

**CITY OF ABILENE
BOARD OF ZONING APPEALS
AGENDA**

October 4, 2022 immediately following Planning
Commission scheduled at 4:00 p.m.
Abilene Public Library
209 NW 4th St. Abilene, KS 67410

Agenda Item
1. Call to Order
2. Roll Call: ___ Bill Marshall, Chair ___ Brenda Finn-Bowers, Vice Chair ___ Rod Boyd ___ Matt Mead ___ Diana Miller ___ Helen Rose ___ Travis Sawyer
3. Approval of Agenda
4. Approval of Meeting Minutes – December 1, 2020
Business 5. Public hearing for BZA 22-10, a request by Bill Guillian d/b/a Commercial Property Rentals, LLC, to allow a variance from the surfacing requirements as outlined under Article 22, Section 22-305 of the zoning regulations of the City of Abilene, KS. *Staff report and recommendation *Open public hearing *Applicant/Public comments *Close public hearing *Commission discussion and action
6. Adjournment

**Abilene Board of Zoning Appeals Meeting Minutes
Abilene Public Library 209 NW 4th St., Abilene, KS
December 1, 2020 @ 3:30 p.m.**



1. Call to Order

2. Roll Call Board of Zoning Appeals members present: Vice-Chair Brenda Finn-Bowers, Rod Boyd, Bill Marshall and by phone Chair Travis Sawyer.

Members not present: Robin Black, Jennifer Green

Staff present: City Manager Foltz, City Inspector Steerman, Planning & Zoning Administrator Zook

Public present: Clay Tajchman & Hailey Devine with AgVanced Enterprises

3. Approval of Agenda

Motion by Boyd, seconded by Marshall to approve the agenda as printed. Motion carried unanimously 4-0.

4. Approval of Minutes – August 11, 2020

Motion by Marshall, seconded by Boyd to approve the minutes as printed. Motion carried unanimously 4-0.

5. Public Hearing for BZA 20-12, variance application for AgVanced Enterprises 412 W. 1st St. Abilene, KS 67410

Vice-Chair Finn-Bowers opened the Public Hearing at 3:35 p.m.

City Inspector Steerman provided details and background regarding Clay Tajchman's request to build a warehouse on existing concrete at 412 W. 1st St. for AgVanced Enterprises. The variance of the front yard setback requirements under Section 15-401 B. 1 where there shall be a front yard having a depth of not less than twenty (20) feet will allow the warehouse structure to be built to the property line.

Vice-Chair Finn-Bowers closed the Public Hearing at 3:45 p.m.

Motion by Marshall, seconded by Boyd to approve the application for variance for Clay Tajchman with AgVanced Enterprises, 412 W. 1st St. in Abilene, KS. Motion carried unanimously 4-0.

6. Board of Zoning Appeals/Planning Commission Comments & Staff Updates

Agenda items for the January 2021 Planning Commission meeting may be postponed until February. Staff will notify members of any meeting changes.

Two members of the Planning Commission whose terms expire in January 2021 will not be seeking reappointment. There is currently one vacant position on the commission. Advertisements in the newspaper and social media will be sent out this week seeking three members on the Planning Commission.

7. Adjournment

Motion by Marshall, seconded by Chair Sawyer to adjourn. Motion carried unanimously 4-0.

ATTEST:

Board of Zoning Appeals

Kari Zook
Planning & Zoning Administrator

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):

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

FOR OFFICIAL USE ONLY

Appn Number: BZA 22-10
 Date Received: 8/22/22
 Received By: KR

BRIEF DESCRIPTION OF APPLICATION PURPOSE:

ALTERNATIVE SURFACE FOR PARKING; DRIVE AREAS
2" ROCK, RECYCLED CRUSHED CONCRETE AND RECYCLED CRUSHED ASPHALT

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):

Name: Bill GUILLIAM Tel: 602 390 4930
 Business Name: COMMERCIAL PROPERTY RENTALS LLC Fax: (480) 830 3505
 Address: PO Box 1297
 City: GILBERT State: ARIZONA Zip Code: 85299
 E-mail: bguilliam@tpeaz.net

