

ORDINANCE NO. 19-3371

AN ORDINANCE AMENDING ORDINANCE NO. 3263, WHICH GRANTED A CONDITIONAL USE PERMIT FOR THE EXPANSION OF A GASOLINE FUELING STATION LOCATED AT 1407 N. BUCKEYE AVENUE IN THE CITY OF ABILENE, KANSAS.

WHEREAS, in 2015, the property owner of record requested the City of Abilene, Kansas (“City”) consider a Conditional Use Permit to allow additional parking and four additional gasoline pumps at 1407 N. Buckeye Avenue in Abilene, Kansas, as provided in the application submitted to the City dated on or about October 10, 2014 (“the Application”), a copy of which is attached hereto as Exhibit A;

WHEREAS, the Planning Commission conducted a public hearing on January 13, 2015, and comments were received from the public both in support of and in opposition to the proposed Conditional Use Permit;

WHEREAS, the Planning Commission recommended the Governing Body approve a Conditional Use Permit allowing additional parking and four additional gasoline pumps on the referenced property;

WHEREAS, on February 23, 2015, the Governing Body considered the application for the proposed Conditional Use Permit, along with the Planning Commission’s recommendation;

WHEREAS, the Governing Body, by a 2/3 majority vote, approved the Conditional Use Permit with additional or modified conditions and adopted Ordinance No. 3263 to approve the Conditional Use Permit; due to clerical error, Ordinance No. 3263 did not recite the final and complete conditions as modified and approved by the Governing Body during the hearing on February 23, 2015; and

WHEREAS, it is necessary and desirable for the Governing Body to amend Ordinance No. 3263 and restate the approval of the Conditional Use Permit so as to address the additional and modified conditions imposed on the approved Conditional Use Permit.

NOW THEREFORE, BE IT ORDAINED, by the City Commission of the City of Abilene, as follows:

Section 1. Conditional Use Permit. That a Conditional Use Permit is hereby granted to Kwik Shop, Inc., as successor in interest to Dillon Stores, Inc., for the placement of four additional gasoline pumps and additional parking as generally provided in the Application, on the property legally described as follows:

All of Lots Three (3) and Four (4) in Block A, Geauque and Brenneman’s Subdivision of a part of the Southwest Quarter of the Southeast Quarter of Section Nine (9), Township Thirteen (13) South, Range Two (2) East of the 6th P.M., in the City of Abilene, Dickinson County, Kansas; Except that part condemned by the

City of Abilene in Dickinson County District Court Case No. 15158; Subject to easements, reservations, restrictions and zonings of record, more commonly known as 1407 N. Buckeye Avenue, Abilene, Kansas.

Section 2. Permit Conditions: Approval. Pursuant to the Zoning Regulations for the City of Abilene, Kansas, the following conditions are approved by the City Commission and imposed on the approval of the Conditional Use Permit:

- A. The owner shall install a privacy fence made of durable material, such as composite or vinyl material, with a minimum height of ten (10) feet, to be placed on the north and east property lines. The fence installation on the east property line shall extend from the northeast corner of 1407 North Buckeye Ave. south to the northwest corner of 109 NE 14th St.
- B. The owner shall provide landscape screening along the inside perimeter of the fence, with a minimum height of five (5), to include trees that mature to a height in excess of ten (10) feet.
- C. All exterior lighting of the canopy shall be installed to prevent intrusion of light onto adjacent properties.

Section 3. Certified Copy. A certified copy of this Ordinance signed by the City Clerk for the City of Abilene, Kansas, shall be recorded in the Office of the Register of Deeds, Dickinson County, Kansas.

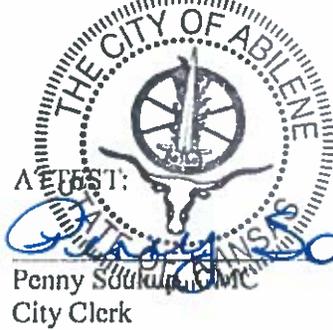
Section 4. Repealer. Ordinance No. 3263 is hereby repealed, to the extent inconsistent with this Ordinance.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its adoption and publication once in the official newspaper by the following summary:

Ordinance No. 19-3371 Summary

On March 25, 2019, the City Commission passed Ordinance No. 19-3371. The ordinance amends Ordinance No. 3263, which granted a conditional use permit for the expansion of a gasoline fueling station located at 1407 N. Buckeye Avenue in the City of Abilene, Kansas, so as to correct the conditions imposed on the approval of the conditional use permit. A complete copy of the ordinance is available online at www.abilenecityhall.com or in the office of the City Clerk, 419 N. Broadway Street in Abilene, Kansas, free of charge. This summary is certified by the City's legal counsel.

PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas this 25th day of March, 2019.



CITY OF ABILENE, KANSAS

[Handwritten Signature]
Dr. Timothy B. Shafer, Mayor

ATTEST:

[Handwritten Signature]
Penny Sattler, CMC
City Clerk

The publication summary set forth above is certified this 25th day of March, 2019.

Aaron O. Martin, City Attorney

ACCEPTANCE OF CONDITIONAL USE PERMIT

Kwik Shop, Inc., a Kansas corporation, hereby acknowledges its acceptance of the provisions of Ordinance No. 19-3371, including the conditions imposed on the approval of the Conditional Use Permit.

Dated: March 15, 2019

Kwik Shop, Inc.

By: *[Handwritten Signature]*
Name: Gerald P. Erickson
Title: President - CJ America

STATE OF Ohio, COUNTY OF Hamilton, SS:

This instrument was acknowledged before me on March 15, 2019, by Jay Erickson, as President of Kwik Shop, Inc., a Kansas corporation.



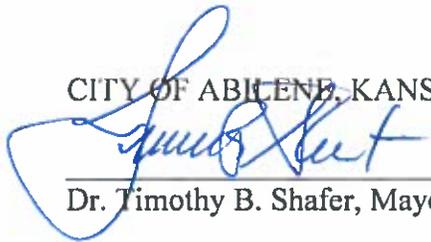
ZACHARY B. METZ
Notary Public, State of Ohio
My Commission Expires 12-17-2023

[Handwritten Signature]
Notary Public
Printed Name: _____

PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas this 25th day of March, 2019.

ATTEST

Penny Soukup, CMC
Penny Soukup, CMC
City Clerk

CITY OF ABILENE, KANSAS

Dr. Timothy B. Shafer, Mayor

The publication summary set forth above is certified this 25th day of March, 2019.



Aaron O. Martin, City Attorney

ACCEPTANCE OF CONDITIONAL USE PERMIT

Kwik Shop, Inc., a Kansas corporation, hereby acknowledges its acceptance of the provisions of Ordinance No. 19-3371, including the conditions imposed on the approval of the Conditional Use Permit.

Dated: March 25, 2019

Kwik Shop, Inc.

By: _____
Name: _____
Title: _____

STATE OF _____, COUNTY OF _____, SS:

This instrument was acknowledged before me on _____, 2019, by _____, as _____ of Kwik Shop, Inc., a Kansas corporation.

Notary Public
Printed Name: _____

EXHIBIT A

Conditional Use Permit Application

for

1407 N. Buckeye Avenue

City of Abilene, Kansas

February 23, 2015



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

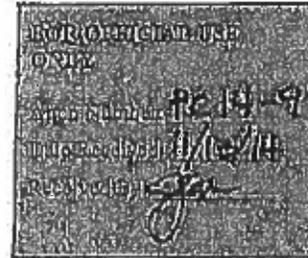
INSTRUCTIONS: This Application and all required fees and information must be submitted in accordance with the Code of the City of Abilene and the City of Abilene Zoning and Subdivision Regulations. All information requested in this application must be provided and answered completely.

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 type="checkbox"/> PRELIMINARY PLAT |
| <input type="checkbox"/> COMPREHENSIVE PLAN AMENDMENT | <input type="checkbox"/> PLANNED DEVELOPMENT |
| <input checked="" type="checkbox"/> CONDITIONAL USE PERMIT | <input checked="" type="checkbox"/> REPLAT - (NOT REQUIRED) |
| <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 | |



BRIEF DESCRIPTION OF APPLICATION PURPOSE:

Fuel expansion and additional parking.

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):
 Name: _____ Tel: () _____
 Business Name: _____ Fax: () _____
 Address: _____
 City: _____ State: _____ Zip Code: _____
 E-mail: _____

PROPERTY OWNER (If Different from Applicant/Agent):
 Name: Dillon Real Estate Co., Inc. Tel: (620) 669-8504
 Business Name: Kwik Shop Fax: (620) 694-1820
 Address: 734 East 4th Ave
 City: Hutchinson State: KS Zip Code: 67501
 E-mail: clay.brasher@kwikshop.com

ENGINEER/ARCHITECT/SURVEYOR:
 Name: ISAAC KRUMME Tel: (316) 262-2691
 Business Name: (PE) Professional Engineering Consultants Fax: () _____
 Address: 303 South Topeka
 City: Wichita State: KS Zip Code: 67202
 E-mail: isaac.krumme@pecl.com

PROPERTY INFORMATION

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

1401 + 1405 + 1407 North Buckeye Abilene, KS

PROPERTY TAX IDENTIFICATION NUMBER:

ZONING: Existing: Residential (1407 location) Proposed: B3

LAND USE: Existing: Proposed:

GROSS SIZE OF PLAT/LOT:

Residential: Commercial: 30,627 Industrial: Other: Total: 30,627

NUMBER OF LOTS:

Residential: 1 Commercial: 2 Industrial: Other: Total: 3

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: 2 Total Building Area: 2735

Maximum Height of Buildings or Structures: Total Impervious Area:

EXISTING PUBLIC FACILITIES:

Water Service: [X] Public [] Private [] Other (Describe)
Wastewater Service: [X] Public [] Private [] Other (Describe)
Roadway Access: [X] Public [] Private [] Other (Describe)

FLOODPLAIN INFORMATION:

Floodway: [] Yes [X] No FIRM Map-Panel Number:
Floodway Fringe: [] Yes [X] No 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?

[] Yes [X] 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.

[Signature] Applicant Signature

10/10/14 Date

[Signature] Property Owner Signature

10/10/14 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
- Easements and Covenants
- Location Map
- Site Plan
- Preliminary Plat
- Final Plat
- Infrastructure Plans
- Development Agreement
- Grading and Stormwater Plans
- Elevation Survey
- Traffic Impact Study
- Construction Plans
- Performance Agreement
- Proof of Notification
- Utility Plans
- Text Amendment Language
- Property Owner List
- Comprehensive Plan Amendment Justification
- Annexation Boundary Map
- Operating Characteristics Report
- Administrative Appeal Justification
- Variance Justification
- Other _____

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.

Name

Title


Signature

11/13/14
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): _____

FEE AMOUNT: \$100.00

DATE FEE PAID: 11/13/14

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.

NOV 13 2014
CITY OF ABILENE


Name

11/13/14
Title

Signature

Date

CONDITIONAL -
USE SITE PLAN
NOT FOR
CONSTRUCTION



KWIK SHOP #745
1401 NORTH BUCKEYE
ABILENE, KANSAS

NO.	DATE	DESCRIPTION
1	11-14-52	PRELIMINARY
2	11-14-52	REVISED
3	11-14-52	REVISED
4	11-14-52	REVISED
5	11-14-52	REVISED
6	11-14-52	REVISED
7	11-14-52	REVISED
8	11-14-52	REVISED
9	11-14-52	REVISED
10	11-14-52	REVISED

SITE PLAN

DATE	11-14-52
BY	W. H. HARRIS
CHECKED BY	W. H. HARRIS
SCALE	1" = 10'
PROJECT NO.	745

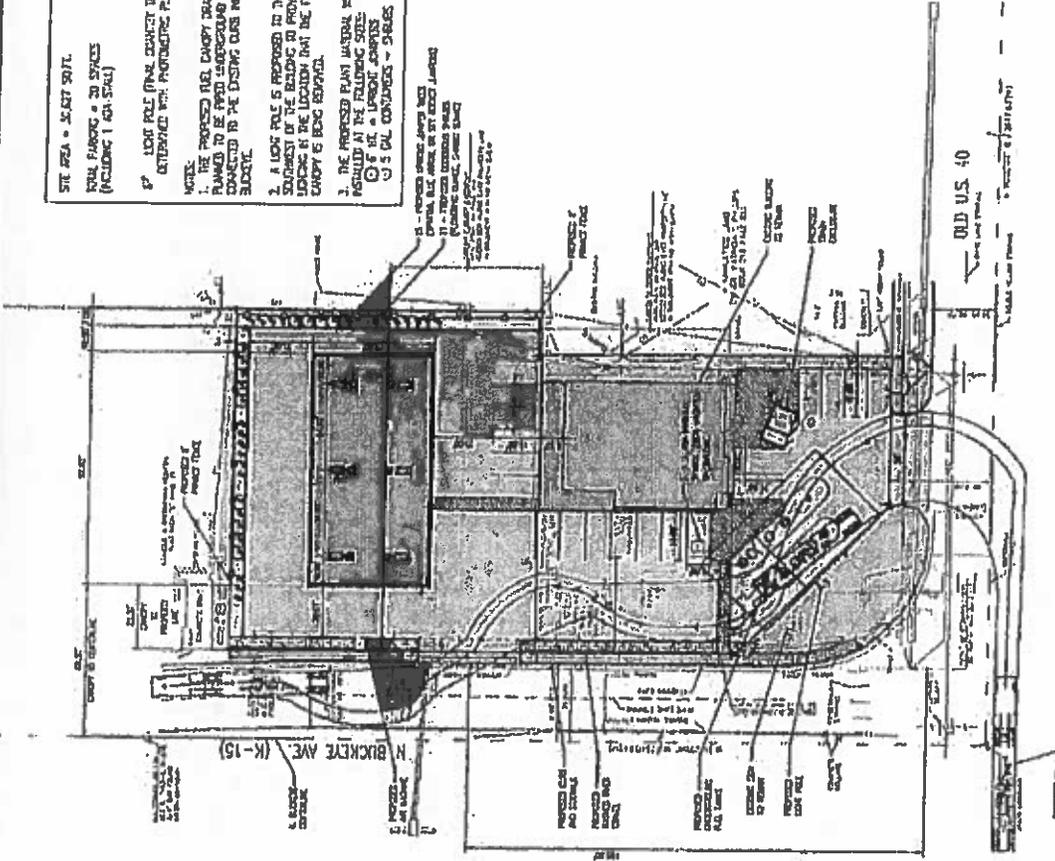
SITE AREA - 5.627 ACRES.
TOTAL FLOORING - 20,000 SQ. FT.
(INCLUDING 1,400 SQ. FT.)

