

ORDINANCE NO. 2087

AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE A CONDITIONAL USE PERMIT (CU2021-03) ALLOWING AN INTERSTATE POLE SIGN ON PROPERTY LOCATED AT 32501 W. 200TH STREET, EDGERTON, KANSAS

WHEREAS, on March 9, 2021 the City of Edgerton Planning Commission held a public hearing and recommended approval of Application CU2021-01 for a Conditional Use Permit from Moussa Sobaiti, on behalf of My Store III, Inc. ("the Applicant") to allow a pole sign on property located at 32501 W. 200th Street, Edgerton, Kansas (the "Property"); and

WHEREAS on April 22, 2021 the City of Edgerton Governing Body approved the Planning Commission's recommendation of Application CU2021-01 with the passage of Ordinance No. 2068; and

WHEREAS, the City of Edgerton received a new application, Application CU2021-03 for a Conditional Use Permit for a pole sign from the same Applicant, on or about June 7, 2021 to be located on the same Property but in a different physical location on said Property than was approved in Application CU2021-01 due to the necessity that it be adjacent to an access road for maintenance; and

WHEREAS, both at the time of Application CU2021-03 and at the time of the signing of this Ordinance, the Property is owned by My Store III, Inc., a validly existing Kansas Corporation; and

WHEREAS, the Applicant is requesting a Conditional Use Permit to allow an interstate pole sign for the On the Go Travel Center located on the Property to include space for Phillip's 66, TA Express, restaurant tenants and truck services, including a digital display area reflecting gasoline and diesel prices. The sign would be double sided, internally illuminated and stand seventy-seven (77) feet from Grade; and

WHEREAS, the Edgerton Planning Commission did hold a new public hearing on July 13, 2021 for Application CU2021-03 regarding 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 request, for a period of ten (10) years, conditioned on the stipulations noted in the staff report and listed below:

1. Blinking may not be utilized on this Interstate Pole Sign.
2. The location of the sign is to remain in the proposed location.
3. The angle is to be that to where the sign is perpendicular to I-35.

4. The staff recommendations and comments noted related to any requirements for the sign and all else discussed as included in the Staff Report from the July 13, 2021 Council Meeting are included as stipulations as part of approval of this Conditional Use Permit.
5. Installation of the Interstate Pole Sign must follow all City of Edgerton building code requirements including a building permit application, plans review and contractor licensing.
6. The Interstate Pole Sign must be kept in good condition and should repairs be required, repaired in accordance with the time frame of the City of Edgerton UDC in effect at the time the repair is needed. Failure to properly maintain the Interstate Pole Sign shall be cause for revocation of the Conditional Use Permit(s).
7. Any major modifications to the Interstate Pole Sign, as defined by City Staff, will render Conditional Use Permit CU2021-03 null and void. Should the Conditional Use Permit be determined to be null and void, the Interstate Pole Sign would then need to be removed within 60 days after notification to the property owner by the City.
8. This Conditional Use Permit shall be valid for ten (10) years from date of approval by the City of Edgerton Governing Body, regardless of ownership.
9. Should the Conditional Use Permit not be renewed and approved by the Governing Body prior to their expiration date, then the Interstate Pole Sign will be considered non-compliant with the UDC and will be required to be removed within 60 days of written notification to the property owner by the City.
10. Upon approval of application CU2021-03, permit CU2021-01 would be considered null and void.

WHEREAS, the City Governing Body, after reviewing the Conditional Use Permit Application and considering the criteria set forth in Articles 7 and 12 of the City Zoning Regulations and the recommendations of the Planning Commission, finds the Conditional Use Permit should be approved upon the terms described above.

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

Section 1. The proposed Conditional Use Permit for an interstate pole sign is hereby approved for the Property located at 32501 W. 200th Street, Edgerton, Kansas.

Section 2. The Conditional Use Permit approved by this Ordinance is expressly conditioned on the Applicant's/Owner's strict compliance with the ten (10) 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 of the provisions contained herein as well as strict compliance with the City of Edgerton Zoning Regulations. Should Applicant/Owner fail to comply with any term or provision thereof and should such failure continue following written 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 occur through 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. Conditional Use Permit CU2021-01 previously approved by the City on April 22, 2021, and the terms of corresponding Ordinance 2068, are hereby revoked and replaced in full by the terms and requirements of Application CU2021-03 and this Ordinance.

Section 5. 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 12th day of August, 2021.

CITY OF EDGERTON, KANSAS

DONALD ROBERTS, Mayor

ATTEST:

ALEXANDRIA CLOWER, City Clerk

APPROVED AS TO FORM:

LEE W. HENDRICKS, City Attorney