

ORDINANCE NO. 1095

AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE A CONDITIONAL USE PERMIT TO ALLOW USE OF LAND IN THE CITY OF EDGERTON LOGISTICS PARK ZONING DISTRICT (L-P) LOCATED ALONG THE SOUTH SIDE OF 191ST STREET, ONE-HALF (1/2) MILE WEST OF WAVERLY ROAD, FOR TRANSPORTATION STORAGE AND A TRUCKING YARD

WHEREAS, the City of Edgerton received an Application for a Conditional Use Permit from NPD Management, LLC on or about July 30, 2018 for property located on the Northwest Quarter of Section 3, Township 15 South, Range 22 East (the "Property"); and

WHEREAS, the Property was owned at that time by Edgerton Land Holding Company, LLC, Logistics Park Kansas City, Inc. and Michael A. Gifford and Pamela L. Gifford; and

WHEREAS, the Edgerton Planning Commission did hold a public hearing on November 13, 2018 on the requested Conditional Use Permit in accordance with the requirements as set forth in the Edgerton Zoning Regulations; and

WHEREAS, The Edgerton Planning Commission voted to approve the Conditional Use Permit for use of land for "transportation storage and a trucking yard" but such vote was conditioned on the following being adhered to by the Applicant/Owner:

1. The Conditional Use Permit CU2018-01 approval shall be transferable, but it must stay with the ownership of these parcels for which its use is approved (Final Plat 2018-05);
2. The Property Owner shall continuously comply with all performance criteria in Article 7 pertaining to Cargo Container Storage Facilities and Cargo Repair and Maintenance Facilities, including, but not limited to, noise maximums and cargo container and chassis stacking height requirements. The Applicant shall comply with height requirements by limiting cargo container stacking to not exceed the maximum of 5 (five) cargo containers. This condition shall be continually met for the duration of the Conditional Use Permit.
3. The Property shall be developed in accordance with the Site Plan FS2018-07, as approved by the Planning Commission, prior to commencement of the cargo container storage use. Landscaping material shall be continuously maintained and replaced when dead.
4. Cargo containers and chassis may only be stored in the designated areas shown on Site Plan FS2018-07.
5. No other outside storage of equipment or materials shall be allowed on the Property.
6. Any future phases or additional areas used for cargo container maintenance and repair uses shall not commence until a new, revised Site Plan is submitted and approved by the City for that phase, including photometric and landscaping plans.

7. The Applicant and/or Property Owner, shall continue to work with LPKC, Inc., to dedicate a cross access easement to the parcels located south and east of this project currently owned by Harrold J. Curry, with said access transferable to future owners of the Curry property.
8. All facilities should abide by any and all city and governmental rules, regulations, codes and specifications now in effect or hereafter adopted that would be applicable to this Permit or the use of the Property by the Applicant/Landowner. The Property must continuously comply with these requirements.
9. This Conditional Use Permit shall be valid for 10 (ten) years from date of approval by the City of Edgerton.

WHEREAS, the City Governing Body, after reviewing the Conditional Use Permit and considering the criteria set forth in Article 7 of the City Zoning Regulations and the recommendations of the Planning Commission, finds the Conditional Use Permit should be approved.

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

Section 1. The proposed Conditional Use Permit for transportation storage and a trucking yard is hereby approved for the following property:

A replat of Tract B, LOGISTICS PARK KANSAS CITY PHASE IV, SECOND PLAT, a platted subdivision, together with part of the Northeast Quarter of Section 3, Township 15 South, Range 22 East, all in the City of Edgerton, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence North 88°09'02" East, along the North line of said Northeast Quarter, a distance of 30.00 to the Point of Beginning; thence continuing North 88°09'02" East a distance of 1,286.84 feet to the Northwest corner of the East Half of said Northeast Quarter; thence South 01°20'47" East, along the West line of said East Half, a distance of 1,676.20 feet to the Southeast corner of said Tract B, said point also being on the North line of Tract A, of said LOGISTICS PARK KANSAS CITY PHASE IV, SECOND PLAT; thence South 88°21'32" West, along said North line, a distance of 543.38 feet to a point 768.4 feet east of the West line of said Northeast Quarter; thence North 01°31'08" West, parallel with said West line, a distance of 749.19 feet; thence South 88°09'02" West, parallel with the North line of said Northeast Quarter, a distance of 388.40 feet; thence North 72°27'03" West a distance of 370.32 feet to a point 30.00 feet east of the West line of said Northeast Quarter; thence North 01°31'08" West, parallel with said West line, a distance of 802.00 feet to the Point of Beginning, containing 1,575,974 square feet, or 36.179 acres, more or less.

Section 2. The Conditional Use Permit approved by this Ordinance is expressly conditioned on the Applicant's/Owner's strict compliance with the nine Conditions set forth above,

which were recommended by the Edgerton Planning Commission and approved by the City of Edgerton City Council.

Section 3. The effectiveness of this Conditional Use Permit is conditioned upon the strict compliance by the Applicant/Owner with the provisions contained herein and in the City of Edgerton Zoning Regulations. Should Applicant/Owner fail to comply with any term or provision thereof and shall such failure continue following notice from City to Applicant/Owner specifying the breach and actions to be taken to cure the same, then, at the direction of the City Administrator, Applicant/Owner will be notified that this Conditional Use Permit is revoked and all uses permitted herein on the Property must immediately cease. Reinstatement following default may only be effected by action of the Governing Body. Wholly separate and apart from the specific conditions of the City's Zoning Regulations are the City's interest and duties to protect the public health, safety and welfare. Applicant/Owner agrees that this Ordinance shall not operate or be construed to impede or impair the lawful function of City government operation in this area.

Section 4. This Ordinance shall take effect and be enforced from and after its publication once in the official city newspaper. All Zoning and Regulations of the City of Edgerton, Kansas affecting the use of the real property heretofore described which are inconsistent with this Ordinance are hereby made inapplicable to said Property until the Conditional Use Permit is vacated or is declared null and void.

PASSED by the Governing Body of the City of Edgerton, Kansas and approved by the Mayor on the 13th day of December, 2018.



DONALD ROBERTS, Mayor

ATTEST:



RACHEL JAMES, City Clerk



APPROVED AS TO FORM:



LEE W. HENDRICKS, City Attorney