway Administration found that there is no identifiable relation between Electronic Media Signs and car crashes in their white page "Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction."

Recommendation

Seeing as it was identified by a zoning expert that our EMC rules were outdated, and currently, none of our EMCs are in compliance with the 15 second condition, staff is recommending the Planning Commission amend the zoning regulations to set new rules regarding EMCs to ensure consistency for current and future EMC applications.

The Planning Commission could adopt the original suggested language summarized by Jim Kaup below:

"Flashing and moving signs, including electronic message centers (EMCs) are dealt with in some detail [in the new zoning code]. EMCs are allowed as a conditional use, with size and illumination limits. Dimmer Controls are required and a 3- second minimum message time. Animated images are prohibited. If within 200' of a residential district, or in one, as EMC can be operated only from 6 a.m. to 10 p.m."

Or, the Planning Commission could propose their own rules. Staff do not see a need to make a recommendation on transition time, as it is not a public safety issue, but rather an aesthetic issue. Staff do recommend including in the ordinance that any amendment to the Zoning Regulations apply to all existing CUPs.

This amendment will ensure future EMCs are all given the same standards through the CUP process and allows current EMCs to operate at a quicker transition time. Whether the ordinance only grants a new transition time to the current CUPs or changes all of the conditions placed should be looked out. There are other conditions placed on each sign that may need to be reviewed further for possible amendment.

It is important to note that the 15 second condition is not in code. If an EMC application came before the Planning Commission before this ordinance was passed, the Planning Commission could choose any transition time it wanted. This ordinance sets a standard that will be guaranteed to be placed on every EMC that comes before the Commission. But as staff practice usually copies old staff practice, it could be as simple as staff creating a new practice to work from and passing an ordinance to just updated the current CUPs.



Staff Report

TO: Planning Commission
FROM: Clinton Franey, Director Planning and Zoning
SUBJ: Heritage Commission Membership Requirements
DATE: March 11, 2020

BACKGROUND:

Recently there has been some concern regarding expanding the current criteria for membership on the Heritage Commission board. Below is the current verbiage regarding membership.

29-1402. Membership: The Heritage Commission shall consist of seven (7) members, all of whom must reside within the city limits, to be appointed by the City Commission. The membership of the Commission shall include, but not be limited to, one architect, one member of the real estate profession, one city planning commissioner, one representative of the Dickinson County Historical Society, one trained historian or archaeologist, if available, and other individuals that the City Commission may wish to consider.

COMMENTS:

Departmental comments: There have been none recorded at this time.

Citizen comments: There have been no comments currently.

Heritage Commission Comments: The Heritage Commission has had members in the past express interest in being on the board but have not met the criteria. The commission recommends:

1. Change the requirement to allow membership to persons who own land in the city of Abilene, instead of all of whom reside within the city limits. Preference should be made to applicants who own historical property within the city limits but is not required.
2. Allow up to two members of the council to reside within a three-mile perimeter of the city limits of Abilene to follow the Planning and Zoning Board Language which states two members shall reside outside of the City but within three miles of the City limits (25-101).



STAFF RECOMMENDATION:

Staff recommends adopting provision one of the proposed changes to the Heritage Commission Board. Citizens living outside the City limits but owning property within City limits have a vested interest in the community.

Staff recommends not adopting provision two of proposed changes to the Heritage Commission board. The requirement for the Planning Commission membership outside the city limits is due to annexation, and other land use issues within city limits, affecting property outside city lines. Historic properties should not have any affect on land use outside the City limits, and the Heritage Commission does not regulate historic properties outside of the City limits.

ACTION:

The Planning Commission may:

1. Approve the membership requirements with the findings and conditions as stated by staff;
2. Approve the membership requirements with amendments to the findings and conditions as submitted by staff;
3. Deny the membership requirements with findings; or
4. Table the permit for additional information.

All actions require stated findings by the Planning Commission. Motions may reference the findings and conditions as stated in the staff report.

Staff Report for PC 20-6

Date: June 16, 2020

Agenda Item: PC 20-6

Subject: Request for a Conditional Use Permit to have a cellular tower in a Light Industrial District (I-1) for the properties located at 401 N Cottage and 507 N. Cottage Street.

