

**ORDINANCE NO. 3323**

**AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR 109 S. ELM STREET, AT THE REQUEST OF FLINT HILLS GRAIN, LLC, CONCERNING THE CONSTRUCTION OF TWO GRAIN BINS IN THE "I1", LIGHT INDUSTRIAL 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 construction of two grain storage bins at property generally described as 109 S. Elm Street in Abilene, Kansas, as provided in **Staff Report** as attached hereto;

**WHEREAS**, the Planning Commission conducted a public hearing on April 11, 2017 and comments were received from the public both in support of the proposed Conditional Use Permit; and

**WHEREAS**, the Planning Commission recommended the Governing Body approve a Conditional Use Permit allowing Flint Hills Grain, LLC to construct two grain storage bins at the aforementioned address.

**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. The proposed new bins would have a minimal impact on the neighborhood due to it's location and mechanical measures to minimize noise, dust, and chaff.
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.
3. The physical attributes of the property are appropriate for the improvements.

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

Legal Description:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUART OF SECTION 21, AND IN THE NORTHEAST QUARTER OF SECTION 20, BOTH IN TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE 6TH PRINCIPAL MERIDIAN, DICKINSON COUNTY, KANSAS, AND ALSO PARTS OF BLOCKS 6, 7, 8, 9 AND 10, ORIGINAL TOWN OF ABILENE, DICKINSON COUNTY, KANSAS, ACCORDING TO THE RECORDED PLAT THEREOF, BEING PART OF THE TRACTS DESCRIBED IN THE WARRANTY DEED RECORDED IN BOOK 217 AT PAGE 696, AND PART OF TRACTS DESCRIBED BY THE QUITCLAIM DEED RECORDED IN BOOK 208 AT PAGE 694, BOTH OF THE DICKINSON COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 21; THENCE ALONG THE WEST LINE OF VACATED VINE STREET AND THE WEST LINE OF SAID SECTION 21, SOUTH 00°01'52" WEST, 562.04 FEET TO A POINT ON THE EASTERLY LINE OF THE FLOOD CONTROL RIGHT-OF-WAY, AS DESCRIBED IN MISC. BOOK 136 AT PAGE 576 IF THE DICKINSON COUNTY RECORDS, THE POINT OF BEGINNING, MARKED WITH 1/2" BAR AND

CAP: THENCE ALONG SAID FLOOD CONTROL RIGHT-OF WAY, NORTH 89°19'38" WEST, 20.46 FEET TO A 1/2 " BAR; THENCE ALONG SAID FLOOD CONTROL RIGHT-OF-WAY LINE AND ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A CHORD BEARING SOUTH 52°16'47" WEST, A DELTA ANGLE OF 35°37'52", A RADIUS OF 362.42 FEET AND A CURVE LENGTH OF 225.38 FEET, TO A 5/8 " BAR AND CAP; THENCE LEAVING SAID FLOOD CONTROL RIGHT-OF-WAY, SOUTH 00°14'34" EAST, 22.36 FEET, TO A 5/8 " BAR AND CAP; THENCE NORTH 64°54'12" EAST, 63.73 FEET. TO A 1/2 " BAR AND CAP; THENCE SOUTH 89°50'05" EAST, 138.00 FEET TO A POINT ON WEST LINE OF VACATED VINE STREET AND ON THE WEST LINE OF SAID SECTION 21, MARKED WITH A 1/2 " BAR AND CAP(0.2' WEST); THENCE SOUTH 89°50'05" EAST, 151.73 FEET TO A 1/2 " BAR AND CAP; THENCE NORTH 73°02'00" EAST TO A 1/2 " BAR AND CAP; THENCE NORTH 84°53'13" EAST, 170.36 FEET TO A 1/2" BAR AND CAP; THENCE NORTH 89°45'52" EAST, 134.62 FEET TO A 5/8" BAR AND CAP; THENCE NORTH 89°59'35" EAST, 1105.63 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF CEDAR STREET, AS NOW ESTABLISHED, MARKED WITH A 5/8" BAR; THENCE ALONG SAID WEST RIGHT- OF-WAY LINE, NORTH 00°05'14" WEST, 17.99 FEET TO A POINT ON THE SOUTH LINE OF AN ALLEY IN SAID BLOCK 10, MARKED WITH 5/8" BAR AND CAP; THENCE ALONG THE SOUTH LINE OF SAID ALLEY, THROUGH SAID BLOCKS 10, 9 AND 8 SOUTH 89°57'19" WEST, 1445.08 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF ELM STREET AS NOW ESTABLISHED; THENCE ALONG SAID WEST RIGHT-OF -WAY LINE, NORTH 00°01'05" EAST, 528.80 FEET TO THE NORTHEAST CORNER OF SAID BLOCK 6, MARKED WITH A 1/2" BAR; THENCE ALONG THE NORTH LINE OF SAID BLOCK 6, SOUTH 89°50'05" WEST, 154.11 FEET TO A POINT ON THE EAST LINE OF SAID FLOOD CONTROL RIGHT-OF-WAY, MARKED WITH A 1/2" BAR AND CAP; THENCE ALONG SAID FLOOD CONTROL RIGHT-OF WAY LINE THE FOLLOWING CALLS AND DISTANCES: ALONG A NON-TANGENT URVE TO THE LEFT, HAVING A CHORD BEARING SOUTH 36°42'58" WEST, A DELTA ANGLE OF 20°00'31Z'', A RADIUS OF 380.00 FEET AND A CURVE LENGTH OF 132.70 FEET TO A BAR AND CAP; THENCE SOUTH 26°42'42" WEST 260.60 FEET TO A BAR AND CAP; THENCE ALONG A CURVE TO THE RIGHT, HAVING A CHORD BEARING SOUTH 28°17'06' WEST, A DELTA ANGLE OF 03°08'49", A RADIUS OF 1939.27 FEET AND A CURVE LENGTH OF 106.51 FEET TO A POINT ON THE EAST LINE OF VACATED VINE STREET, ALSO BEING THE WEST LINE OF SAID BLOCK 7, MARKED WITH A 1/2 " BAR AND CAP; THENCE CONTINUING ALONG SAID FLOOD CONTROL RIGHT-OF-WAY LINE AND ALONG THE EAST LINE OF VACATED VINE STREET, SOUTH 00°01'52" WEST, 86.24 FEET TO A POINT ON THE NORTH LINE OF A VACATED ALLEY; THENCE SOUTH 89°57'31" WEST, 11.00 FEET TO THE CENTERLINE OF VACATED VINE STREET, MARKED WITH A 1/2 " BAR AND CAP; THENCE SOUTH 01°16'08" WEST, 4.34 FEET TO A 5/8" BAR AND CAP; THENCE NORTH 89°19'38" WEST, 10.91 FEET TO THE POINT OF BEGINNING AND CONTAINS 5.60 ACRES, MORE OR LESS.

**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. The following conditions for this permit are approved:

1. The propose aeration fan silencer must be a part of the project.
2. Army Corp of Engineers approval for the project must be submitted prior to the issuance of a building permit.

**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 8<sup>th</sup> day of May, 2017.



**CITY OF ABILENE, KANSAS**

By: \_\_\_\_\_

*Dee Marshall*  
Dee Marshall, Mayor

ATTEST:

*Penny Soukup, CMC*  
Penny Soukup, CMC

APPROVED AS TO FORM:

*A. O. Martin*

Aaron O. Martin  
Clark, Mize, and Linville, Chartered