

ORDINANCE NO. 2009

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 AT 19140 WAVERLY ROAD (ALONG THE SOUTH SIDE OF 191ST STREET, ADJACENT TO WAVERLY ROAD, FOR TRANSPORTATION STORAGE AND A TRUCKING YARD

WHEREAS, the City of Edgerton received Application CU2019-01 for a Conditional Use Permit from Hastings Family Holdings, LLC (the "Applicant") on or about March 4, 2019 for property located at 19140 Waverly Road (the "Property"); and

WHEREAS, the Property was owned at that time by Hastings Family Holdings, LLC; and

WHEREAS, the Applicant is requesting to combine Phase I operations, allowed under Conditional Use Permit CU9-16-2013 approved on January 9, 2014, with the expanded Phase II operations so that one permit will encompass the entire operation to avoid confusion over renewal dates;

WHEREAS, the Edgerton Planning Commission did hold a public hearing on April 9, 2019 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 CU2019-01 approval shall be transferable, but it must stay with the ownership of these parcels for which its use is approved (Final Plat FP2019-01);
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 Plans FS-09-16-13 and FS2019-02, 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 Plans FS-09-16-13 and FS2019-02.
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. This Conditional Use Permit shall be valid for 10 (ten) years from date of approval by the City of Edgerton Governing Body.

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:

Part of the Northeast Quarter of Section 3, Township 15 South, Range 22 East in the City of Edgerton, Johnson County, Kansas, more particularly described as follows:

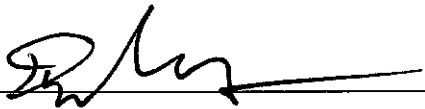
Beginning at the Northeast corner of said Northeast Quarter; thence South 01°09'47" East, along the East line of said Northeast Quarter, a distance of 1,681.02 feet; thence departing said East line, South 88°21'32" West, along the North line and its easterly prolongation of LOGISTICS PARK KANSAS CITY PHASE IV, SECOND PLAT, a platted subdivision in said City, a distance of 1,311.45 feet to the Northwest corner of Tract A of said LOGISTICS PARK KANSAS CITY PHASE IV, SECOND PLAT, said point being on the West line of the East Half of said Northeast Quarter; thence North 01°20'47" West, along said West line, a distance of 1,676.20 feet to a point on the North line of said Northeast Quarter; thence North 88°09'02" East, along said North line, a distance of 1316.86 feet to the Point of Beginning, containing 2,205,869 square feet or 50.640 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 seven Conditions set forth above, which were recommended by the Edgerton Planning Commission and approved by the City of Edgerton City Council.

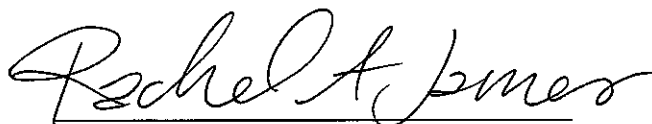
Section 3. The effectiveness of this Conditional Use Permit is conditioned upon the strict compliance by the Applicant/Owner with the provisions contained herein and in the City of Edgerton Zoning Regulations. Should Applicant/Owner fail to comply with any term or provision thereof and shall such failure 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 affected 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.

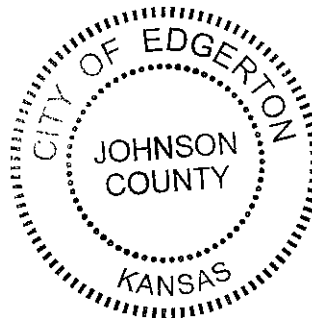
Section 4. This Ordinance shall take effect and be enforced from and after its publication once in the official city newspaper. All Zoning and Regulations of the City of Edgerton, Kansas affecting the use of the Property heretofore described which are inconsistent with this Ordinance are hereby made 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 25th day of April, 2019.

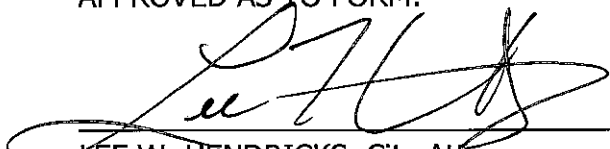

DONALD ROBERTS, Mayor

ATTEST:


RACHEL A. JAMES, City Clerk



APPROVED AS TO FORM:


LEE W. HENDRICKS, City Attorney