Applicants: TSB Enterprises, David Wells, Wild Horse Development, Branch Communications, US Cellular.

Background

The owner, TSB Enterprises through David Wells, desire to erect a cellular phone tower. The property is zoned I-1. A Conditional Use Permit is required for all cellular and communication towers. This area is I-1 and is Light Industrial on the Future Land Use Map Zoning and Land Use.

Zoning and Land Use of Neighboring Properties

Direction	Zoning	Land Use
North	I-1	Light Industrial (Railroad)
South	I-1	Light Industrial (Kiddco Storage)
East	I-1	Light Industrial (Crown TI Inc.)
West	I-1	Light Industrial (TSB Enterprises)

Comments:

Departmental Comments: There have been none recorded.

Citizen Comments: There have been no comments.

Staff Findings

A Cellular tower can be permitted in Light Industrial (I-1) if it meets all of the following criteria listed in Article 24 in the Abilene City Code. The requirements are listed as:

1. Whether approval of the conditional use would be consistent with the intent and purpose of, and meets the requirements of, these regulations;
2. The aesthetic impact of the proposed telecommunications tower on the surrounding neighborhood;

3. Whether the relative gain to the public health, safety and general welfare outweighs the hardship imposed upon the applicant by not granting the permit;
4. Whether the positions of the applicant and/or the opponents are substantiated by substantial competent evidence or rather generalized concerns or unsubstantiated claims are made to the Planning Commission and/or Governing Body;
5. Whether an F.C.C. license has been granted to the applicant authorizing provision of wireless services to the community and whether radio frequency emissions will comply with F.C.C. regulations;
6. Whether there is an existing tower upon which the applicant can co-locate and if so, what substantiated efforts have been made by applicant for co-location and upon what basis were any such towers deemed unacceptable by the applicant;
7. Whether the tower will adversely impact adjoining property values, present a hazard to air space, negatively impact the environment, traffic or in any other manner create negative impacts upon the neighborhood or community;
8. The recommendation of professional planning staff;
9. The expert testimony presented on behalf of and in opposition to the application; and
10. Such other factors as may be relevant to the facts and evidence presented in the application

The cellular tower use will not negatively impact the surrounding neighborhood nor the community's future master plan. There is no other cellular tower in the vicinity so provider cannot co-locate. There is residential R-3 housing in a greater area surrounding the proposed block where the tower will be built. The tower will be 105 feet tall.

Staff Recommendation

Staff recommends approval of the conditional use of this cell tower with the following conditions:

- a) All criteria for the conditional use permit must be met.
- b) All building codes be met.

Alternatives

The Planning Commission may:

1. Approve the CUP with the findings and conditions as stated by staff;
2. Approve the CUP with amendments to the findings and conditions as submitted by staff;
3. Deny the CUP with findings; or
4. Table the permit for additional information.

All actions require stated findings by the Planning Commission. Motions may reference the findings and conditions as stated in the staff report.

