

ORDINANCE NO. 3268

AN ORDINANCE REZONING CERTAIN PROPERTY, GENERALLY DESCRIBED AS 800 N. VAN BUREN STREET, FROM "C-2, RESTRICTED COMMERCIAL DISTRICT" TO "R-3, HIGH DENSITY RESIDENTIAL 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 800 N. Van Buren Street, and as provided in **Exhibit A** as attached hereto, from "C-2, Restricted Commercial District" to R-3, High Density Residential District";

WHEREAS, the Planning Commission conducted a public hearing on March 10, 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 "C-2, Restricted Commercial District" to "R-3, High Density Residential District":

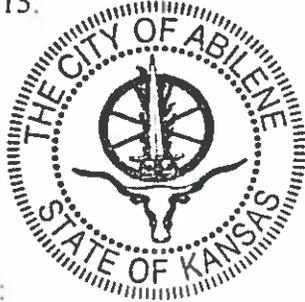
A parcel of land located in the Northeast Quarter of Section 18, Township 13 South, Range 2 East, of the 6th Principal Meridian in the City of Abilene, Dickinson County, Kansas, more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter, thence on an assumed bearing of N 89°58'11"W, along the South line of said Quarter a distance of 284.99 feet to the Point of Beginning of the parcel to be described; thence continuing N 89°58'11"W, along said South line a distance of 120.00 feet; thence N 00°00'00" E, a distance of 172.20 feet; thence N 90°00'00"W, a distance of 60.00 feet; thence N 00°00'00"E, a distance of 192.38 feet; thence S 90°00'00" E, a distance of 404.99 feet; thence S 00°00'00" W, a distance of 324.76 feet; thence N 89°58'11" W, a distance of 224.99 feet; thence S 00°00'00" E, a distance of 40.00 feet to the Point of Beginning, said parcel contains 2.95 acres, more or less, as is subject to easements, reservations, and restrictions of record.

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.

PASSED AND ADOPTED by the Governing Body of the City of Abilene, Kansas this 13th day of April, 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

800 N. Van Buren Street

City of Abilene, Kansas

April 13, 2015

STAFF REPORT

PC 15-1 Rezoning of a parcel of land located in the northeast quarter of Section 18, Township 13 South, Range 2 East of the 6th Principal Meridian, more particularly known as 800 N. Van Buren from "C-2, Restricted Commercial District" to "R-3, High Density Residential District".

GENERAL INFORMATION

Date:	March 5, 2015	
Owner:	Cedar Ridge Estates, LLC.	
Applicant:	Ryan Wedel.	
Requested Action:	Amend the zoning of the property.	
Purpose:	To develop an age restricted residential subdivision.	
Location address:	800 N. Van Buren.	
Comprehensive Plan:	Comprehensive Plan Shows this property as Neighborhood Commercial potential.	
Sites Existing Zoning:	"C-2, Restricted Commercial District".	
Surrounding Zoning and Land Use:	North: "R-3, High Density Residential District"; Residential uses (Cedar Ridge Estates, Phase 1). South: Dickinson County; Undeveloped land. East: "A, Agricultural District"; Residential use. West: "R-3 High Density Residential District"; Undeveloped.	
Land Area:	Contains 27.58 Acres.	
Notice Date:	This project was published and noticed by mail as required by code.	

COMMENTS

1. This property is currently zoned "C-2, Restricted Commercial District", and abuts Cedar Ridge Estates which is currently zoned "R-3, High Density Residential District".
2. The Applicant is applying for a State tax credit which will aid in the funding of age-restricted residential development.
3. On March 10th, the Planning Commission unanimously recommended approval of the rezoning of the parcel as requested.
4. The Planning Commission also approved the Preliminary Plat for Cedar Ridge Estates #2.
5. The Planning Commission will render a recommendation on the Final Plat of this project once the Developer submits engineered plans, and provides necessary surety and performance bond prior to Final Plat approval.