PROPERTY OWNER (If Different from Applicant/Agent):

Name: MIDWEST CONCRETE MATERIALS INC Tel: 785 218 7451
 Business Name: _____ Fax: ()
 Address: PO Box 608
 City: MANHATTAN State: KANSAS Zip Code: 66505
 E-mail: CHRIS.EICHTMAN@MIDWESTCONCRETEMATERIALS.COM

ENGINEER/ARCHITECT/SURVEYOR:

Name: JEFF MILLS PE / THAD REYNOLDS RLS Tel: 785 263 5823
 Business Name: EARLES ENGINEERING & INSPECTION INC Fax: ()
 Address: 111 N. AUGUSTUS
 City: MCPHEARSON State: KANSAS Zip Code: 67460
 E-mail: JEFF MILLS@EARLESENG.COM THAD REYN@GMAIL.COM

PROPERTY INFORMATION

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

1101 N. PORTLAND (14th & PORTLAND)

PROPERTY TAX IDENTIFICATION NUMBER:

02111418020010011010

Quick Ref R4926

ZONING:

Existing:

I-2

Proposed:

I-2

LAND USE:

Existing:

AGRICULTURAL

Proposed:

28 / STORAGE YARD

GROSS SIZE OF PLAT/LOT:

Residential:

Commercial:

Industrial:

5.66³ ACRES

Other:

Total:

5.66³ ACRES

NUMBER OF LOTS:

Residential:

Commercial:

Industrial:

1

Other:

Total:

1

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures:

1-3 PHASE I

Total Building Area:

Maximum Height of Buildings or Structures:

26'

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

LOT/SPLIT 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

8.22.2022

Date

Property Owner Signature

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**

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Copy of Deed | <input type="checkbox"/> Easements and Covenants | <input type="checkbox"/> Location Map |
| <input checked="" type="checkbox"/> Site Plan | <input type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Final Plat |
| <input type="checkbox"/> Infrastructure Plans | <input type="checkbox"/> Development Agreement | <input type="checkbox"/> Grading and Stormwater Plans |
| <input checked="" type="checkbox"/> Elevation Survey | <input type="checkbox"/> Traffic Impact Study | <input type="checkbox"/> Construction Plans |
| <input type="checkbox"/> Performance Agreement | <input type="checkbox"/> Proof of Notification | <input type="checkbox"/> Utility Plans |
| <input type="checkbox"/> Text Amendment Language | <input type="checkbox"/> Property Owner List | <input type="checkbox"/> Comprehensive Plan Amendment Justification |
| <input type="checkbox"/> Annexation Boundary Map | <input type="checkbox"/> Operating Characteristics Report | <input type="checkbox"/> Administrative Appeal Justification |
| <input checked="" type="checkbox"/> Variance Justification | <input checked="" type="checkbox"/> Other <u>MCM letter</u> | |

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.

_____	_____
Name	Title
_____	_____
Signature	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): PC 10/4/22 BZA 10/4/22

FEE AMOUNT: \$200 **DATE FEE PAID:** 8/22/22
CHK# 3190

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.

<u>Kari Zook</u>	<u>Campero Director</u>
Name	Title
<u>[Signature]</u>	<u>8/22/22</u>
Signature	Date



www.MidwestConcreteMaterials.com

CORPORATE HEADQUARTERS

701 S 4th Street PO Box 668 Manhattan, KS 66505-0668
785 776-8811 Toll Free 800 813-5195 fax 785 776-1816

8/17/2022

Kari Zook
Planning & Zoning Administrator
Abilene City Hall
419 N. Broadway Street
Abilene, KS 67410

RE: I-2 Permitted Use 28 "Storage Yard" with Alternative Dust Free Surfacing

Dear Kari,

Midwest Concrete Materials, Inc. currently owns the property and has a business that is adjacent to the property that Commercial Property Rentals, LLC is applying for a zoning change to I-2 Permitted Use 28 "Storage Yard" with Alternative Dust Free Surfacing using 2" rock, recycled crushed concrete or recycled crushed asphalt. We have no objection to this zoning use and/or variance request for alternative surfacing.

