

ORDINANCE NO. 3313

AN ORDINANCE REZONING CERTAIN PROPERTY, GENERALLY DESCRIBED AS 125 N. ELM STREET, FROM "R-3, HIGH DENSITY RESIDENTIAL DISTRICT" TO "I-1, LIGHT INDUSTRIAL 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 125 N. Elm Street, and as provided in Exhibit A as attached hereto, from "R-3, High Density Residential District" to "I-1, Light Industrial District";

WHEREAS, the Planning Commission conducted a public hearing on November 6, 2016, 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-3, High Density Residential District" to "I-1, Light Industrial District":

The West 100.0 feet of the following tract of ground, to wit:

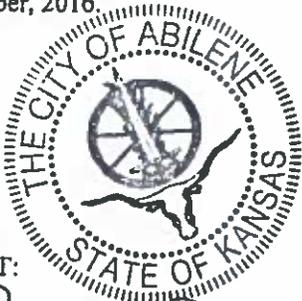
A tract of land in Abilene, Dickinson County, Kansas commencing at a point in the East line of Elm Street that is 50.0 feet North of the centerline of the main track of the Union Pacific Railroad Company and in the North right-of-way line of said railroad as originally established; thence North 75.0 feet, more or less, along the East side of Elm Street to the Southwest corner of the East and West alley which is the Northwest corner of Fractional Lot 9 lying between Elm Street and Walnut Street on the North side of the Union Pacific Railroad in Thompson and McCoy's Addition to Abilene, Kansas; thence East along the South line of the alley to the East end of Fractional Lot 1 according to the recorded plat; thence South to a point 50.0 feet North of the centerline of the main track of said Union Pacific Railroad Company and in the North right-of-way line as originally established; thence westerly along a line 50.0 feet from and parallel to the centerline of the main track of the Union Pacific Railroad to the point of beginning, being all of Fractional Lots 1, 3, 5, 7, and 9 lying between Elm Street and Walnut Street and between North Second Street and the right-of-way of the Union Pacific Railroad Company, Thompson and McCoy's Addition to Abilene, Kansas, and also all of the vacated street contiguous on the South of said Lots 1, 3, 5, 7, and 9.

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

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 12th day of December, 2016.



CITY OF ABILENE, KANSAS

By: Dee Marshall
Dee Marshall, Mayor

ATTEST:

Penny Soukup, CMC
Penny Soukup, CMC

APPROVED AS TO FORM:

