

ORDINANCE NO. 2066

AN ORDINANCE ADOPTING THE RECOMMENDATION OF THE CITY OF EDGERTON PLANNING COMMISSION TO APPROVE APPLICATION ZA2021-05 FOR THE REZONING OF APPROXIMATELY 56.528 ACRES OF LAND ON THE NORTHWEST CORNER OF W. 213TH STREET AND SOUTH KILL CREEK ROAD IN EDGERTON, KANSAS FROM JOHNSON COUNTY "RUR" (RURAL DISTRICT) TO CITY OF EDGERTON "L-P" (LOGISTICS PARK) ZONING DISTRICT

WHEREAS, the Planning Commission of the City of Edgerton, Kansas received a request on January 8, 2021, from Wellsville Farms, LLC, the owner of a parcel of land totaling approximately 56.528 acres, located on the Northwest corner of W. 213th Street and South Kill Creek Road in Edgerton, Kansas to rezone that property from Johnson County "RUR" (Rural District) to City of Edgerton "L-P" (Logistics Park) District; and

WHEREAS, following a public hearing in front of the Planning Commission on February 9, 2021 the Planning Commission has recommended that the rezoning request for that property – from Johnson County "RUR" (Rural District) to City of Edgerton "L-P" (Logistics Park) District -- be approved subject to certain conditions; and

WHEREAS, all required newspaper and mailing notifications were performed.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

Section 1. That the following legally described property generally located on the Northwest corner of W. 213th Street and South Kill Creek Road in Edgerton, Kansas is hereby rezoned from Johnson County "RUR" (Rural District) to City of Edgerton "L-P" (Logistics Park) District, and that City Staff is hereby directed to reflect said rezoning in the City's Official Zoning map and other City records:

Part of the North Half of the Southwest Quarter of Section 15, Township 15 South, Range 22 East, in the City of Edgerton, Johnson County, Kansas, more particularly described as follows:

Beginning at the Northeast Corner of said Southwest Quarter; thence South 02°20'41" East, along the East line of said Southwest Quarter, a distance of 1,328.59 feet to the Southeast corner of the North Half of said Southwest Quarter; thence South 88°11'00" West, along the South line of the North Half of said Southwest Quarter, a distance of 895.74 feet; thence departing said South line, North 02°17'11" West a distance of 572.00 feet; thence South 88°11'00" West a distance of 1,682.11 feet to a point on the West line of said Southwest Quarter; thence North 02°17'11" West, along said West line, a distance of 757.06 feet to the Northwest corner of said Southwest Quarter; thence North 88°11'39" East, along the North line of said Southwest Quarter, a distance of 2,576.50 feet to the Point of Beginning, containing 2,462,344 square feet or 56.528 acres, more or less.

Section 2. The above rezoning is expressly conditioned on the following:

- a) All infrastructure requirements of the City shall be met.
- b) All platting requirements of the City shall be met.
- c) All Site Plan application requirements of the City shall be met.
- d) Prior to issuance of building permits, the property shall be developed in accordance with a Site Plan which has been reviewed and approved by the City.

Section 3. That the Governing Body, in making its decision on the rezoning, based its decision on City Staff's comments and recommendations, which are attached hereto. The Governing Body also based its decision on the following criteria:

- a) The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space.
- b) Compatibility of the proposed zoning and uses permitted therein with the zoning and uses of nearby properties.
- c) The extent to which the zoning amendment may detrimentally affect nearby property has been addressed.
- d) The relative gain (if any) to the public health, safety, and welfare from a denial of the rezoning application as compared to the hardship imposed upon the rezoning applicant from such denial.
- e) Consistency with the Comprehensive Plan, Utilities and Facilities Plans, Capital Improvement Plan, Area Plans, ordinances, policies, and applicable City Code of the City of Edgerton.

Section 4. This ordinance shall take effect from and after its publication once in the official city newspaper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF THE CITY OF EDGERTON, KANSAS ON THE 12th DAY OF MARCH, 2021.

CITY OF EDGERTON, KANSAS

By: /s/
Donald Roberts, Mayor

ATTEST:

/s/
Alexandria Clower, City Clerk

APPROVED AS TO FORM:

/s/
Lee Hendricks, City Attorney

Staff has reviewed this rezoning application with respect to the Edgerton Unified Development Code, the laws of Kansas, and the "Golden Criteria" as established by the Supreme Court of Kansas in 1978. The following is staff's review.