Midwest Concrete Materials, Inc. currently owns the property that is the proposed lot split with Commercial Property Rentals, LLC. We have no objection to the proposed lot split.

Sincerely,

A handwritten signature in blue ink that reads "Chris. E." in a cursive style.

Christopher J. Eichman

Vice President

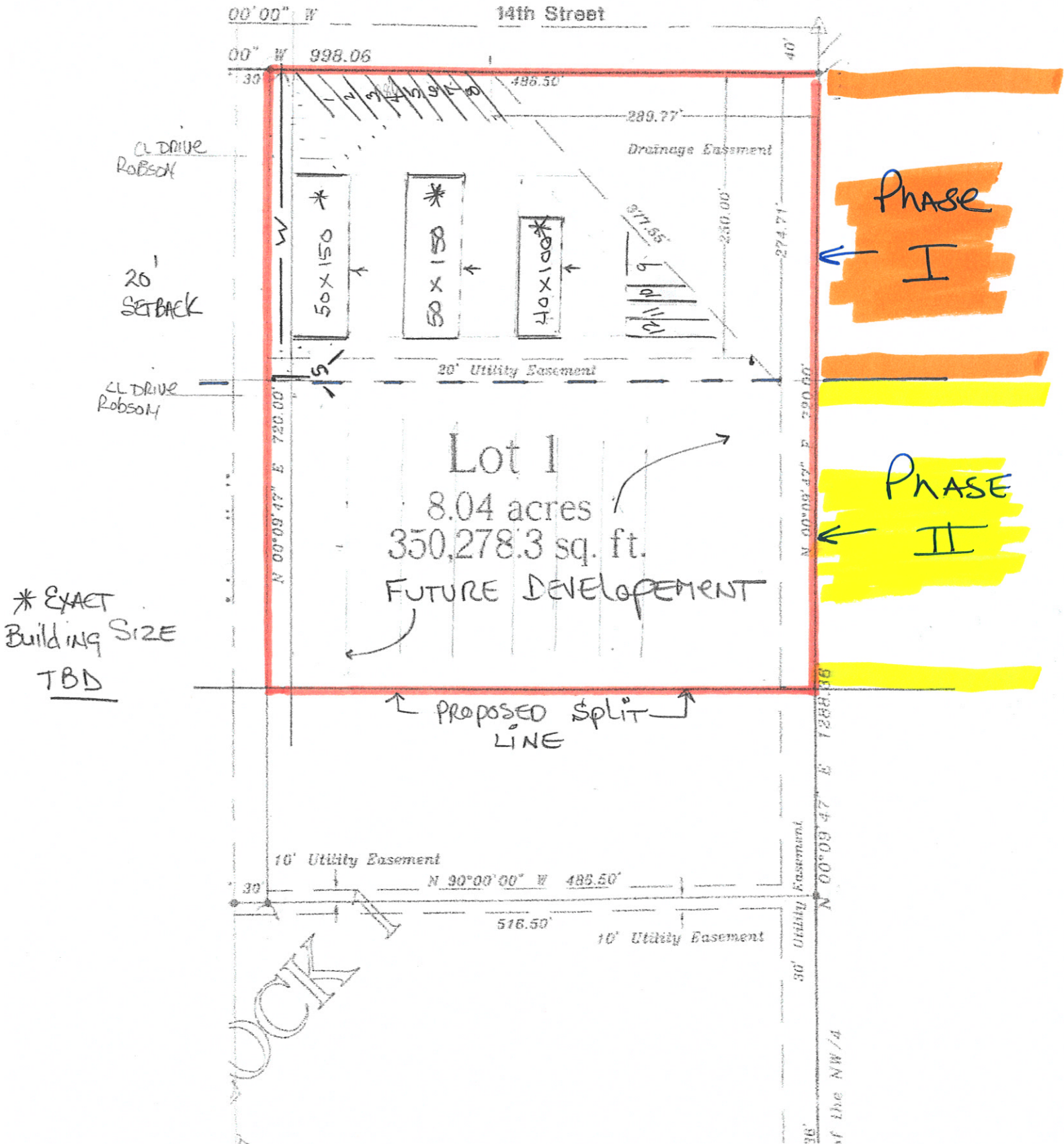
Midwest Concrete Materials, Inc.

