

**ORDINANCE NO. 3262**

**AN ORDINANCE REZONING CERTAIN PROPERTY, GENERALLY DESCRIBED AS 1407 N. BUCKEYE AVENUE, FROM "R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT" TO "B-3, HIGHWAY BUSINESS DISTRICT" AND AMENDING THE ZONING MAP OF THE CITY OF ABILENE, KANSAS**

**WHEREAS**, the property owners of record have requested the City consider rezoning certain property more commonly described as 1407 N. Buckeye Avenue, and as provided in **Exhibit A** as attached hereto, from "R-1, Single-Family Residential District" to B-3, Highway Business District";

**WHEREAS**, the Planning Commission conducted a public hearing on October 14, 2014, and comments were received from the public both in support of an in opposition to the proposed rezoning; and

**WHEREAS**, the Planning Commission recommended the Governing Body approve the rezoning of the above referenced property.

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

**SECTION ONE. Property Rezoned.** That property legally described as follows is hereby rezoned from "R-1, Single-Family Residential District" to B-3, Highway Business District":

*All of Lots Three (3) and Four (4) in Block A, Geauque and Brenneman's Subdivision of a part of the Southwest Quarter of the Southeast Quarter of Section Nine (9), Township Thirteen (13) South, Range Two (2) East of the 6<sup>th</sup> P.M., in the City of Abilene, Dickinson County, Kansas; Except that part condemned by the City of Abilene in Dickinson County District Court Case No. 15158; Subject to easements, reservations, restrictions and zonings of record, more commonly known as 1407 N. Buckeye Avenue, Abilene, Kansas.*

**SECTION TWO. Zoning Map: Amended.** That the Zoning Map of the City of Abilene, Kansas, as adopted by Ordinance No. 2796, and amendments thereto, is hereby amended to be consistent with the amendments described herein.

**SECTION THREE. Effective Date.** This Ordinance shall become effective and in full force from and after its passage, adoption and publication in the official City newspaper.

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PASSED AND ADOPTED by the Governing Body of the City of Abilene, Kansas this 23<sup>rd</sup> day of February, 2015.



CITY OF ABILENE, KANSAS

By: *Brenda Finn Bowers*  
Brenda Finn Bowers, Mayor

ATTEST:

*Penny Soukup, CMC*  
Penny Soukup, CMC

APPROVED AS TO FORM:

*Mark Guilfoyle*  
Mark Guilfoyle, P.A.  
City Attorney

**EXHIBIT A**

**Rezoning Map and Application**

**for**

**1407 N. Buckeye Avenue**

**City of Abilene, Kansas**

**February 23, 2015**



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, Annexation, Certificate of Appropriateness, Comprehensive Plan Amendment, Conditional Use Permit, Development Code Amendment, Final Plat, Home Occupation Permit, Landmark Designation, Lot Split, Non-Conforming Use Certificate, Preliminary Plat, Planned Development, Replat, Rezoning/Zoning Map Amendment, Site Plan, Vacation (Plat, Street, Easement), Variance

FOR OFFICIAL USE ONLY

Appn Number: 14-5

Date Received: 9/5/14

Received By: [Signature]

SEP 08 2014 CITY OF ABILENE

BRIEF DESCRIPTION OF APPLICATION PURPOSE: Parking / possible fuel expansion of existing business

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):

NAME: Clay Brasher, Director of Real Estate, PO BOX 1927, TELEPHONE: 6206698504, BUSINESS NAME: Kwik Shop, Inc., clay.brasher@kwikshop.com, FAX: 6206941820, CITY: Hutchinson, 734 E. 4th Ave., STATE: KS, ZIP: 67501-1927

PROPERTY OWNER (If Different from Applicant/Agent):

NAME: Jeff L. and Monica J. Hertz, TELEPHONE: 479-0805, BUSINESS NAME: hertzonahill@gmail.com, FAX: [Blank], CITY: Abilene, 2223 Fair Rd., STATE: KS, ZIP: 67410

ENGINEER/ARCHITECT/SURVEYOR:

NAME: Jason Loader, TELEPHONE: 7857625040, BUSINESS NAME: Kaw Valley Engineering, FAX: [Blank], CITY: Junction City, STATE: KS, ZIP: 66441, E-mail: loaderj@kveng.com



PROPERTY INFORMATION

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

1407 North Buckeye Ave., Abilene, KS

PROPERTY TAX IDENTIFICATION NUMBER: 112-09-0-40-12-004.00-0

Existing Zoning Res Proposed Zoning B-3 Existing Land Use Proposed Land Use

GROSS SIZE OF PLAT/LOT:

Residential: 8400 Commercial Industrial Other Total:

NUMBER OF LOTS:

Residential: 1 Commercial Industrial Other Total:

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures Maximum Height of Buildings or Structures Total Building Area Total Impervious Area

EXISTING PUBLIC FACILITIES:

Water Service: Public Private Other (Describe)
Wastewater Service: Public Private Other (Describe)
Roadway Access: Public Private Other (Describe)

FLOODPLAIN INFORMATION:

Floodway Floodway Fringe FIRM Map-Panel Number 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.