RECOMMENDATION AND FINDINGS

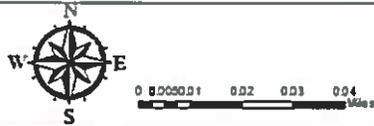
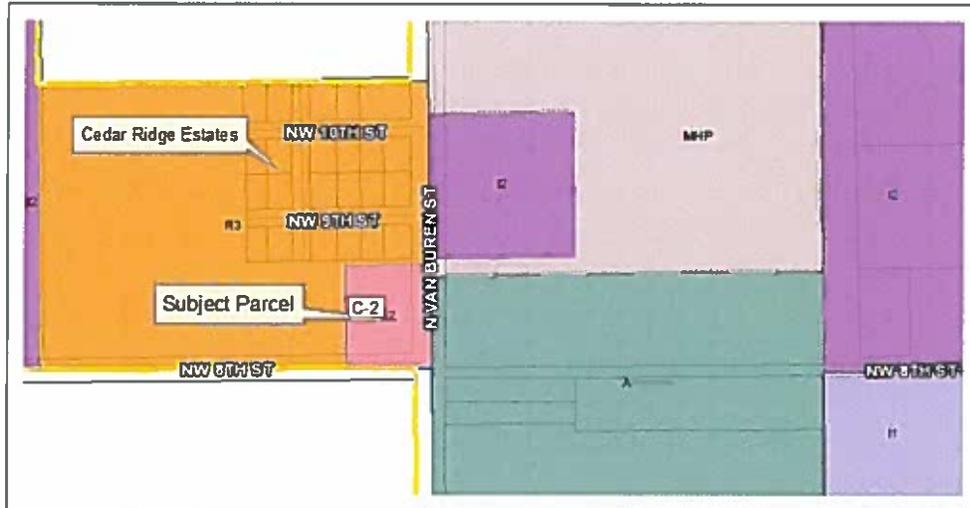
Rezoning: Due to the distance of the proposed development from medical and other facilities frequented by individuals 55 years and older, staff is unable to recommend including this subdivision within the "EH, Elderly Housing Overlay". Therefore all building setbacks must meet the requirements of the "R-3" District. Staff recommends approval of the rezoning to "R-3, High Density Residential District" based on the following considerations outlined in Article 26-108:

- a. A change in District classification may be consistent with the intent and purpose of these regulations.
- b. The surrounding conditions and character of the neighborhood would not have an impact on the proposed development, since residential uses are consistent with this area.
- c. Changed Conditions – Although the future land use map shows this lot as Commercial Potential, the residential development within the surrounding area has increased, with no additional commercial uses in the vicinity over the past 8 years.
- d. Staff is of the opinion that the change in classification from Restricted Commercial to High Density Residential will not have a negative impact on the surrounding area with regard to traffic counts or drainage. However, should a commercial use locate on the subject property (as it is currently zoned), the surrounding area might be impacted by both increased traffic counts and drainage.
- e. Other uses allowed in the proposed district, such as public facilities and churches, may have a similar traffic pattern to the lower intensity Restricted Commercial district. But such uses are already allowed since the surrounding zoning is also R-3.
- f., g., i.& l. The subject property has remained vacant under its current zoning due to market conditions which dictate the location of commercial facilities. Therefore, the subject parcel may be inadequate and unsuitable for a commercial uses. The amount of vacant land available currently zoned R-3 has been developing as residential for several years.
- h. All public utilities are within the vicinity of the subject parcel. Sewer, water and storm sewer will be extended from existing lines located in Cedar Ridge Estates.
- k. Although the Comprehensive Plan shows this parcel as "Neighborhood Commercial Potential", the development in this area since 2007 has been predominantly residential. Therefore the future land use map is outdated, and does not reflect the current trends for the area.

Commission Options:

1. Approve the rezoning with staff findings.
2. Deny the rezoning based on any of the criteria outlined in 26-108.

2. Recommend approval of the rezoning of the subject parcel, and approve the Preliminary plat with conditions or additional changes as deemed necessary by the Commission.
3. Recommend denial of the rezoning of the subject parcel. If this option is chosen, the Preliminary plat is automatically denied.