NOTICE OF PUBLIC HEARING

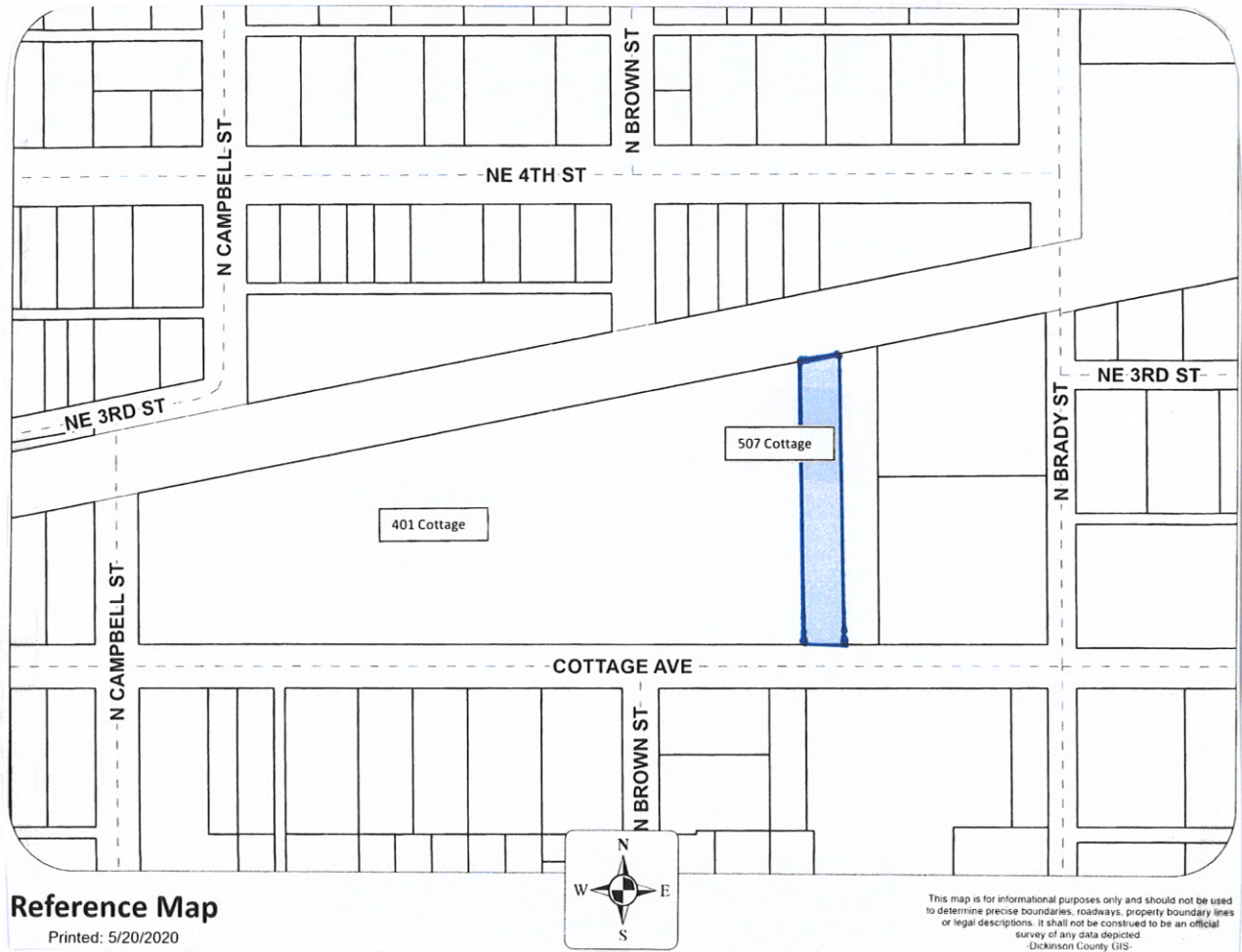
PC 20-6

The Abilene Planning Commission will conduct a public hearing at 4:00 p.m., Tuesday June 16, 2020 at the Abilene Public Library, 209 NW 4th Street, to consider **PC 20-6** a request by David Well d/b/a US Cellular and TSB Enterprises, LLC. for a Conditional Use Permit (CUP) to allow the installation of a 105' monopole communication tower and accessory ground mounted equipment located at 505 Cottage Ave., Abilene, KS and legally described as:

A tract of land located in the Southeast quarter of Section 16, Township 13 South, Range 2 East of the 6th pm, in the City of Abilene, Dickinson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Southeast quarter of said Section 16, thence North 00 degrees 56' 22" West on an assumed bearing along the East line of said Southeast quarter to a point on the North line of Cottage Avenue a distance of 480.00 feet; thence South 89 degrees 25' 08" West to existing property pin and to the point of beginning a distance of 475.21 feet; Thence South 89 degrees 22' 44" West to existing property pin a distance of 785.14 feet; Thence North 00 degrees 55' 03" West to South right-of-way line of the Union Pacific Railroad a distance of 210.72 feet; Thence North 78 degrees 13' 10" East along said right-of-way line to existing property pin a distance of 799.75 feet: Thence South 00 degrees 52' 18" East a distance of 365.51 feet to point of Beginning.