4TH GENERATION FAMILY OWNED AND OPERATED SINCE 1927



option #1
MCM

N.E. corner
the N.W. 1
of S18-T13.

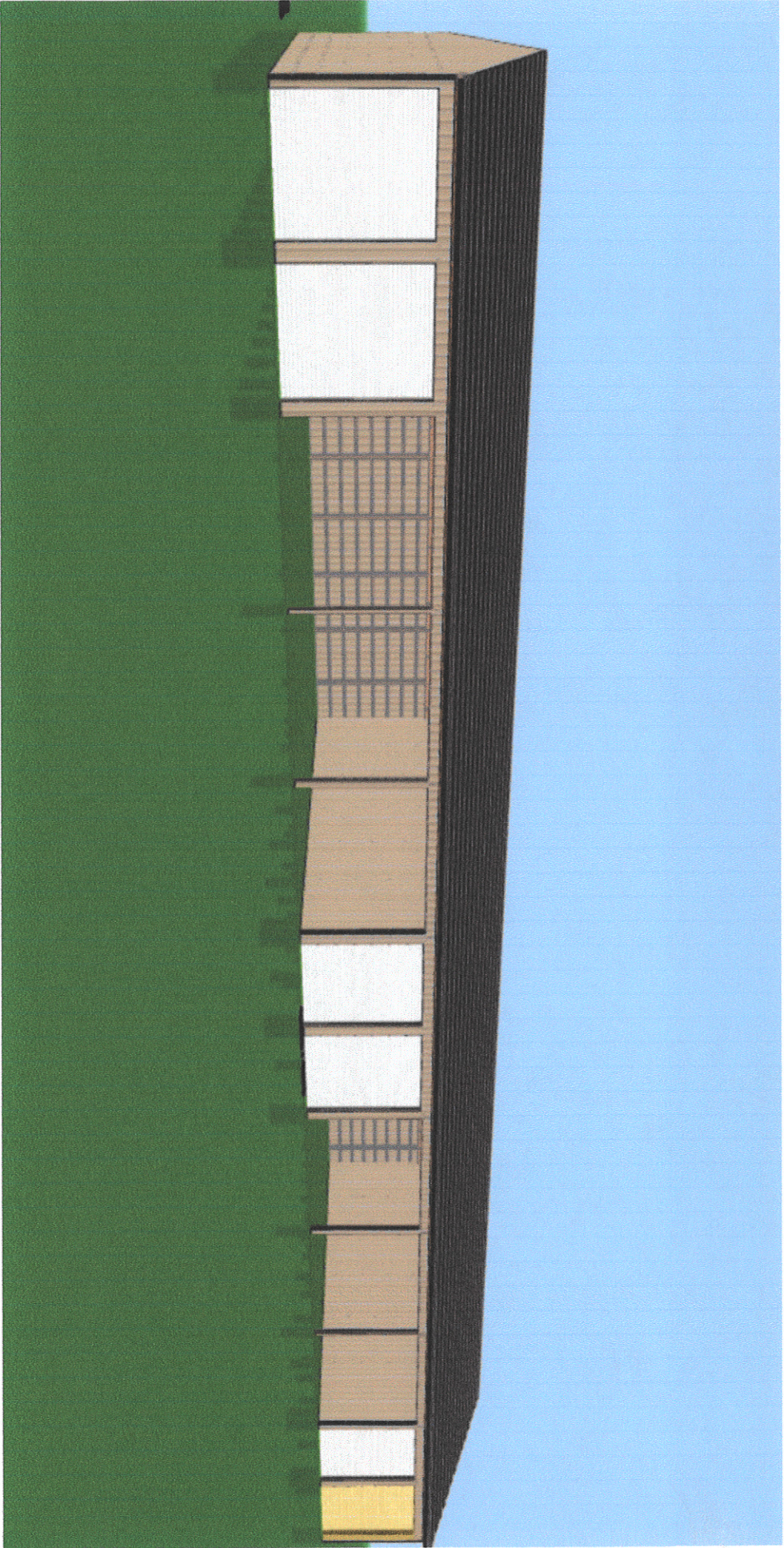


3d View for Bill Guiliam 50x200x16 4 OHDS