CITY OF ABILENE, KANSAS

DEVELOPMENT APPROVAL APPLICATION FORM

419 N. Broadway • Abilene, Kansas 67410 • Tel: (785) 263-2550 • 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 checked="" type="checkbox"/> PRELIMINARY PLAT
<input type="checkbox"/> COMPREHENSIVE PLAN AMENDMENT	<input type="checkbox"/> PLANNED DEVELOPMENT
<input type="checkbox"/> CONDITIONAL USE PERMIT	<input checked="" type="checkbox"/> REPLAT
<input type="checkbox"/> DEVELOPMENT CODE AMENDMENT	<input checked="" type="checkbox"/> REZONING / ZONING MAP AMENDMENT
<input checked="" 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 type="checkbox"/> VARIANCE
<input type="checkbox"/> LOT SPLIT	

FOR OFFICIAL USE ONLY

Appr. Number: PL1031

Date Received: 2/06/15

Received by: [Signature]

BRIEF DESCRIPTION OF APPLICATION PURPOSE:

P A

FEB 06 2015
CITY OF ABILENE

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):

Name: Bryan Wedel Tel: 785 550-1429

Business Name: Abilene Housing I, LLC Fax: ()

Address: 4105 Wimbledon Dr.

City: Lawrence State: KS Zip Code: 66047

E-mail: rbwedel@gmail.com

PROPERTY OWNER (If Different from Applicant/Agent):

Name: Cedar Ridge Estates LLC Tel: 785 550-1429

Business Name: Same Fax: ()

Address: 4105 Wimbledon Dr.

City: Lawrence State: KS Zip Code: 66047

E-mail: rbwedel@gmail.com

ENGINEER/ARCHITECT/SURVEYOR:

Name: THAD Reynolds Tel: 785 263-5523

Business Name: Earles Engineering & Inspection Fax: ()

Address: 211 N. Kansas Ave.

City: Liberal State: KS Zip Code: 67901

E-mail: earlesinc@earleseng.com

PROPERTY INFORMATION

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

800 N. Van Buren St., Abilene, KS 67410

PROPERTY TAX IDENTIFICATION

NUMBER: 21141801001002040

ZONING: Existing: C2 B-2 Proposed: R3 R3

LAND USE: Existing: Vacant Proposed: Residential Housing

GROSS SIZE OF PLAT/LOT:

Residential: 2.95 Ac. Commercial: Industrial: Other: Total: 2.95 Ac 128,502 sq. ft.

NUMBER OF LOTS:

Residential: 8 Commercial: Industrial: Other: Total: 8

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: 8 Total Building Area: 93,350
Maximum Height of Buildings or Structures: 30' Total Impervious Area: 22,400

EXISTING PUBLIC FACILITIES:

Table with 4 columns: Public, Private, Other (Describe). Rows include Water Service, Wastewater Service, and Roadway Access.

FLOODPLAIN INFORMATION:

Floodway: Yes No FIRM Map-Panel Number: 20041600706
Floodway Fringe: Yes No Zone: X

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: [Signature] ABILENE HOUSING, LLC Date: 2-3-15

Property Owner Signature: [Signature] CEDAR ROCK ISLANDS, LLC Date: 2-3-15

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

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.

[Signature]
Name

Comm Dev.
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 Mtg 3/10/15 CC Mtg 4/13/15

FEE AMOUNT: \$100.00 DATE FEE PAID: 1/6/15

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.

[Signature]
Name

2/5/15
Title

Signature

Date

DEED BOOK: 236
PAGE: 797



STATE OF KANSAS } ss.
Dickinson County }

001321
Filed for record this

AB 3068 BK 25
114-18-0-10-01-002

APR 14 2006

Entered in Terms for Record
In my office this 14 day of
April 2006
Sam Mark Co. Clerk
Emily Deputy Clerk



at 12 noon
In book 236 page 797
Spade Register of Deeds
WJ Deputy

By Martha Koelling

WARRANTY DEED

THIS INDENTURE, Made this 12th day of April, 2006, between, Timberline Investors, LLC, a Kansas limited liability company and Kelly Dunn Construction, Inc., a Kansas corporation, parties of the first part, and Cedar Ridge Estates, a Kansas limited liability company, party of the second part, LLC

WITNESSETH, That said part of the first part, for and in consideration of the sum of One Dollar and Other Valuable Consideration _____ to it duly paid, the receipt whereof is hereby acknowledged, has sold and by these presents does grant, bargain, sell and convey to said party of the second part, its successors and assigns, all the following described tract, piece, and parcel of land situated in the County of Dickinson and the State of Kansas to wit:

See attached Exhibit A

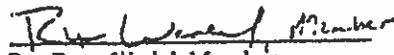
Pursuant to K.S.A. 79-1437e, a
real estate questionnaire is not
required due to Exemption No.