A tract of land in the Southeast quarter of Section 16, Township 13 South, Range 2 East of the 6th p.m., in the City of Abilene, Dickinson County, Kansas, described as follows: Beginning at a point 475.0 feet West and 480.0 feet North of the Southeast corner of said Southeast quarter; Thence East 125.0 feet: Thence North 388.0 feet to the right-of-way of the Union Pacific Railway; Thence Southwesterly, along the South side of said right-of-way, to a point due North of the point of Beginning; Thence South to the point of Beginning.

A tract of ground described as follows: Beginning 480 feet North and 300 feet West of the Southeast corner of Section 16, Township 13 South, Range 2 East of the 6th P.M.; thence West 50 feet; thence North 390 feet to the South line of the Union Pacific right-of-way; thence Northeast along the South line of said right-of-way 55 feet, more or less, to a point 300 feet West of the East line of said Section 16; thence South 407 feet, more or less, to the place of beginning, in the City of Abilene, Kansas.
Parcel ID 0211151604028005000 and 0211151604028003000



This hearing is open to the public and comments are welcome. Upon conclusion of the public hearing, the Planning Commission will render a recommendation to the City Commission.

CITY OF ABILENE, KANSAS
DEVELOPMENT APPROVAL APPLICATION FORM

419 N. Broadway · Abilene, Kansas 67410 · Tel: (785) 263-2355 · Fax: (785) 263-2552 · www.abilenecityhall.com

INSTRUCTIONS: This Application and all required fees and information must be submitted in accordance with the Code of the City of Abilene and the City of Abilene Zoning and Subdivision Regulations. All information requested in this application must be provided and answered completely.

PART I: TO BE COMPLETED BY APPLICANT

APPLICATION INFORMATION

APPLICATION FOR (CHECK APPROPRIATE BOX):

- | | |
|--|--|
| ☐ ADMINISTRATIVE APPEAL | ☐ LOT SPLIT |
| ☐ ANNEXATION | ☐ NON-CONFORMING USE CERTIFICATE |
| ☐ CERTIFICATE OF APPROPRIATENESS | ☐ PRELIMINARY PLAT |
| ☐ COMPREHENSIVE PLAN AMENDMENT | ☐ PLANNED DEVELOPMENT |
| ☒ CONDITIONAL USE PERMIT | ☐ REPLAT |
| ☐ DEVELOPMENT CODE AMENDMENT | ☐ REZONING / ZONING MAP AMENDMENT |
| ☐ FINAL PLAT | ☐ SITE PLAN |
| ☐ HOME OCCUPATION PERMIT | ☐ VACATION (PLAT, STREET, EASEMENT) |
| ☐ LANDMARK DESIGNATION | ☐ VARIANCE |
| ☐ LOT SPLIT | |

FOR OFFICIAL USE ONLY

Appn Number: _____

Date Received: _____

Received By: _____

BRIEF DESCRIPTION OF APPLICATION PURPOSE:

US Cellulose proposes approval of a 105' monopole communications tower and accessory ground mounted equipment at 505 Cottage Ave in Abilene

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):

Name: David Wells on behalf of US Cellulose Tel: (501) 952-2040
Business Name: US Cellulose Fax: (918) 513-7774
Address: 8410 Bryn Mawr Ave, Chicago
City: Chicago State: IL Zip Code: 60631
E-mail: david@whgroupinc.com

PROPERTY OWNER (If Different from Applicant/Agent):

Name: TSB Enterprises, LLC Tel: (800) 240-9392
Business Name: Thunderstruck Bumpers Fax: ()
Address: 401 Cottage Ave
City: Abilene State: KS Zip Code: 67410
E-mail: thunderstruckinc@yahoo.com

ENGINEER/ARCHITECT/SURVEYOR:

Name: Branch Communications, LLC / James McCoy Tel: (918) 261-1875
Business Name: same Fax: ()
Address: 7355 S Lewis Ave
City: Tulsa State: OK Zip Code: 74136
E-mail: james.mccoy@branchcomm.net