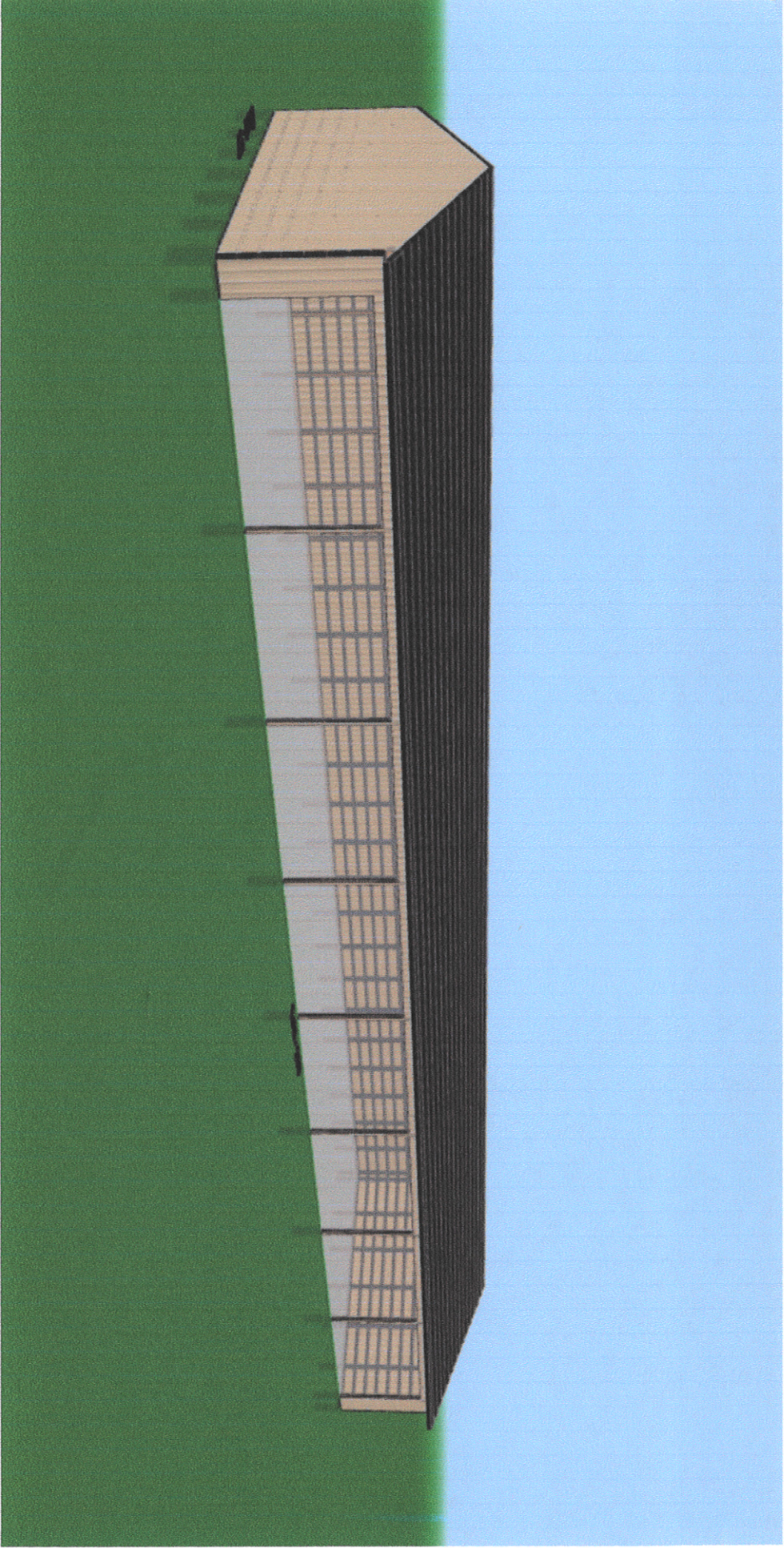
Vendor | conceptual

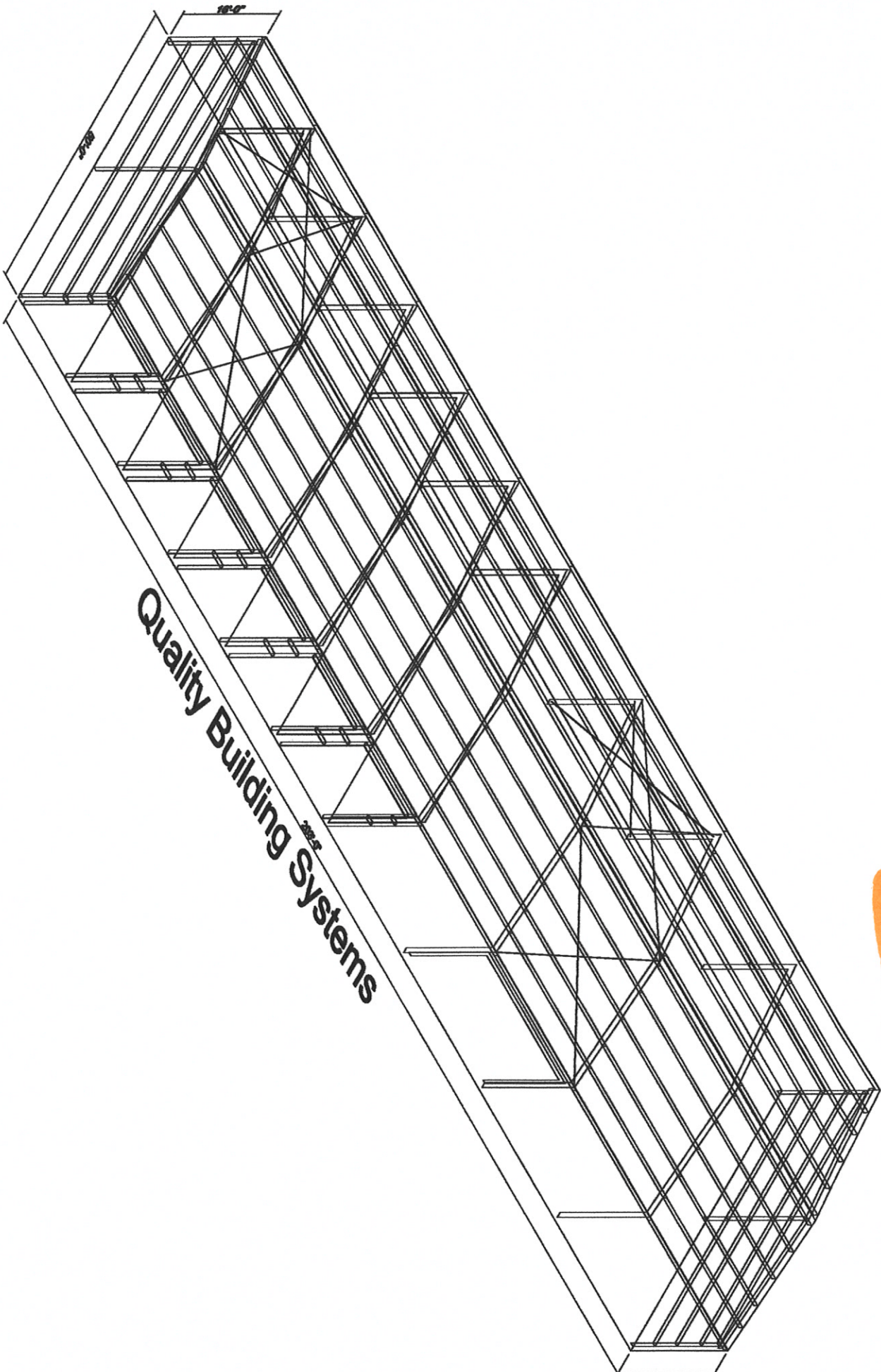


3d View for Bill Guilliam 50x200x16 4 OHDS



3d View for Bill Guillian 50x200x16





Vendor 2 Conceptual

Variance Requirements

The Board of Zoning Appeals must find that **all** of the following criteria for the granting of a variance are met by the application:

