

ORDINANCE NO. 3276

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR 102 HIGHLAND DRIVE, AT THE REQUEST OF SCOTT AND CHRIS OSTERMANN, CONCERNING THE OPERATION OF A BED AND BREAKFAST INN IN AN "R-1, LOW DENSITY RESIDENTIAL DISTRICT" OF THE CITY OF ABILENE, KANSAS

WHEREAS, the property owners of record have requested the City consider a Conditional Use Permit to allow for the operation of a bed and breakfast inn at property generally described as 102 Highland Drive in Abilene, Kansas, as provided in **Exhibit A** as attached hereto;

WHEREAS, the Planning Commission conducted a public hearing on June 9, 2015, and comments were received from the public both in support of and in opposition to the proposed Conditional Use Permit; and

WHEREAS, the Planning Commission recommended the Governing Body approve a Conditional Use Permit allowing the operation of a bed and breakfast inn at the aforementioned address.

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

SECTION ONE. Findings of Fact. That the Findings of Fact, as provided in the Staff Report attached hereto, are hereby accepted and approved by the City Commission.

SECTION TWO. Conditional Use Permit. That a Conditional Use Permit is hereby granted to Flint Hills Grain, LLC. for the construction of a grain storage bin as generally provided in the Conditional Use Permit application, as attached hereto on property legally described as follows:

A TRACT OF LAND IN THE NORTHWEST 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 ON THE NORTH LINE OF SAID SECTION 16, 40 FEET WEST OF THE NORTHEAST CORNER OF SAID NORTHWEST CORNER; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID QUARTER SECTION 200.0 FEET; THENCE WEST 150.0 FEET; THENCE NORTH 200.0 FEET TO THE NORTH LINE OF SAID SECTION 16; THENCE EAST OF THE NORTH LINE OF SAID SECTION 16, 150.0 FEET TO THE POINT OF BEGINNING, EXCEPT THAT PART DEEDED FOR PUBLIC HIGHWAY PURPOSES.

SECTION THREE. Permit Conditions, Approval. Per Section 26-110, the Planning Commission may impose, and City Commission may approve, reasonable conditions on approval of a Conditional Use

Permit. Additional conditions for this permit are approved as provided in the Staff Report as attached hereto.

SECTION FOUR. Implementation. The City Manager, or designee, is hereby authorized to issue a Conditional Use Permit once all conditions have been reasonably met.

SECTION FIVE. 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 July, 2015.



CITY OF ABILENE, KANSAS

By: Dennis P. Weishaar
Dennis P. Weishaar, Mayor

ATTEST
Penny Soukup, CMC
Penny Soukup, CMC

APPROVED AS TO FORM:

Mark Guilfoyle
Mark Guilfoyle, P.A.
City Attorney

EXHIBIT A

Conditional Use Permit Application

and

Staff Report

for

102 Highland Drive

City of Abilene, Kansas

July 13, 2015

STAFF REPORT

PC 15-5 Consideration of a Conditional Use Permit for 102 Highland Drive to become a bed and breakfast inn.

GENERAL INFORMATION

Date: June 2, 2015
Owner: Scott and Christine Ostermann
Applicant: Chris Ostermann
Requested Action: Consideration of a Conditional Use Permit
Purpose: To allow a single family home to be converted into a Bed and Breakfast
Location address: 102 Highland Drive
Comprehensive Plan: The Comprehensive Plan shows this address as "Low Density Residential."
Sites Existing Zoning: "R-1 – Low Density Residential"
Surrounding Zoning and Land Use:
North C-3 Commercial
South R-1 Low Density Residential
East C-3 Commercial
West R-1 Low Density Residential
Land Area: The site contains approximately 0.5 acres
Notice Date: The proposal was published in the official newspaper on May 19, 2015 and noticed by mail as required by the Zoning Regulations.

COMMENTS

- **Departmental Comments:** No comments have been received at the time of writing this report: June 3, 2015 at 10:15 am.
- **Public Comments:** No comments have been received at the time of writing this report: June 3, 2015 at 10:15 am.