1. **Need for the Proposed Change** – When this parcel was annexed into Edgerton, it contained a Johnson County RUR zoning designation as assigned by the County. That zoning designation only allows for an agricultural use and it is considered a holding designation post annexation. Prior to any development occurring on the parcel, rezoning to a City of Edgerton zoning designation is necessary. The applicant has requested that this parcel be rezoned to L-P to allow for the future construction of projects similar to other projects in other L-P District areas. Given the parcels' proximity to LPKC Phases I and II, the BNSF Railway intermodal facility, I-35 and the Homestead interchange, L-P District zoning is the most compatible designation for these uses.
2. **Magnitude of the Change** – The Comprehensive Plan for the City of Edgerton does not currently address properties south of I-35; however, it does address development of areas for industrial use due to their proximity to the intermodal and easy access to the interstate. Due to the unexpected pace of development in Phase I of LPKC, a Phase II expansion of LPKC was initiated in 2018 and this parcel is part of the area which would comprise that continued expansion. Development in this area is driven by the Homestead Lane interchange and the proposed rezoning to L-P District is compatible with the spirit and intent of future development as outlined by the Edgerton Comprehensive Plan. As is noted in the City of Edgerton UDC, landscaping and vegetation will be used to minimize adverse impacts to adjacent residential properties. Large size parcels like this one (56.5 acres) would be appropriately sized to accommodate an industrial development and the size allows for adequate berming and screening along adjacent parcels. Given the parcel's proximity to LPKC, the BNSF Railway intermodal facility, I-35 and the Homestead Lane interchange, the magnitude of the change would not be considered unusual when the property is being used for industrial development.
3. **Whether or not the change will bring harm to established property rights** - The subject property is surrounded by undeveloped acreage and low-density rural single-family residential. L-P zoning designations require significant berming and landscaping adjacent to any residential developments. If rezoned L-P, as requested, a separate Site Plan review and approval would be required prior to the issuance of any building permits. Part of a Site Plan review would include attention to buffering and setbacks, stormwater management and transition of uses between adjoining properties and any proposed industrial use. This Site Plan review will help mitigate impact that might occur to adjacent properties.
4. **Effective use of Land** - L-P District permitted uses at this location are an effective and efficient use of the property due to its proximity to the BNSF Railway intermodal facility, LPKC and the I-35 interstate system.
5. **The extent to which there is a need in the community for the uses allowed in the proposed zoning** - Construction of warehousing, distribution, limited manufacturing and related uses near the intermodal facility allows an inland port for goods in transit, by reducing truck traffic in the surrounding area and allowing for more efficient use of the supply chain.
6. **The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural**

features, and open space – This parcel is located less than a mile from the new 207th Street corridor, Kubota Tractor North American Distribution Center and the Hostess Distribution Center. Continued development of the area includes intermodal related uses. With the extensive road improvements, including the interchange at I-35 and Homestead Lane and the improvements on 207th Street, the character of the area is changing from rural to industrial. Some nearby parcels zoned Johnson County RUR zoning and contain single family homes. However, the residential density in this area is lower than some of the parcels adjacent to development in Phase I of LPKC. As noted previously, the Site Plan review process can mitigate impacts to adjacent properties with the proper attention to buffering and setbacks, stormwater management, and transition of uses.

7. **Compatibility of the proposed zoning and uses permitted therein with the zoning and uses of nearby properties** - The proposed zoning is compatible with the zoning requested on the adjacent parcel to the north and east and the parcels which connect due north adjacent to 207th Street. The City's Unified Development Code (UDC) states that the purpose of the L-P District is to create a limited multimodal industrial zone which provides for modern types of industrial uses or an industrial park. Limitations are placed on uses in the district to significantly restrict outside activities and the outside storage of materials, noise, vibration, etc. The Site Plan review process is designed to mitigate impacts to adjacent properties with the proper attention to buffering and setbacks, stormwater management, and transition of uses.
8. **Suitability of the uses to which the property has been restricted under its existing zoning** - The existing Johnson County RUR zoning of the applicant property is viewed as a holding designation related to the annexation of the parcel. Johnson County RUR zoning is primarily for agricultural and low-density residential use. An industrial use on a property zoned for agriculture would not be a permitted use therefore, a rezoning to the L-P District is the most appropriate designation for the proposed use indicated by the applicant.
9. **Length of time the subject property has remained vacant under the current zoning designation** - Based upon available aerial photography, the property has been used for agricultural purposes in unincorporated Johnson County dating back to at least 2006.
10. **The extent to which the zoning amendment may detrimentally affect nearby property** - The City's Unified Development Code (UDC) states the purpose of the L-P District is to create a limited multimodal industrial zone that provides for modern types of industrial uses or an industrial park. Limitations are placed on uses in the district to significantly restrict outside activities and the outside storage of materials, noise, vibration, etc. The Site Plan review process can mitigate impacts to adjacent properties with the proper attention to buffering and setbacks, stormwater management, and transition of uses.
11. **Consideration of rezoning applications requesting Planned Development Districts (PUD) for multifamily and non-residential uses should include architectural style, building materials, height, structural mass, siting, and lot coverage** - This is not a request for a PUD.
12. **The availability and adequacy of required utilities and services to serve the uses allowed in the proposed zoning. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and**