Clay Smith Applicant Signature

9/15/14 Date

[Signature] Applicant Signature

9/10/14 Date

Fee: \$100.00

\* 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.

## STAFF REPORT

### ***PC 14-5 Rezoning of 1407 N. Buckeye Avenue from "R-1" Single Family Residential District to "B-3" Highway Business District.***

#### GENERAL INFORMATION

<b>Date:</b>	October 9, 2014
<b>Owner:</b>	Jeff and Monica Hertz
<b>Applicant:</b>	Kwik Shop
<b>Requested Action:</b>	Amend zoning from Single Family Residential to Highway Business District.
<b>Purpose:</b>	To allow expansion of an existing business.
<b>Location address:</b>	1407 N. Buckeye Street
<b>Comprehensive Plan:</b>	Comprehensive Plan shows this property as Low Density Residential Potential.
<b>Sites Existing Zoning:</b>	Single Family Residential district "R-1"
<b>Surrounding Zoning:</b>	<p>North     <i>R-1 Single Family Residential District (Residential Use)</i></p> <p>South     <i>B-3 Highway Business District (Residential structure)</i></p> <p>East       <i>R-1 Single Family Residential District (Residential use)</i></p> <p>West       <i>B-3 Highway Business District (Commercial use)</i></p>
<b>Land Area:</b>	Contains less than 1 acre
<b>Notice Date:</b>	This project was published and noticed by mail as required by code.

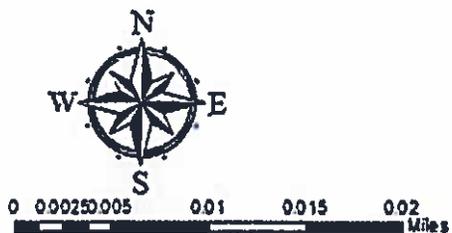
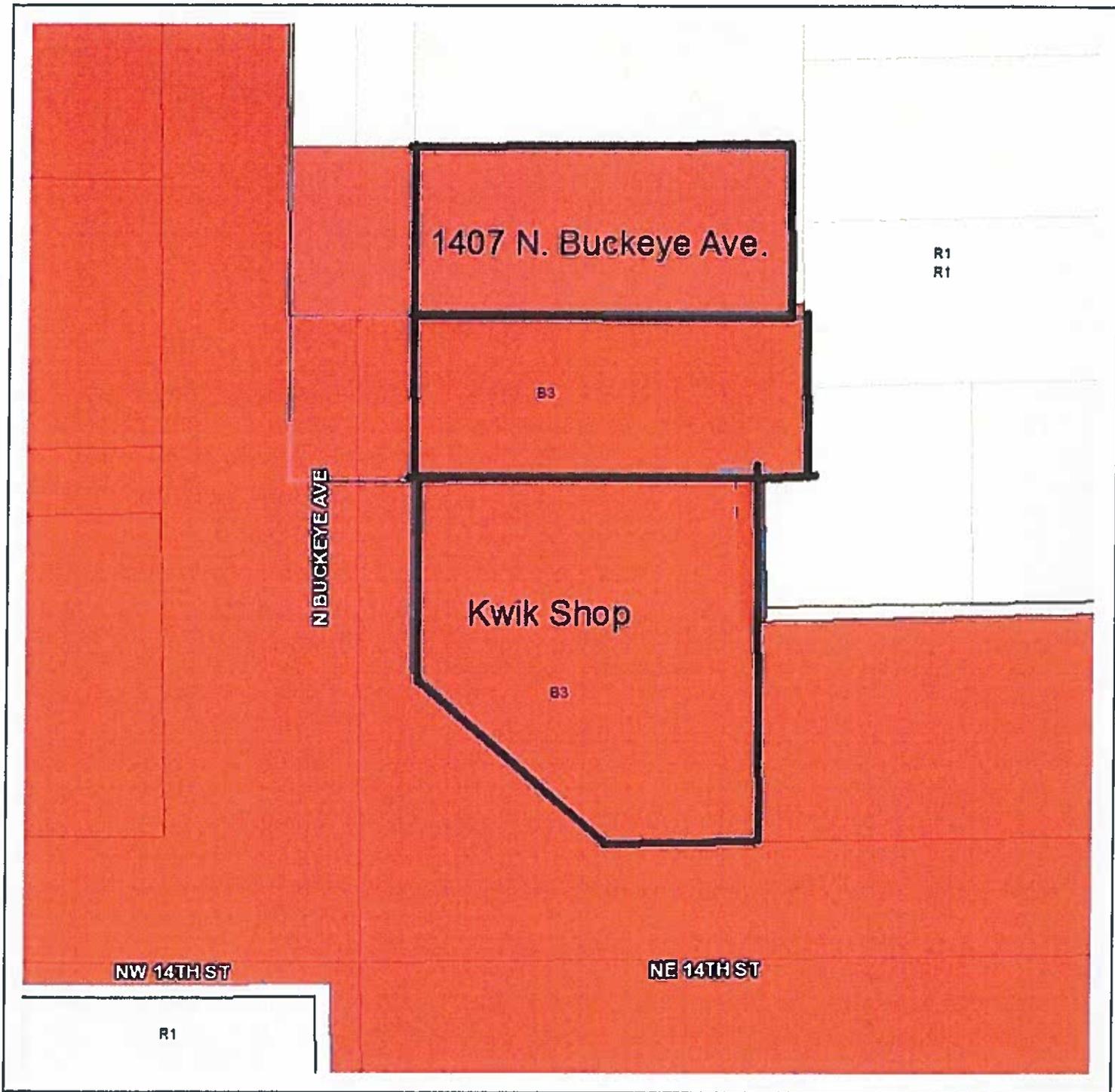
#### COMMENTS & FINDINGS