- a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant;
- b. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- c. That the strict application of the provisions of these zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;¹
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
- e. That granting the variance desired will not be opposed to the general spirit and intent of these zoning regulations.

¹ The terms "Unnecessary Hardship" or "Undue Hardship" have generally been interpreted by the legal system to mean that all viable economic activity of the land will be taken away by the strict interpretation and application of the regulations, which results in a regulatory taking of property.

9-14-2022

Kari Zook

Kari, I have addressed Variance Requirements relative to Criteria needed for Granting of the Zoning Variance I have requested.

- a. The property identified in Variance Request is located at 1101 n Portland. The Proposed Development, RV & Boat (Large Equipment Storage) Storage Facility will be a Low Impact Site (vehicle access limited to Seasonal and Recreational Use of units that will be stored on site when owners are able to retrieve and use them).
- b. Granting of the Variance will not adversely affect the rights of adjacent property owners or residents. There are No Adjacent Residential Properties. The Property is surrounded by Commercial and Industrial Properties. The property is Uniquely Buffered (Isolated) from Neighboring Properties by Arterial Roadways on the North by 14th St, the West by Portland Street, the East by a Large Drainage Easement and on the South by a 2.38 acre Buffer retained by MCM as a Buffer against their existing Business. MCM Owners support Variance Approval and have stated so in their letter.
- c. If Requested Variance is not approved, Bill Guilliam d/b/a Commercial Property Rentals LLC will not move forward with development. The costs associated with Hard Surfacing Interior Drive Paths and Parking will create Irrecoverable costs for this site long term and cause a certain Business Failure.

- d. The Variance Requested will not adversely affect Public Health, Safety, Morals, Order, Convenience, Prosperity or General Welfare. As Previously stated, the Proposed Development, RV & Boat Storage (Large Equipment Storage) will be a Low Impact (Vehicular Access) Site. Daily use of Proposed Site will be far below 2 of the 3 adjacent businesses (MCM and Robson) on Portland St. All 3 adjacent business have and use the same surface application that I am requesting on greater portions of their drive paths.
- e. The Proposed Development, RV & Boat (Large Equipment) Storage Facility will be, a Low Impact Site, the 3rd lowest use (Vehicular Access) of 4 active businesses on Portland St (Hettenbach excluded). Sites like the one being proposed, Historically, are used Intermittently based on Renter ability to retrieve and use stored units for pleasure as their schedules allow.

Summary

In Requesting this Variance, I am trying to meet a current need for a Storage Site and Amenities for Abilene Residents as well as have the site available and operational for the New Residents the City is anticipating in the Golden Belt Heights East and West subdivisions that will have need for such a facility. Without the Variance Requested, the Proposed Development is not financially feasible and will not be commenced.

Thank You
Bill Guillian

Staff Report

TO: Planning Commission/Board of Zoning Appeals
FROM: Kari Zook, Community Development Director
SUBJECT: PC/BZA 22-10 – Lot split/Variance
DATE: October 4, 2022



APPLICANT:

Bill Guillian d/b/a Commercial Property Rentals, LLC
Application date received 8/22/22

OWNER:

H & P, Inc d/b/a Abilene Concrete Supply (Midwest Concrete Materials)
Site address: 1101 N Portland St., Abilene, KS

BACKGROUND:

