

ORDINANCE NO. 3337

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR 301 and 307 AUGUSTINE AVENUE, AT THE REQUEST OF AGRISOLUTIONS, LLC, TO OPERATE A SEED SALES BUSINESS IN THE LIGHT INDUSTRIAL (I-1) ZONING DISTRICT

WHEREAS, the applicant has requested the City consider a Conditional Use Permit to allow a seed sales business on the properties addressed 301 and 307 Augustine Avenue in Abilene, Kansas;

WHEREAS, the Planning Commission conducted a public hearings on September 12, 2017 to receive comments from the public; and

WHEREAS, the Planning Commission recommended (4-0) the Governing Body approve a Conditional Use Permit allowing the seed sales business 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:

1. In the event that the business operations expand to include processing activities, the business owner must consult with the Zoning Administrator to determine if the change of use requires the amendment of this Conditional Use Permit; and
2. The permit is valid until such time as the business ceases to operate at this location.

SECTION TWO. 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. The following conditions for this permit are approved:

1. The proposed seed sales business operations and scale will not present a nuisance on neighboring uses, provided the conditions are met.
2. The site has a full range of services in sufficient capacity to serve the use without hampering the existing level of service in the neighborhood.

SECTION FOUR. Implementation. The Community Development Director, or designee, is hereby authorized to ensure 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 25th day of September, 2017.



CITY OF ABILENE, KANSAS

By:



Timothy Shafer, Mayor

ATTEST:


Penny Soukup, CMC
City Clerk

APPROVED AS TO FORM:


Mark A. Guilfoyle, City Attorney

PC 17-14: STAFF REPORT

PC 17-14: A request for a Conditional Use Permit to operate a Seed Sales Business in the Light Industrial District (I-1) Zoning District, located at 301 & 307 Augustine Avenue.

GENERAL INFORMATION

Date:	September 12, 2017
Owner:	Whitehair Family, LLC & JG Standard, LLC
Applicant:	Anthony Whitehair, owner of AgriSolutions, LLC
Requested Action:	Conditional Use Permit
Purpose:	Allow a seed sales operation
Location address:	301 & 307 Augustine Avenue
Comprehensive Plan:	Not Addressed
Sites Existing Zoning:	I-1, Light Industrial
Surrounding Zoning and Land Use:	North: I-1 & C-3, Westar yard, RV Campground, Junkyard South: County, agriculture West: County, agriculture and residence East: C-3, towing service, vehicle storage, residence
Land Area:	2.1 ac (307 Augustine) & 0.8 ac (301 Augustine)
Notice Date:	August 21, 2017

Background

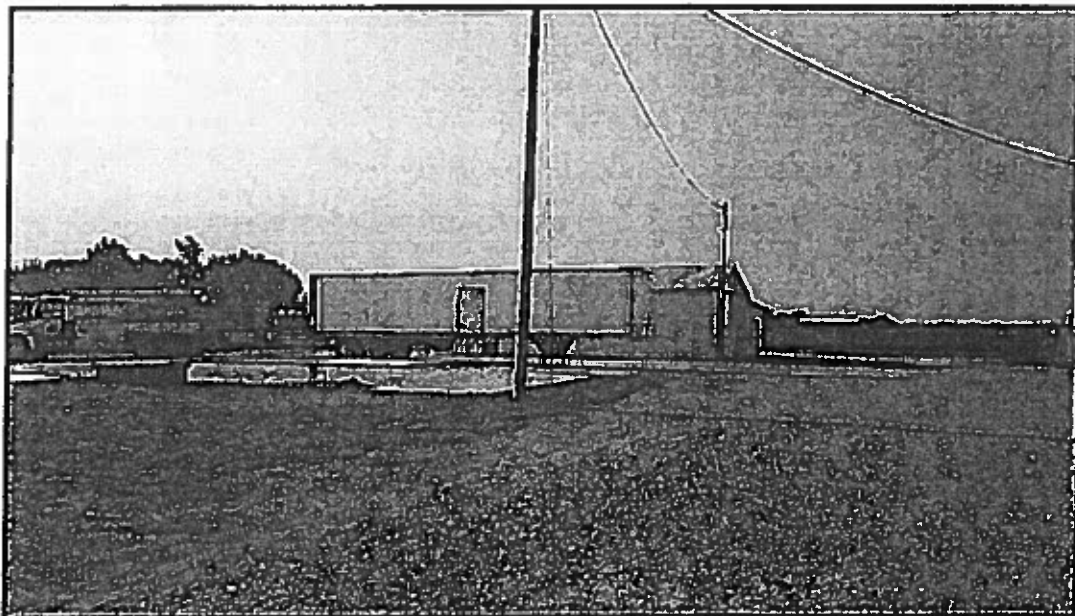
The property is zoned Light Industrial (I-1) and has had a number of storage and manufacturing uses over the years. The property is in the 100-year floodplain. Earlier this year the property sold and the new owner signed a lease with two businesses. One is a small seed sales business and the other is a used oil collector and transporter. The seed sales business is operated by 2 people and the site is primarily for storage and sorting. The seed is entirely contained in the building and there are the occasional truck entering the property. Parts of the operation are conducted on 301 and 307 Augustine.

The zoning ordinance does not address the scale of the use and the nearest land use classification is "Feed and seed stores, grain elevators", which requires a Conditional Use Permit in the I-1 zoning district. As such, the operator was notified and a CUP has been applied for. When coupled with the application to rezone 307 Augustine to Heavy Industrial (I-2), this application would be moot if the rezoning is approved since the use would be permitted by right in the I-2 district.