Aaron O. Martin
Aaron O. Martin, City Attorney

EXHIBIT A

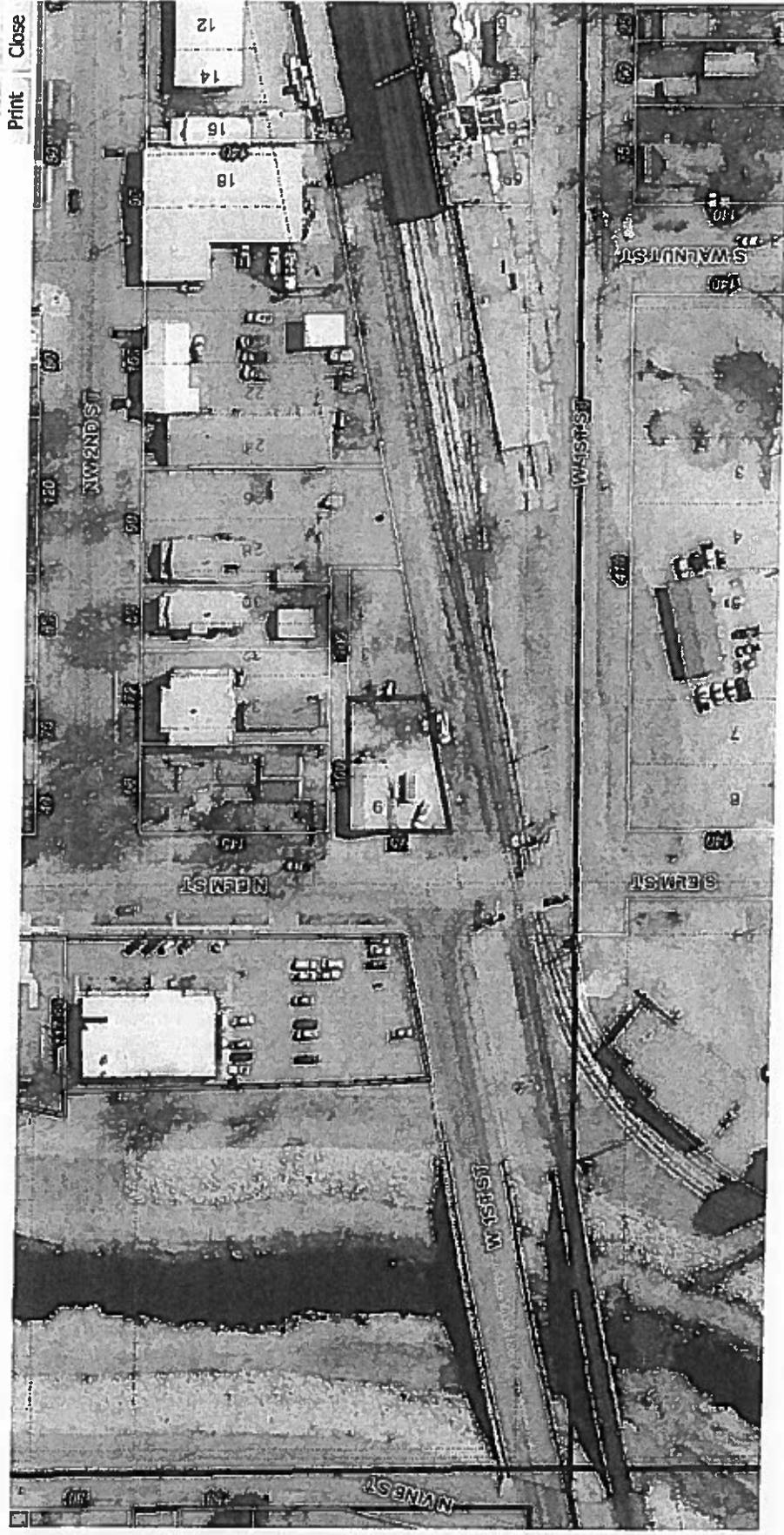
Rezoning Map and Application

for

125 N. Elm Street

December 12, 2016

Dickinson County Property Data - 0211151603045006000



STAFF REPORT

PC 16-9 Rezoning of 125 North Elm St. from "R-3" High Density Residential District" to "I-1" Light Industrial District" at the request of Jon S. Koffman

Date:	November 8, 2016
Owner:	Jon S. Koffman
Applicant:	Jon S. Koffman
Requested Action:	Amend the zoning of the property to "I-1" Light Industrial District.
Purpose:	To allow a legally conforming use.
Location address:	125 North Elm Street, Abilene Kansas
Comprehensive Plan:	Comprehensive Plan Future Land Use Map # 7 Shows this property as Industrial District.
Sites Existing Zoning:	"R-3", High Density Residential District".
Surrounding Zoning and Land Use:	North: "R-3, High Density Residential District" South: "I-1, Light Industrial District" East: "C-4, Central Business District" West: "R-3, High Density Residential District"; Residential with a mix
Land Area:	Contains 0.82 Acres
Notice Date:	This project was published and noticed by mail as required by code on October 18, 2016.

COMMENTS & FINDINGS

1. This property has been used as a business for more than twelve years as an electric service company.
2. The Applicant wants to re-zone it to "I-1" Light Industrial District use on the property to make the property a legal conforming use. It is presently a legally nonconforming use as an "R-3, High Density Residential" property.
3. The current property owner made a similar request in December 2004 to request the property from the City's then "R-3, General Residential District" to "I-1, Light Industrial District." The Planning Commission at that time recommended denial of the rezoning request after making findings that the proposed rezoning would "constitute an intrusion of industrial uses into a residential area, which would allow incompatible uses into the neighborhood." The rezoning request was withdrawn from consideration on December 20, 2004, after a determination by the City that the property was a legally nonconforming use.
4. The current use of the property has been in effect for at least twelve years with little to no affect on the surrounding neighborhood. With that said, rezoning the property to "I-1, Light Industrial" would allow several land uses to be permitted by right on the property should the business relocate or close in the future. Not all land uses in the aforementioned district would be considered compatible with the existing residential uses. Examples of such potential uses may include: automobile and truck wrecking or salvage yards, junk yards, and scrap processing yards, light manufacturing, processing or fabrication operations, and machine shops.