PROPERTY INFORMATION

PROPERTY ADDRESS OR GENERAL LOCATION (IN RELATION TO NEAREST STREETS):

505 Cottage Ave, Abilene, KS 67410

PROPERTY TAX IDENTIFICATION

NUMBER: 0211651604028005000 / 0211151604028003000

ZONING: Existing: 1-2 Proposed: No change

LAND USE: Existing: Manufacturing Plant Proposed: Plant with cell tower

GROSS SIZE OF PLAT/LOT:

Residential: Commercial: 261,500 sq ft Industrial: Other: Total:

NUMBER OF LOTS:

Residential: Commercial: Industrial: 3 Other: Total:

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: 1 Total Building Area: 224 sq ft

Maximum Height of Buildings or Structures: 105' Total Impervious Area:

EXISTING PUBLIC FACILITIES: Public Private Other (Describe)

Water Service: ☒ Public ☐ Private ☐ Other

Wastewater Service: ☒ Public ☐ Private ☐ Other

Roadway Access: ☒ Public ☐ Private ☐ Other

FLOODPLAIN INFORMATION:

Floodway: ☐ Yes ☒ No

FIRM Map-Panel Number: 200074

Floodway Fringe: ☐ Yes ☒ No

Zone:

ARE ANY OTHER PERMITS OR DEVELOPMENT APPROVALS REQUIRED, APPLIED FOR OR RECEIVED FOR THE APPLICATION PROPERTY BY THE CITY OR ANY OTHER JURISDICTION OR AGENCY?

☐ Yes ☒ No If Yes, Describe Briefly and Attach a Copy of Each Permit, Approval or Application

APPLICANT/PROPERTY OWNER CERTIFICATION*

I/we acknowledge receipt of the instruction sheet explaining the method of submitting this application. I/we realize that this application cannot be processed unless it is completely filled in; is accompanied by a current abstractor's certificate as required in the instruction sheet; and is accompanied by the appropriate fee. I/we further certify that the foregoing information is true and correct to the best of our knowledge. I/we acknowledge that the City of Abilene Planning Commission, Board of Zoning Appeals or City Commission shall have authority to impose such conditions as it deems necessary in order to serve the public interest and welfare.

[Signature]

Applicant Signature

3-24-20

Date

[Signature]

Property Owner Signature

4/1/20

Date

* This Application must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written notarized authorization to this Application.

PART II - TO BE COMPLETED BY STAFF

DOCUMENTS TO BE SUBMITTED WITH APPLICATION**

- | | | |
|--|---|---|
| ☐ Copy of Deed | ☐ Easements and Covenants | ☐ Location Map |
| ☐ Site Plan | ☐ Preliminary Plat | ☐ Final Plat |
| ☐ Infrastructure Plans | ☐ Development Agreement | ☐ Grading and Stormwater Plans |
| ☐ Elevation Survey | ☐ Traffic Impact Study | ☐ Construction Plans |
| ☐ Performance Agreement | ☐ Proof of Notification | ☐ Utility Plans |
| ☐ Text Amendment Language | ☐ Property Owner List | ☐ Comprehensive Plan Amendment Justification |
| ☐ Annexation Boundary Map | ☐ Operating Characteristics Report | ☐ Administrative Appeal Justification |
| ☐ Variance Justification | ☐ Other _____ | |

Additional document requirements provided to applicant on _____. The applicant is advised that the application is not accepted for public review until such time as the above identified documents are submitted and a Determination of Complete Application is certified.

Date _____

*** Number of copies for submission determined by Zoning Administrator. The Zoning Administrator may request additional information as deemed necessary to properly evaluate the permit application.*

APPLICATION REVIEW

DECISION-MAKING BODY: ☐ Staff ☐ Planning Commission ☐ Board of Zoning Appeals ☐ City Commission
☐ Heritage Commission ☐ Other (specify):

DATE OF INITIAL HEARING(S): _____

FEE AMOUNT: \$ _____ DATE FEE PAID: _____

DETERMINATION OF COMPLETE APPLICATION:

I certify that the Development Approval Application and attached documents are sufficient in form and content for review and recommendation by the decision-making bodies of the City of Abilene. As such, all required notifications and hearings may proceed pursuant to City regulations and procedures. This certification does not preclude the review, recommendation and/or decision-making bodies from requesting additional information as deemed necessary to serve the public interest.