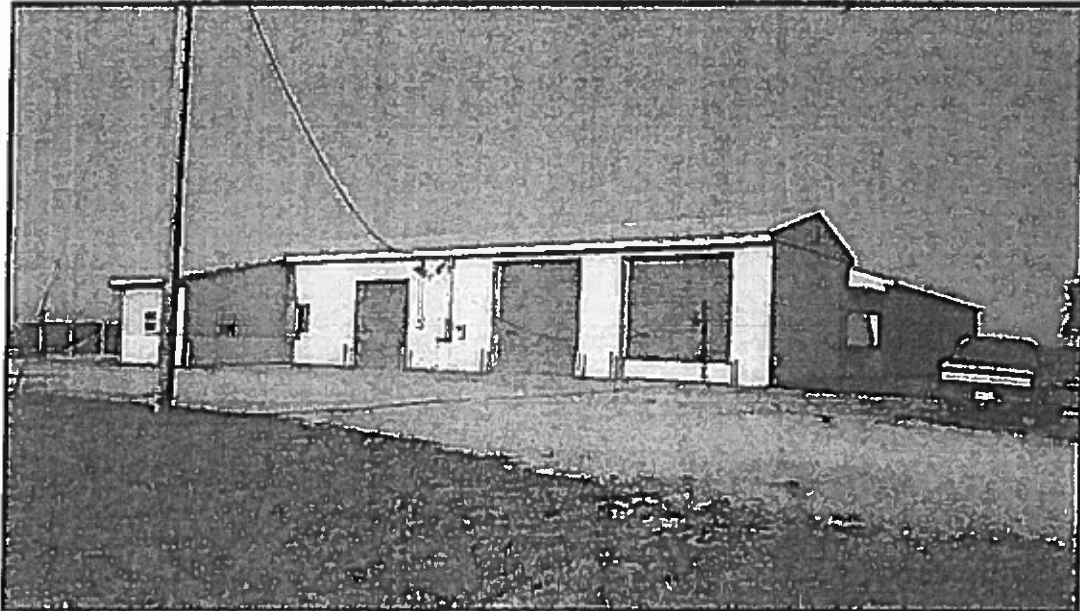
Ariel Photo



301 Augustine from Augustine Avenue



307 Augustine from Augustine Avenue



Comments

Departmental Comments: None have been received as of September 5, 2017.

Citizen Comments: A property owner to the north brought the use of the property to the City's attention and in general believes that the codes are not being enforced. He has also complained about truck traffic in general to and from the site. A manufacturing business owner located to the east on Buckeye has expressed that he is fine with the proposal.

Guidelines and Review

The Conditional Use Permit (CUP) review guidelines are spelled out in Section 26-110 of the zoning regulation and will serve as the basis for this review.

- a. **Whether approval of the conditional use would be consistent with the intent and purpose of these regulations.**

Although the zoning regulations do not adequately address the scale of businesses, it is the intent of the Light Industrial (I-1) zoning district to allow industries the produce, store, and ship finished goods. It is not the intent of the district to allow obnoxious industrial activities that generate excessive noise, glare, dust, odor, or intensive lot coverage. This seed distribution business characteristics clearly fall within the intent of the district and is not obnoxious to neighboring uses, which are primarily industrial.

- b. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood.**

Apart from home located in the County to the west and the isolated home on Buckeye Avenue, all adjacent uses of industrial in nature (Westar, towing service, etc...). Therefore the seed sales and distribution use is compatible with the neighborhood.

- 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 use demands minimal public facilities or services and has no effect on service delivery.

- d. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected.**

There have been no significant changes in the neighborhood that would either make this proposed use desirable or inappropriate.

- e. The length of time the subject property has remained vacant or undeveloped as zoned;**

The property hasn't been vacant.

- f. Whether the applicant's property is suitable for the proposed conditional use.**

The physical property is suitable for the proposed use and has been used for various industrial uses for many years.

- 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 does not directly address this particular land use.

- 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.**

As noted above, the use is compatible with neighboring uses and it's operating characteristics warrant few conditions, if any, provided the scale remains modest and grain processing doesn't occur.

- 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.**

Non-applicable.

- k. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.**

See recommendation.

Recommendation

Staff is recommending approval of the CUP for a seed sales business at 301 and 307 Augustine with the following conditions.

- 1. In the event that the business operations expand to include processing activities, the business owner must consult with the Zoning Administrator to determine if the change of use requires the amendment of this Conditional Use Permit; and
- 2. The permit is valid until such time as the business ceases to operate at this location.

Finding

- 1. The proposed seed sales business operations and scale will not present a nuisance on neighboring uses, provided the conditions are met.
- 2. The site has a full range of services in sufficient capacity to serve the use without hampering the existing level of service in the neighborhood.

In reviewing the ordinance for both this application and the zoning change for 307 Augustine, staff noted that the zoning ordinance treats uses the same regardless of the scale of the use. Therefore, this seed sales businesses is treated in the same manner as large scale grain storage (Flint Hills Grain, for example) and small scale oil collection and transfer facilities the same as large-scale storage of highly flammable liquids, such as a petroleum storage and distribution centers. In staff's opinion this defect should be investigated and propose language to make development approval requirements more appropriate to the scale of uses.

Planning Commission Options

1. Recommend approval of the Conditional Use Permit with the conditions as recommended by staff with findings;
2. Recommend approval of the Conditional Use Permit with conditions as proposed by the Planning Commission with findings;
3. Recommend denial of the Conditional Use Permit with findings; or
4. Table the item with a request for specific information.