Recommendation and Findings:

Staff is recommending *approval* of the rezoning request with the following findings as outlined in Article 26-110:

- a) **Consistency with intent and purpose of the zoning regulations** – In general, this proposal is consistent with the intent and purpose as outlined in Article 1 of the regulations.
- b) **Compatibility of proposed use with surrounding uses** – The property is surrounded by high density residential development to the north. The present use of the property does not affect the residential neighborhood, although future uses of the property may create circumstances that may create difficulties for the neighborhood. This scenario is unlikely as long as the business continues to operate at the site.
- c) **Public infrastructure** – The site has adequate infrastructure to serve the site in its present use and should have sufficient access to public infrastructure for any future use in the proposed district.
- d) **Necessity of the proposal due to changes in the affected area** – The area has not changed greatly over the last decade, and there is little expectation that it will change much in the future.
- e) **Length of time the property has remained vacant** – The property has been occupied as an electric business for at least the last twelve years.
- f) **Compatibility of the subject property for the proposed use** – At 0.82 acres, the subject property is fairly small in size, which would effectively limit future uses of the property should it be rezoned. The property is surrounded by development to the north and railroad tracks to the south. There is a smaller tract available to the east of the property, but large scale development will not be able to fit on both of these two lots if they were to be combined.
- g) **Whether the Comprehensive Plan is furthered and supported by this proposal** – Although the property is currently designated as “R-3, High Density Residential District” on the Future Land Use Map, the proposed request of this existing property may not be inconsistent with the spirit and intent of the Comprehensive Plan. Chapter 9, Section C, states: *“Future Land Use Plan amendments are anticipated as growth occurs and market conditions change.”*
- h) **Adverse impacts on adjacent properties if all conditions placed upon the request are met** – The City would not be able to impose conditions on the property since the request is to rezone the property to a district where the current use would be permitted by right.
- i) **Solid Waste disposal facilities** – Not Applicable

- j) **Other items for consideration** – In evaluating individual re-zoning applications, the Planning Commission may also consider the occurrence of similar land use patterns throughout the City. The subject area and its land use pattern, while not ideal, are by no means unique. There are a number of lots within Abilene containing Industrial District uses (or other commercial uses) located adjacent to, or within proximity of residential land and zones.

Planning Commission Options:

1. Recommend approval of the rezoning request.
2. Recommend denial of the rezoning request, with findings justifying the recommended denial; or
3. Table for further information. The Planning Commission will need to specify the information they require to aid in their decision making process.

CITY OF ABILENE
PLANNING COMMISSION
MEETING MINUTES

November 8, 2016
Meeting at 4:30 p.m.
Abilene Public Library
209 NW 4th Street

Members Present: Gene Bielefeld, Rod Boyd, Kyle Campbell, Steven Olson (Vice-Chair) and Travis Sawyer (Chair)

Members Absent: Michelle Stephens and Tom Canfield

Staff Present: David Dillner, City Manager and Jennie Hiatt, CD Administrative Assistant

Others Present: Jon Koffman

Call to Order & Roll Call.

Chair Sawyer called the meeting to order.

Hiatt took roll call with four of the seven Commissioners present.

Approval of Agenda.

Bielefeld made a motion to approve the agenda as written. The motion was seconded by Olson. The motion passed unanimously. (4-0)

Approval of Meeting Minutes – October 11, 2016.

Boyd made a motion to approve the minutes as written. The motion was seconded by Olson. The motion passed unanimously. (4-0)

Business.

1. **Public Hearing, PC 16-9**, a request by Jon Koffman, Koffman Electric Service, Inc. for a zoning change from High Density Residential (R-3) to Light Industrial District (I-1) for the property addressed 125 N. Elm Street, Abilene, KS.

Campbell arrived to the meeting at 4:34 pm.

Sawyer confirmed that the applicant was present.

Dillner presented the staff report.

Campbell asked about when Koffman came before the Planning Commission in 2004.

Dillner said that it was decided that they were already under a legal non-conforming use, so there was no need to rezone at the time.

There was discussion.

Sawyer asked the applicant if he had any comments.

Koffman stated that he's not able to expand his business under the current zoning and that he would like to purchase the land to the east that is currently owned by the City of Abilene.

There was continued discussion.

Sawyer opened up the public hearing and seeing that there wasn't any public to comment he then closed the public hearing.

Campbell stated that the property is already compatible with the current use and there haven't been any issues.

There was brief discussion.

Campbell made a motion to recommend approval with staff findings to the City Commission. The motion was seconded by Boyd. The motion passed unanimously. (5-0)

Hiatt stated that PC 16-9 would go before the City Commission on December 12, 2016.

Comments.

The next regular scheduled meeting is on *December 13, 2016*.

Adjournment.

Olson made a motion to adjourn the meeting. The motion was seconded by Bielefeld. The motion passed unanimously (5-0) and the meeting was adjourned.

Minutes Submitted,

David B. Dillner
City Manager

Minutes Approved,

Travis Sawyer, Chair or
Steven Olson, Vice-Chair