services, and other similar public facilities and services – For any development which occurs on this parcel, it will be the responsibility of the developer to work with the utility companies to extend any necessary utilities not already in the service area. Electrical service currently crosses the parcel and there is a connection point along 207th Street for gas service. The City of Edgerton Municipal Code requires that all properties within city boundaries connect to City of Edgerton sanitary sewer service. Should this parcel be developed, the developer would be responsible for the extension of and connection to City of Edgerton wastewater infrastructure.

13. **The extent to which the uses allowed in the proposed zoning would adversely affect the capacity or safety of that portion of the road network influenced by the uses, or present parking problems in the vicinity of the property** – Homestead Lane and 207th Street to just east of Waverly Road have been constructed to accommodate the traffic that will accompany the Phase II expansion of LPKC. Today 213th Street is a gravel road from Waverly Road to Kill Creek Road. Kill Creek Road is also a gravel road south of 213th Street. However, the Johnson County Comprehensive Arterial Road Network Plan (CARNP) assigns a Type I/2-Lane Arterial Roadway designation to 213th Street and Kill Creek Road and designates them both as main throughways. During the Site Plan review process, both the type and volume of traffic associated with a new development are evaluated, often with the requirement that a traffic study be performed as part of the applicant's due diligence. This includes evaluating the transportation network in the area and any current and future access points to the parcel. Infrastructure upgrades to accommodate the new development's traffic volume and type are required and adequate off-street parking must be provided as on-street parking is not allowed.
14. **The environmental impacts that the uses allowed in the proposed zoning would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm** - The City will follow National Pollutant Discharge Elimination System (NPDES) guidelines and stormwater management requirements which require any application to address runoff and water pollution mitigation measures as part of the development of the property. Any construction that occurs on site will be required to get a NPDES permit from the State of Kansas and a land disturbance permit from the City. Those permits require a stormwater pollution prevention plan that is reviewed by the City and the State. Mitigation of pollution in the form of air, noise, light, etc., will be addressed as part of the Site Plan review process.
15. **The economic impact on the community from the uses allowed in the proposed zoning** - Uses allowed in the L-P District, have the potential to benefit the residents and community in a positive way by providing jobs, economic opportunities, and tax revenues to respective jurisdictions. During the Covid-19 pandemic, supply chain logistics were instrumental to delivering food and supplies to areas across the United States. This type of commercial industry continues to be an important contributor to the economy of this area.
16. **The relative gain (if any) to the public health, safety, and welfare from a denial of the rezoning application as compared to the hardship imposed upon the rezoning applicant from such denial** - There would be little relative gain, if any, to the public health, safety, and welfare from the denial of these zoning applications. However, the City would be adversely impacted due to the lost opportunities for jobs, economic activity and tax revenue if the anticipated logistics park uses and facilities were to locate in another community.

17. **Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton** - Due to the unexpected pace of development in Phases I and II of Logistics Park Kansas City, the Comprehensive Plan for the City of Edgerton does not currently address properties south of I-35. However, it does address development of areas for industrial use due to their proximity to the intermodal and easy access to the interstate. This parcel is located 0.81 miles from I-35 and the Homestead Lane interchange. Development in the area is driven by its proximity to the highway system and the proposed rezoning is compatible with the spirit and intent of future development as outlined by the Edgerton Comprehensive Plan. Any development that would occur on this parcel would be required to be in compliance with the City of Edgerton UDC. L-P Zoning does not allow tenants to conduct exterior operations or have exterior storage. The review of strict parameters related to the aesthetics of development on L-P zoned parcels is conducted as part of a Site Plan review, including an evaluation of building materials, screening between adjacent parcels and parking requirements.
18. **The recommendation of professional staff** - See Recommendation below.

Recommendation:

City staff recommends **approval** of proposed rezoning **Application ZA2021-05** from Johnson County Rural (RUR), to City of Edgerton Logistics Park District (L-P) with the following stipulations:

1. All infrastructure requirements of the City shall be met;
2. All platting requirements of the City shall be met;
3. All Site Plan application requirements of the City shall be met;
4. Prior to issuance of building permits, the property shall be developed in accordance with a Site Plan reviewed and approved by the City.