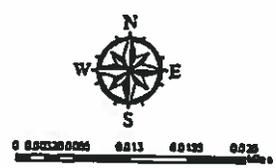
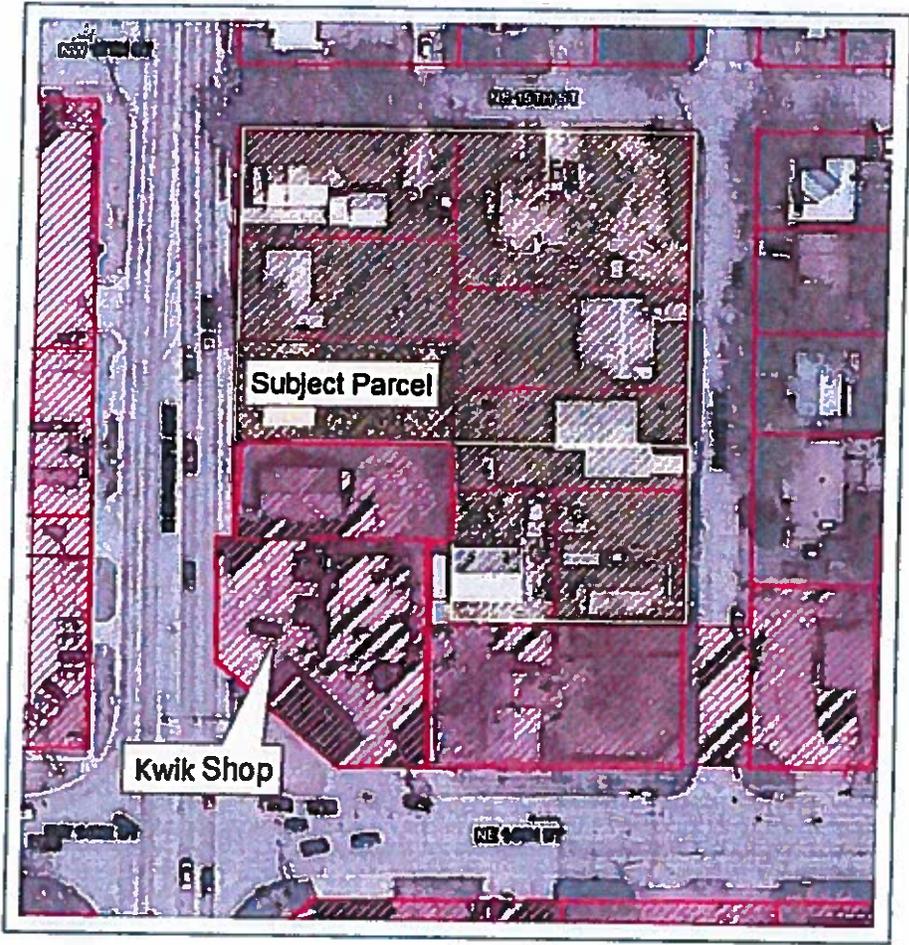
1. This property is currently under contract for purchase by the existing commercial property owned by Kwik Shop located at the Northeast corner of 14<sup>th</sup> Street and Buckeye.
2. Kwik Shop would like to expand and reconfigure their current arrangement to improve access to the property.
3. This property currently abuts a General Commercial District to the South and West.
4. Currently the Comprehensive Plan shows this lot as Low Density Residential Potential.
5. Chapter IX, Section "C" of the Comprehensive Plan states "Future land use plan amendments are anticipated as growth occurs and market conditions change."
6. Adequate buffering, including but not limited to an 8 foot privacy fence, and/or landscape screening between the subject property and the residential property to the North will be required on a submitted site plan through a Conditional Use Permit.
7. The applicant is proposing a reconfiguration of their lot, which may involve additional ingress and egress.
8. Because of item 7 above, the applicant will need to submit a replat of the northeast corner of the intersection of 14<sup>th</sup> Street and Buckeye to include those parcels which are currently under contract.
9. The Planning Commission recommended approval of a similar request in 2011 for the property occupied by Sonic drive in, in which they considered the most intense use for that district that could be placed on that parcel.

#### City Commission Options

1. Approve the rezoning request;
2. Deny the request – The Commission may recommend denial if it is determined that the request constitutes an encroachment of an inappropriate use, or any items as described in Section 24-404;
3. Send the case back to the Planning Commission. In such instance, the Commission must explain specific items they want the Planning Commission to consider based on the items outlined in 24-404.

Staff Report:





Staff Report: