

ORDINANCE NO. 20-3388

AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT TO ALLOW A CELLULAR COMMUNICATIONS TOWER AT A LOCATION GENERALLY DESCRIBED AS 401 N. COTTAGE AVE. AND 507 N. COTTAGE AVE., IN THE CITY OF ABILENE, KANSAS.

WHEREAS, the Planning Commission reviewed a request by U.S. Cellular to allow the placement of a 105-foot-tall monopole cellular communication tower and accessory ground-mounted equipment on property owned by TSB Enterprises, LLC, generally located on the property described as 401 N. Cottage Ave. and 507 N. Cottage Ave., in Abilene, Kansas; and

WHEREAS, the Planning Commission conducted a public hearing pursuant to Article 26 of the Zoning Regulations on June 13, 2020, after proper notice was given; and

WHEREAS, after public comments were received, the Planning Commission recommended approval of the Conditional Use Permit.

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

Section 1. Conditional Use Permit. A Conditional Use Permit is hereby granted to TSB Enterprises, LLC for the placement of a 105-foot-tall monopole cellular communications tower and accessory ground equipment (collectively, the "Tower") by U.S. Cellular on the property commonly known as 401 N. Cottage Ave. and 507 N. Cottage Ave., in Abilene, Kansas and legally described as follows:

Tract 1:

A tract of land located in the Southeast quarter of Section 16, Township 13 South, Range 2 East of the 6th pm, in the City of Abilene, Dickinson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Southeast quarter of said Section 16, thence North 00 degrees 56' 22" West on an assumed bearing along the East line of said Southeast quarter to a point on the North line of Cottage Avenue a distance of 480.00 feet; thence South 89 degrees 25' 08" West to existing property pin and to the point of beginning a distance of 475.21 feet; Thence South 89 degrees 22' 44" West to existing property pin a distance of 785.14 feet; Thence North 00 degrees 55' 03" West to South right-of-way line of the Union Pacific Railroad a distance of 210.72 feet; Thence North 78 degrees 13' 10" East along said right-of-way line to existing property pin a distance of 799.75 feet; Thence South 00 degrees 52' 18" East a distance of 365.51 feet to point of Beginning.

Tract 2:

A tract of land in the Southeast 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 475.0 feet West and 480.0 feet North of the Southeast corner of said Southeast quarter; Thence East 125.0 feet; Thence North 388.0 feet to the right-of-way of the Union Pacific Railway; Thence Southwesterly, along the South side of said right-of-way, to a point due North of the point of Beginning; Thence South to the point of Beginning.

Tract 3:

A tract of ground described as follows: Beginning 480 feet North and 300 feet West of the Southeast corner of Section 16, Township 13 South, Range 2 East of the 6th P.M.; thence West 50 feet; thence North 390 feet to the South line of the Union Pacific right-of-way; thence Northeast along the South line of said right-of-way 55 feet, more or less, to a point 300 feet West of the East line of said Section 16; thence South 407 feet, more or less, to the place of beginning, in the City of Abilene, Kansas.

Parcel ID #0211151604028005000 and 0211151604028003000

This being a portion of the same property conveyed to TSB Enterprises, LLC, a Kansas Limited Liability Company from Alco Stores, Inc., formerly known as Duckwall-Alco Stores, Inc., a Kansas Corporation in a deed dated April 30, 2015 and recorded May 29, 2015, in Book 254 Page 140. Property Commonly Known As: 401 Cottage Avenue, Abilene, KS 67410 County of Dickinson

all as generally described in the Conditional Use Permit application attached hereto as Exhibit A. The Conditional Use Permit shall be limited in time and subject to renewal as set forth in the Zoning Regulations.

Section 2. Permit Conditions. Pursuant to the Zoning Regulations, the Planning Commission may impose, and the City Commission may approve, reasonable conditions on the approval of a Conditional Use Permit. The following conditions as imposed by the Planning Commission are approved by the City Commission:

1. The Tower shall comply with all criteria and requirements applicable to conditional use permits for cellular communication towers, as prescribed by the Zoning Regulations; and
2. The Tower shall comply with all applicable building codes.

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

Section 4. 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. 20-3388 Summary

On July 13, 2020, the City Commission passed Ordinance No. 20-3388. The ordinance grants a conditional use permit to allow a 105-foot-tall monopole cellular communications tower and accessory ground mounted equipment located at 401 N. Cottage Ave. and 507 N. Cottage Ave., in the City of Abilene, Kansas. 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.

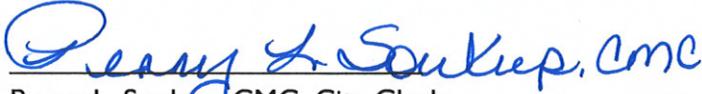
PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas this 13th day of July, 2020.



CITY OF ABILENE, KANSAS

By: 
Chris Ostermann, Mayor

ATTEST:


Penny L. Soukup, CMC, City Clerk

The publication summary set forth above is certified this 13th day of July, 2020.



Aaron O. Martin, City Attorney