4
with the appurtenances, and all the estate, title and interest of the said parties of the first part therein. And the said party of the first part does hereby covenant and agree that at the delivery hereof it is the lawful owner of the premises above granted, and seized of a good and indefeasible estate of inheritance therein, free and clear of all encumbrances and that it will warrant and defend the same in the quiet and peaceable possession of said parties of the second part, their successors and assigns forever, against all persons lawfully claiming the same.

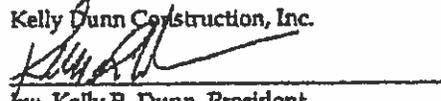
DEED BOOK: 236
PAGE: 798

IN WITNESS WHEREOF, The parties of the first part have caused these presents to be signed by their authorized Member and President, the day and year first above written.

Timberline Investors, LLC


By: Ryan Wedel, Member

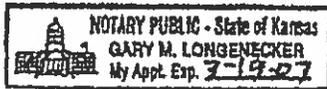
Kelly Dunn Construction, Inc.

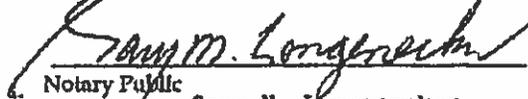

by: Kelly R. Dunn, President

State of Kansas, County of Dickinson, ss.

BE IT REMEMBERED, That on this 12th day of April, 2006, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Ryan Wedel, Member of Timberline Investors, LLC, a Kansas limited liability company, who is personally known to me, or proved to me, to be the authorized member of Timberline Investors, LLC, and the same person who executed the within instrument of writing, and duly acknowledged the execution of the same to be the voluntary act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



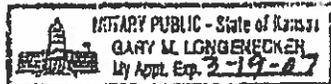

Notary Public
Print Name Gary M. Longenecker

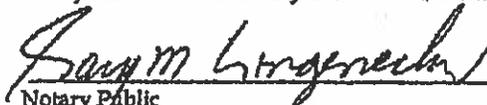
My Commission Expires:

State of Kansas, County of Dickinson, ss.

BE IT REMEMBERED, That on this 12th day of April, 2006, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kelly R. Dunn, President of Kelly Dunn Construction, Inc., a Kansas corporation, who is personally known to me to be, or proved to me to be, the President of Kelly Dunn Construction, Inc., and the same person who executed the within instrument of writing, and duly acknowledged the execution of the same to be the voluntary act and deed of said corporation

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.




Notary Public
Print Name Gary M. Longenecker

My Commission Expires:

DEED BOOK: 236
 PAGE: 799

Exhibit A

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION EIGHTEEN (18), TOWNSHIP THIRTEEN (13) SOUTH, RANGE TWO (2) EAST OF THE 6TH PRINCIPAL MERIDIAN IN CITY OF ABILENE, DICKINSON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE ON AN ASSUMED BEARING OF N00°00'00"E ALONG SAID EAST LINE A DISTANCE OF 40.00 FEET; THENCE N89°58'11"W A DISTANCE OF 60.00 FEET TO THE INTERSECTION OF THE WEST RIGHT-OF-WAY OF VAN BUREN STREET AND THE NORTH RIGHT-OF-WAY LINE OF THE NORTHWEST EIGHTH STREET, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE PARCEL TO BE DESCRIBED; THENCE N89°58'11"W ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 1265.91 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF SAID NORTHEAST QUARTER; THENCE N00°05'27"E ALONG SAID WEST LINE A DISTANCE OF 949.86 FEET; THENCE S89°57'15"E A DISTANCE OF 1264.44 FEET TO A POINT ON SAID WEST RIGHT-OF-WAY LINE; THENCE S00°00'00"E ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 949.52 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINS 27.58 ACRES, MORE OR LESS, AND IS SUBJECT TO EASEMENT, RESERVATIONS AND RESTRICTIONS OF RECORD.