Date _____

Staff Report for Critical Drainage Areas

Date: June 16, 2020

Agenda Item: Critical Drainage Ordinance Review

Background

City staff did research on drainage solutions. It was concluded that a building permit does not have a strong authority to require a drainage study for projects that could have a large impact on drainage in the city. Small additions onto buildings, parking lots, etc. don't require a full development review team meeting, nor do they go before a commission for approval.

Because the city doesn't want to be in a position of issuing permits for projects that could have long term negative impact to the surrounding areas regarding drainage, the city looked at creating Critical Drainage Zones. This would be an overlay zone that would apply to identified parts of town that struggle with drainage problems and would require drainage studies to be done on certain improvements. The City Engineer and Public Works Director would recommend areas to be designated based on their review of current or likely drainage issues, storm sewer availability, etc.

Staff Recommendation:

Recommend the Planning Commission approve Critical Drainage Ordinance and send onto the City Commission for final approval.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING REGULATIONS FOR THE CITY OF ABILENE, KANSAS TO ADD A NEW SECTION 20-14 CONCERNING THE DESIGNATION AND REGULATION OF CRITICAL DRAINAGE AREAS WITHIN THE CITY OF ABILENE, KANSAS.

BE IT ORDAINED, BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

SECTION 1. Article 20 of the Zoning Regulations for the City of Abilene, Kansas is hereby amended by adding a new Section 20-14, to read as follows:

SECTION 20-14 CRITICAL DRAINAGE AREAS

12-1401. Definitions. As used in this article, the following terms shall be defined as follows:

- (1) *Critical drainage area* is an area designated on the official zoning map of the city that is subject to periodic flooding due to stormwater ponding or sheet flow.
- (2) *Development* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- (3) *Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
 - (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - (ii) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (4) *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
- (5) *Historic structure* means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or (d) individually listed on a local inventory of historic places under a historic preservation program that has been certified either:

- (i) By an approved state program as determined by the secretary of the interior; or
- (ii) Directly by the secretary of the interior.

12-1402. Critical drainage areas. Critical drainage areas may be designated by the board of city commissioners following a report and recommendation from the planning commission. The city engineer shall identify areas that should be considered for designation as critical drainage areas. No development or substantial improvement may be undertaken within a critical drainage area without first obtaining a permit from the zoning administrator. The zoning administrator shall not approve any development which does not provide adequate drainage improvements so as not to inordinately expose the development as well as surrounding land to increased stormwater flooding. The drainage improvements shall be designed in accordance with criteria established by the city engineer. The city engineer shall review proposed drainage improvement plans and advise the zoning administrator if such plans comply with established criteria. The completion of said improvements shall be the responsibility of the applicant. This regulation shall not apply to any platted lot zoned single-family residential, regardless of size, nor any platted lot containing less than ten thousand (10,000) square feet of land area, regardless of the zoning classification.

SECTION 2. This ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. ____ Summary

On _____, 2020, the City Commission passed Ordinance No. _____. The ordinance amends the zoning regulations for the City of Abilene, Kansas by adding a new section 20-14 authorizing the designation of critical drainage areas within the City of Abilene, Kansas, and authorizing the regulation of certain improvements within such designated critical drainage areas. A complete copy of the ordinance is available online at www.abilenecityhall.com or in the office of the City Clerk, 419 N. Broadway Street in Abilene, Kansas, free of charge. This summary is certified by the City's legal counsel.

APPROVED AND PASSED by the Governing Body of the City of Abilene, Kansas, this ____ day of _____, 2020.

Chris Ostermann, Mayor

Attest:

Penny L. Soukup, CMC, City Clerk

The publication summary set forth above is certified this ____ day of _____, 2020.

Aaron O. Martin, City Attorney