



Notice of Study Session
ABILENE PUBLIC LIBRARY
209 NW FOURTH STREET
August 16, 2021 - 4:00 pm

VIEW THIS CITY COMMISSION STUDY SESSION VIRTUALLY AT

www.abilenecityhall.com/watchlive

PURPOSE

The City Commission's study sessions are for the purpose of providing the commission the opportunity to study items in more detail.

OPEN FORUM

This is an opportunity to bring up items to be informally addressed. The Mayor may impose a time limit on open forum.

STUDY ITEMS

1. Conditional Use Permit – 203 N. Cedar
2. Discussion continuation – Monies to non-profits





City of Abilene
Item for City Commission Agenda

Meeting Date: 8/23/21

Originating

Planning & Zoning

Prepared

Kari Zook

Approved for Agenda By:
(Office Use Only)

AGENDA ITEM HEADING:

Ordinance 21-3401: Conditional Use Permit for Barry Arp, 203 N Cedar St., Abilene, KS

BACKGROUND:

Barry Arp has requested a CUP to allow a first-floor dwelling in the commercial building located at 203 N. Cedar St., Abilene, KS, in the C-4 Central Business District under Article 9, Section 9-3 of the zoning regulations.

The Planning Commission recommended approval of the CUP with the following conditions by a vote of 4-0 on August 3, 2021 during a public hearing:

1. The applicant shall comply with all applicable building codes.
2. There shall be no outside storage of residential items.
3. The exterior of the structure must maintain a commercial design.

There was a 14-day protest period after the Planning Commission meeting in which a protest of the recommendation can be filed. No response has been recorded.

FISCAL NOTE:

N/A

COMMISSION ACTION:

Consider approval of Ordinance 21-3401 to allow a first-floor dwelling in the C-4 Central Business District.

ORDINANCE NO. 21-3401

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR A DWELLING ON THE FIRST FLOOR OF THE PROPERTY DESCRIBED AS 203 N. CEDAR ST., ABILENE, KANSAS, IN THE C-4 CENTRAL BUSINESS DISTRICT.

WHEREAS, the property owner of record has requested the City consider a conditional use permit to allow a dwelling on the first floor at the property described as 203 N. Cedar St., Abilene, Kansas, in the C-4 Central Business District;

WHEREAS, the Planning Commission conducted a public hearing on August 3, 2021 to receive comments from the public, and;

WHEREAS, the Planning Commission recommended the Governing Body approve a conditional use permit allowing the first-floor dwelling at the aforementioned address.

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

SECTION ONE. Findings of Fact. The City Commission finds that the proposed residential use will not present a nuisance on neighboring uses or structures, provided the conditions are met.

SECTION TWO. Conditional Use Permit. A conditional use permit is hereby granted to the property owner of record for approval to allow a dwelling on the first floor of the property commonly known as 203 N. Cedar St., in Abilene, Kansas and legally described as follows:

Lots 5 and 6, on North Second Street, in Bonebrake's Sub-Division of Lots 5 and 7 on North Second Street and Lots 28 and 30 on North Third Street, in Thompson and McCoy's Addition to the City of Abilene, Dickinson County, Kansas.

all as generally described in the conditional use permit application. The conditional use permit shall not be limited in time, subject to compliance with the conditions set forth in Section 3 below.

SECTION THREE. Permit Conditions Approval. Pursuant to the Abilene Zoning Regulations, the Planning Commission may impose, and City Commission may approve, reasonable conditions on approval of a conditional use permit. The following conditions are approved:

1. The applicant shall comply with all applicable building codes.
2. There shall be no outside storage of residential items.
3. The exterior of the structure must maintain a commercial design.

SECTION FOUR. Implementation. The Planning and Zoning Administrator, or designee, is hereby authorized to ensure all conditions have been reasonably met.

SECTION FIVE. Certified Copy. A certified copy of this Ordinance signed by the City Clerk for the City of Abilene, Kansas, shall be recorded against the subject property legally described above, in the Office of the Register of Deeds, Dickinson County, Kansas.

SECTION SIX. Effective Date. This Ordinance shall be in full force and effect from and after its adoption and publication once in the official newspaper by the following summary:

Ordinance No. 21-3401 Summary

On August 23, 2021, the City Commission passed Ordinance No. 21-3401. The Ordinance grants a conditional use permit to allow a dwelling on the first floor of the property described as 203 N. Cedar St., Abilene, Kansas, in the C-4 Central Business District. A complete copy of the ordinance is available online at www.abilenecityhall.com or in the office of the City Clerk, 419 N. Broadway St. in Abilene, Kansas, free of charge. This summary is certified by the City's legal counsel.

PASSED AND ADOPTED by the Governing Body of the City of Abilene, Kansas this 23rd day of August, 2021.