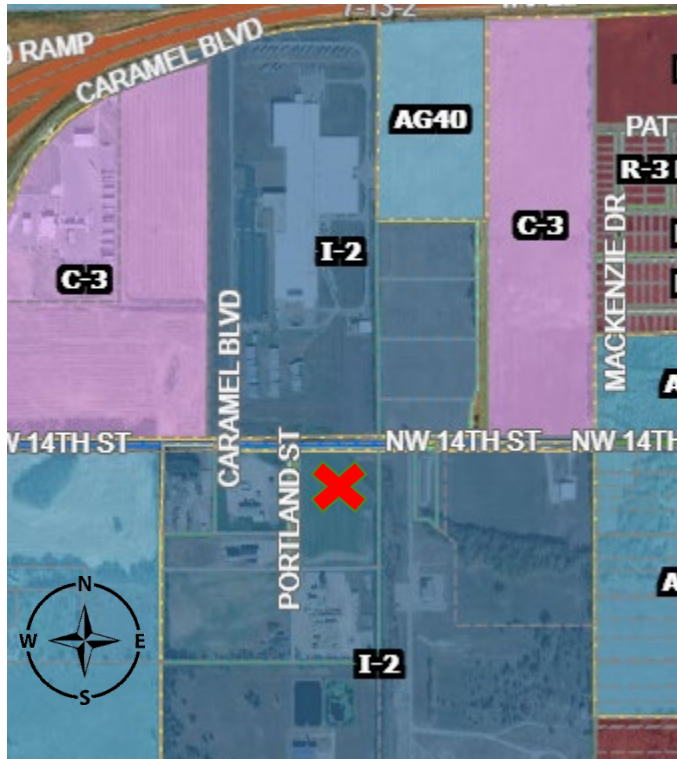
Planning Commission: The applicant is requesting an approval for a lot split of 5.63 acres of frontage on NW 14th St. from Midwest Concrete Materials. A letter from the owner with the approval and intent to sell a portion of their property is attached in the agenda packet. The land survey is also attached as reference and will be submitted to the Dickinson County Register of Deeds upon approval along with the lot split certificate.

Board of Zoning Appeals: The applicant is requesting a variance from the surfacing requirements set forth in Article 22, Section 22-305 as stated: Surfacing. All off-street parking facilities, loading areas, vehicular storage areas and drives and access to and from such areas shall be surfaced and maintained with four (4) inches of asphalt, or concrete to create a permanent all-weather, dust-free surface. Such paving must be completed prior to occupancy of the facility that the paving is intended to serve, unless temporary occupancy approval is received from the Zoning Administrator.

Section 22-602: Alternate surface. The Board of Zoning Appeals, after due public notice and hearing, may grant a variance to the surfacing materials required in this article.

The applicant will install access drive off of Portland St. and paved per city standards. The remainder of the surfacing in the intended RV & Boat Storage facility will be comprised of recycled crushed concrete and recycled crushed asphalt. Upon approval of both the lot split and the variance, the applicant will submit a building permit with site plans and all studies required by city development standards.

The written notices of the Planning Commission meeting and the public hearing for the Board of Zoning Appeals were sent by mail on September 9, 2022 to property owners within 1,000 feet of the site address as required by Article 3, Section 3-201 of the Subdivision Regulations and Article 25, Section 25-701 of the Zoning Regulations. The notice of public hearing was published in the Abilene Reflector Chronicle on September 9, 2022.



Direction	Zoning Classification	Land Use(s)
North	I-2 (Heavy Industrial)	Russell Stover/City of Abilene vacant industrial lots
East	I-2 (Heavy Industrial)	Great Plains Manufacturing entrance/Mini storage units
South	I-2 (Heavy Industrial)	Midwest Concrete Materials
West	I-2 (Heavy Industrial)	Robson Oil Company/Chisholm Trail Seed

COMMENTS:

Departmental comments: None

Citizen comments: None

STAFF RECOMMENDATION:

Staff recommends approval of the lot split and variance request.

ACTION:

The Planning Commission/Board of Zoning Appeals may:

1. Approve the lot split/variance as requested.
2. Approve the lot split/variance with amendments.
3. Disapprove the lot split/variance with findings.

NOTES:

Upon conclusion of the hearing, the board will render a decision on the request. If a person is aggrieved by the decision, they may appeal the decision to the Dickinson County District Court within 30 days.