Recommendation and Findings

Staff is recommending approval of the Conditional Use permit with the following findings as outlined in Article 26-110:

- Consistency with intent and purpose of the zoning regulations** – The proposal is interpreted as being consistent with the intent and purpose of the zoning regulations since bed and breakfast inns are allowed as a conditional use in the "R-1, Low Density Residential District." There are also several single family dwellings located in such zoning districts throughout Abilene that are operating as bed and breakfast inns.
- Compatibility of proposed use with surrounding uses** – A bed and breakfast inn is a compatible use for the existing uses surrounding the property as the surrounding uses are commercial and low density residential in nature. Bed and breakfast inns do not deviate much from these currently existing uses.
- Public infrastructure** – The use will not have an adverse impact on public water or sewer as these services are already existing and provide sufficient capacity to meet the demand that would be needed for the proposed use. Generally, a bed and breakfast inn does not use more utility services than a standard single family residence. Access to the site is provided off of Highland Drive, which also includes the availability of parking for the site sufficient for the proposed use.

- d. Necessity of the proposal due to changes in the affected area – There are no changes in the affected area that are a driving factor to cause this change.
- e. Length of time the property has remained vacant – Not applicable.
- f. Compatibility of the subject property for the proposed use – Staff is of the opinion that the property is compatible with the proposed use. The property has been used as a residence before the proposal for a bed and breakfast inn. In addition, the structure is of sufficient size to accommodate visitors with little to no adverse impact on the surrounding neighborhood.
- g. Whether the Comprehensive Plan is furthered and supported by this proposal – The Comprehensive Plan is both furthered and supported by the proposal. While the Comprehensive Plan does not anticipate the proposed site as commercial, the Comprehensive Plan does make note of the importance of tourism to the local economy. In Chapter 6, the Comprehensive Plan briefly discusses the various tourism attractions in Abilene. One could reasonably understand the need for increased temporary living venues such as hotel/motels and bed and breakfast inns. Adding to the available lodging and event space in the City of Abilene can also help other local businesses by providing meeting space and lodging for business visitors.
- h. Adverse impacts on adjacent properties if all conditions placed upon the request are met –
- i. Traffic Congestion: The use will not likely generate traffic in levels that exceed most single family uses. Therefore the impact on the neighborhood is expected to be minimal.
 - ii. Noise: Bed and breakfast facilities do not usually create any additional noise beyond that generated by a single family residence. Therefore the impact on the neighborhood is expected to be minimal.
 - iii. Parking: On-street parking along the north side of Highland Drive is currently available. Also, the applicants have advised they would like to create a parking lot on the property. If this parking lot is created, it will need to adhere to Article 22-305 of the Zoning Regulations, which states as follows:

“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. An exception to the surfacing requirements may be granted by the Board of Zoning Appeals in instances where the off-street areas take access from a graveled public street.

Gravel areas in existence prior to the effective date of these regulations may be maintained with six (6) inches of gravel, including base, as an alternative to these surfacing requirements.

The Zoning Administrator may, upon receiving a specific written request from an owner of a property, authorize temporary occupancy for a time period not to exceed twelve (12) months prior to accomplishing the required paving or a portion thereof. In reviewing a request for temporary occupancy prior to accomplishing required paving, the Zoning Administrator shall consider the following criteria:

- a. *Season of the year.*
- b. *Effect on the adjoining property.*
- c. *Surfacing of the connecting street.*
- d. *Surfacing of existing adjoining parking facilities.*

Should the owner receive approval of the Zoning Administrator for a delay in paving, the owner shall, prior to occupancy, present written verification to the Zoning

Administrator that guarantees all paving shall be complete prior to the deadline given by the Zoning Administrator."

- iv. **Signage:** The applicant will be required to adhere to Article 27 of the Zoning Regulations if the applicant plans to install a sign within the corporate limits of Abilene.
- v. **Safety:** Bed and breakfast facilities generally do not represent a change in the occupancy and do not require alterations to the structure for health or safety reasons. However, it is prudent to take reasonable actions to ensure that adequate fire alarms, doors and entryways are in place. A bed and breakfast does not generally pose a greater threat to neighboring properties than existing residential uses.
- i. **Solid waste disposal facilities** – Not Applicable.
- j. **Other items for consideration** – In evaluating individual Conditional Use Permit applications, the Planning Commission may also consider the occurrence of similar land use patterns throughout the City.