IF LIGHT POLE (FINAL DESIGN) TO BE
DETERMINED WITH ARCHITECTURAL PLAN.

NOTES:

1. THE PROPOSED 100' CIRCULAR DRIVEWAY IS
PLANNED TO BE FLOOR-LEVEL CONCRETE AND
CONNECTED TO THE EXISTING DRIVEWAY ON THE
SOUTH.
2. A LIGHT POLE IS PROPOSED IN THE
CORNER OF THE BUILDING TO PROVIDE
LIGHTING IN THE LOCATION SHOWN. THE FINAL
DESIGN TO BE DETERMINED.
3. THE PROPOSED PLANT MATERIAL WILL BE
INSTALLED AT THE FOLLOWING SPACES:
 - 6' W. OF LAUNCH ADAPTER
 - 5' W. OF CONCRETE - 5' SPACES

15 - EXISTING DRIVEWAY, 100' WIDE
16 - NEW DRIVEWAY, 100' WIDE
17 - EXISTING DRIVEWAY, 100' WIDE
18 - EXISTING DRIVEWAY, 100' WIDE
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98 - EXISTING DRIVEWAY, 100' WIDE
99 - EXISTING DRIVEWAY, 100' WIDE
100 - EXISTING DRIVEWAY, 100' WIDE



PROFESSIONAL ENGINEER
REGISTERED IN THE STATE OF KANSAS
PROJECT NO. 745

SCALE 1" = 10'
BY THE ENGINEER

OLD U.S. 40

MARK TOWN PLANS

EXISTING DRIVEWAY

THIS PLAN IS THE PROPERTY OF THE ENGINEER AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT HIS WRITTEN CONSENT.

CONDITIONAL
USE SITE PLAN
NOT FOR
CONSTRUCTION



KWIK SHOP #745
1401 NORTH BUCKEYE
ABILENE, KANSAS

SITE PLAN

DATE	DESCRIPTION
11-11-10	PRELIMINARY
12-27-10	REVISED
01-14-11	REVISED
02-02-11	REVISED
02-10-11	REVISED
02-17-11	REVISED
03-03-11	REVISED
03-10-11	REVISED
03-17-11	REVISED
03-24-11	REVISED
04-07-11	REVISED
04-14-11	REVISED
04-21-11	REVISED
04-28-11	REVISED
05-05-11	REVISED
05-12-11	REVISED
05-19-11	REVISED
05-26-11	REVISED
06-02-11	REVISED
06-09-11	REVISED
06-16-11	REVISED
06-23-11	REVISED
06-30-11	REVISED
07-07-11	REVISED
07-14-11	REVISED
07-21-11	REVISED
07-28-11	REVISED
08-04-11	REVISED
08-11-11	REVISED
08-18-11	REVISED
08-25-11	REVISED
09-01-11	REVISED
09-08-11	REVISED
09-15-11	REVISED
09-22-11	REVISED
09-29-11	REVISED
10-06-11	REVISED
10-13-11	REVISED
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10-27-11	REVISED
11-03-11	REVISED
11-10-11	REVISED
11-17-11	REVISED
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12-08-11	REVISED
12-15-11	REVISED
12-22-11	REVISED
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