CITY OF ABILENE, KANSAS

By: _____
Brandon Rein, Mayor

ATTEST:

Shayla Mohr, City Clerk

APPROVED AS TO FORM:

Aaron O. Martin, City Attorney

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 |

FOR OFFICIAL USE ONLY

Appn Number: PC21-08
Date Received: 6/21/21
Received By: KZ

BRIEF DESCRIPTION OF APPLICATION PURPOSE:

Conditional use permit for dwelling on first floor in commercial district

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):

Name: _____ Tel: (____) _____
Business Name: _____ Fax: (____) _____
Address: _____
City: _____ State: _____ Zip Code: _____
E-mail: _____

PROPERTY OWNER (If Different from Applicant/Agent):

Name: Barry Arp Tel: (785) 341-4198
Business Name: _____ Fax: (____) _____
Address: 800 N Buckeye
City: Abilene State: KS Zip Code: 67410
E-mail: bla4805@yahoo.com

ENGINEER/ARCHITECT/SURVEYOR:

Name: _____ Tel: (____) _____
Business Name: _____ Fax: (____) _____
Address: _____
City: _____ State: _____ Zip Code: _____
E-mail: _____

PROPERTY INFORMATION

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

203 N Cedar

PROPERTY TAX IDENTIFICATION

NUMBER: 021-115-16-0-30-37-007.00-0

ZONING: Existing: C-4 Proposed: _____

LAND USE: Existing: Central business Proposed: _____

GROSS SIZE OF PLAT/LOT:

Residential: _____ Commercial: 3792- Industrial: _____ Other: _____ Total: _____

NUMBER OF LOTS:

Residential: _____ Commercial: 1 Industrial: _____ Other: _____ Total: _____

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: 1 Total Building Area: _____

Maximum Height of Buildings or Structures: _____ Total Impervious Area: _____

EXISTING PUBLIC FACILITIES: Public Private Other (Describe)

Water Service: ☐ ☐ ☐ _____

Wastewater Service: ☐ ☐ ☐ _____

Roadway Access: ☐ ☐ ☐ _____

FLOODPLAIN INFORMATION:

Floodway: ☐ Yes ☐ No FIRM Map-Panel Number: _____

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.

Applicant Signature

Date


Property Owner Signature

06-01-2021
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 6/1/21. 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.

Kari Zook
Name

Zoning Adm.
Title

Kari Zook
Signature

6/1/21
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): 8/3/21 - PC

FEE AMOUNT: \$200- **DATE FEE PAID:** 6/1/21

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.

Kari Zook
Name

Zoning Adm.
Title

Kari Zook
Signature

6/21/21
Date



Entered in transfer record in my office
this 7 day of May A.D. 21
Barbara M. Jones
Co. Clerk
Brandy Hare
Deputy Co. Clerk



STATE OF KANSAS, DICKINSON COUNTY
Marty Holt, Register of Deeds

Book: D266 Page: 459

Receipt #: 280387

Pages Recorded: 1

Cashier Initials: MHolt

Date Recorded: 5/7/2021 2:20:20 PM

Recording Fee: \$21.00

Martha J. Holt

STATUTORY WARRANTY DEED

(Joint Tenancy)

Grantor(s): **Deborah Hopkins, a single person**

Conveys and Warrants to **Barry L. Arp and Diane M. Arp**, as joint tenants with the right of survivorship, and not as tenants in common.

The following described premises, to-wit:

Lots 5 and 6, on North Second Street, in Bonebrake's Sub-Division of Lots 5 and 7 on North Second Street and Lots 28 and 30 on North Third Street, in Thompson and McCoy's Addition to the City of Abilene, Dickinson County, Kansas.

For the sum of One Dollar and other good and valuable consideration.

Subject to: easements and restrictions of record, if any

Dated this 5-6-21, 2021

Deborah Hopkins

Deborah Hopkins

State of South Carolina, Horry County} ss.

This instrument was acknowledged before me on May 6, 2021 by Deborah Hopkins, a single person.

Elizabeth Munoz-Pinzon

Notary Public

My appointment expires: 01-08-2031

ELIZABETH MUNOZ-PINZON
NOTARY PUBLIC
State of South Carolina
My Commission Expires Jan. 8, 2031



Security 1st Title

File No. 2446857

Page 1 of 1

Barry Arp
800 N Buckeye Avenue
Abilene, Kansas 67410
Cell (785) 341-4198

June 21st, 2021

Reason: Conditional Use Permit Request

To Whom It May Concern:

As someone who values history, it is of the utmost importance to me that it is preserved at all costs. That said, I am requesting a conditional use permit for the first floor of 203 N Cedar Street in Abilene, Kansas. I intend to make it into an apartment while I complete renovations on our home, located at 800 N Buckeye Avenue, in Abilene, Kansas.

I take great pride in restoring properties to their former glory. For this reason, I intend to invest further in this city's history by continuing my restoration project. Whence the renovations have been completed at 800 N Buckeye Avenue, I intend to focus my attention on the second level of 203 N Cedar Street. While it has fallen into disrepair in recent decades due to neglect, it was once a thriving Mason's Lodge in 1876. It is my sincere hope that by having an apartment located on the property, I can more easily devote the much-deserved time to this once great property before its history is lost to time.