Planning Commission Options:

1. Recommend approval of the Conditional Use permit. If this option is chosen, the following conditions of approval are strongly recommended:
 - a. All relevant local, state and federal regulations will be followed to include permitted signage and occupancy certificates.
 - b. Approval must be obtained from the Kansas Department of Transportation and the City of Abilene if the applicant desires to create an entrance off of Buckeye Avenue.
 - c. Any significant change in use or physical alteration of the land or structures may require a review of this Conditional Use Permit, as determined by the Zoning Administrator.
 - d. The applicant must adhere to the maximum occupancy limit for their event space as set forth by the Zoning Regulations and City Code at the time of approval.
 - e. Any parking created on the property shall adhere to Article 22-305 and any parking stall requirements as established by City Code at the time of approval.
2. Recommend denial of the Conditional Use Permit.
3. Table for further information.

June 9 meeting P/C
Application (Reference) by
Mon 12

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 type="checkbox"/> PRELIMINARY PLAT |
| <input type="checkbox"/> COMPREHENSIVE PLAN AMENDMENT | <input type="checkbox"/> PLANNED DEVELOPMENT |
| <input checked="" 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 type="checkbox"/> VARIANCE |
| <input type="checkbox"/> LOT SPLIT | |

FOR OFFICIAL USE ONLY

Appn Number: PC15-5
Date Received: 5/6/15
Received By: T.H.

BRIEF DESCRIPTION OF APPLICATION PURPOSE:

Small bed and breakfast with the usage
of a small cement space

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):

Name: Chris Ostermann Tel: 785 479-3749
Business Name: THE ENGLE HOUSE Fax: ()
Address: 102 Highland
City: Abilene State: KS Zip Code: 67410
E-mail: scott007@att.net

PROPERTY OWNER (If Different from Applicant/Agent):

Name: Scott and Christine Ostermann Tel: 785 479-7053
Business Name: Fax: ()
Address: 415 Brice Ct
City: Abilene State: KS Zip Code: 67410
E-mail: scott007@att.net

ENGINEER/ARCHITECT/SURVEYOR:

Name: LANDMARK SURVEYING & MAPPING, INC Tel: 785 263-2625
Business Name: Fax: ()
Address: 102 S Van Buren St
City: Abilene State: KS Zip Code: 67410
E-mail:

PROPERTY INFORMATION

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

102 Highland Ave, Abilene TX @ Buckeye and

PROPERTY TAX IDENTIFICATION NUMBER:

02111 5160 2001001000 Highland

ZONING:

Existing: R-1

Proposed: NX

LAND USE:

Existing: Residential

Proposed:

GROSS SIZE OF PLAT/LOT:

Residential: 22,500 SA feet Commercial: Industrial: Other: Total:

NUMBER OF LOTS:

Residential: 1 Commercial: Industrial: Other: Total:

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: 2 Maximum Height of Buildings or Structures: 40 ft

Total Building Area: 2100 sq ft Total Impervious Area: - 1st flr

EXISTING PUBLIC FACILITIES:

Public Private Other (Describe)

Water Service: Wastewater Service: Roadway Access: [checkboxes]

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?

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.

Chris Osiermann Applicant Signature

05/05/2015 Date

Scott Oster Property Owner Signature

05/05/2015 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
- 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.

David B. Dillner
Name

City Manager
Title

David B. Dillner
Signature

5/6/15
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): June 9/ P/C July 13th / CC

FEE AMOUNT: \$ 100 DATE FEE PAID: 5/6/15

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.

David B. Dillner
Name

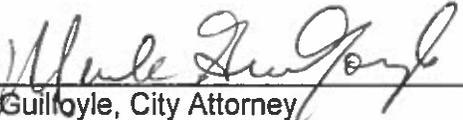
City Manager
Title

David B. Dillner
Signature

5/6/15
Date

Summary of Ordinance No. 3276

On July 13, 2015, the City of Abilene, Kansas, adopted Ordinance No. 3276, An Ordinance approving a conditional use permit for 102 Highland Drive, at the request of Scott and Chris Ostermann, concerning the operation of a bed and breakfast inn in an "R-1, low density residential district" of the City of Abilene, Kansas. A complete copy of this ordinance is available online at www.abilenecityhall.com or during normal business hours at City Hall, located at 419 N. Broadway Street in Abilene, Kansas. Questions pertaining to this ordinance may be directed to City Attorney Mark Guilfoyle at (785) 263-3070 or City Manager David Dillner at (785) 263-2550. This summary has been reviewed and certified by Mark Guilfoyle, P.A., City Attorney.



Mark Guilfoyle, City Attorney