Thank you,

Barry Arp

Staff Report

TO: Planning Commission
FROM: Kari Zook, Planning & Zoning Administrator
SUBJECT: PC 21-08 – Conditional Use Permit
DATE: August 3, 2021

APPLICANT/OWNER:

Barry Arp, 800 N. Buckeye Ave., Abilene, KS 67410

Application date received 6/1/21

Copy of Deed and Operational Characteristics Report received 6/21/21

BACKGROUND:

The applicant is requesting a conditional use permit (CUP) to allow a first-floor dwelling in a commercial building located at 203 N. Cedar St. within the C-4 Central Business District under Article 9, Section 9-3 of the zoning regulations.



Direction	Zoning Classification	Land Use(s)
North	C-4 (Central Business District)	You Dirty Dog! Grooming Salon/Blackollar Tattoo
East	C-4 (Central Business District)	Guilfoyle Attorney Office
South	C-4 (Central Business District)	Abilene Civic Center parking lot
West	C-4 (Central Business District)	Empty lot/Trapp Pharmacy

The notice of public hearing was published in the Abilene Reflector Chronicle on July 9, 2021 and written notices were sent by mail on July 9, 2021 to property owners within 200 feet of the site address as required by Article 26, Section 26-102 of the zoning regulations.

26-110: Factors to be considered in permit applications. The Planning Commission may recommend approval of a conditional use that is expressly authorized to be permitted in a particular zoning district, and the Governing Body may approve such conditional use, using the following factors as guidelines. The explanation of these factors, as set out in Section 26-108 for rezonings, shall also be considered in conditional use permit applications:

- a. **Whether approval of the conditional use would be consistent with the intent and purpose of these regulations.** Given that the zoning code was amended specifically to require a CUP in the C-4 district for this use, it can be presumed that the application is consistent with the intent and purpose of the regulations.
- b. **Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood.** The residential use would not have a negative impact on the commercial uses around it. There are currently empty parking lots to the south and west of the property so there's no foreseen disruptions to downtown parking.
- c. **Whether the proposed use places an undue burden on the existing public infrastructure in the area affected and, if so, whether additional infrastructure can be provided.** The residential use will not generate a significant demand on existing public services, which has sufficient capacity to handle the residential use.
- d. **Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected.** There are no changing conditions that either make the proposed use desirable or undesirable.
- e. **The length of time the subject property has remained vacant or undeveloped as zoned.** The previous use of this building was the Community Resource Center which included Big Brothers Big Sisters, Arts Council and American Red Cross among other agencies that rented space.
- f. **Whether the applicant's property is suitable for the proposed conditional use.** The physical property is suitable for the proposed use.
- g. **The recommendations of professional staff and advisors.** See recommendation.
- h. **Whether the proposed conditional use would be in conformance to and further enhance the implementation of the City's Comprehensive Plan.** The Comprehensive Plan's key issue 7 (comp plan page 118) states as follows: More diversity in housing type, price range, and special needs housing. Goal A: Remove unnecessary regulatory barriers to affordable housing development. Although specific actions under this goal do not directly address CUP's, it is clear that the intent of the Comprehensive Plan is to promote a diversity of housing type, which this CUP would facilitate.
- i. **Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected.** The impact of residential use will not have an adverse effect on the Central Business District.
- j. **For such uses as solid waste disposal facilities, including sanitary landfills, construction and demolition landfills and transfer stations, whether the proposed conditional use is consistent with any adopted Solid Waste Management Plan of Dickinson County, and amendments thereto.** N/A
- k. **Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.**

COMMENTS:

Departmental comments: This property is a contributing structure on the state and national register under the Downtown Historic District. Any exterior structural changes will go through the Heritage Commission for approval. There is an existing mural on the west side of the building. The use of this commercial property is not currently open to the public. The intended use per the Operational Characteristics Report submitted by applicant indicates the dwelling will be used as an apartment while renovations are being done on their home located at 800 N. Buckeye. Upon completion of that renovation, the applicant will then begin renovations on the second floor at this location. There will be no public traffic in the building.

Citizen comments: None received

STAFF RECOMMENDATION:

Staff recommends approval of a conditional use permit for Barry Arp to be allowed a first-floor dwelling at the subject property in the C-4 Central Business District under the following conditions:

1. The applicant shall comply with all applicable building codes.
2. There shall be no outside storage of residential items.
3. The exterior of the structure must maintain a commercial design.

ACTION:

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 submitted by staff.
3. Disapprove the CUP with findings.

NOTES:

Upon conclusion of the public hearing, there is a 14-day protest period in which a protest of the recommendation can be filed. The City Commission will review the application and issue a final approval/disapproval at the conclusion of this protest period during their next regularly scheduled meeting. The City Commission, when approving a Conditional Use Permit, shall specify the period of time for which the permit is valid or shall state that the term of the permit is not limited in time.



