

ORDINANCE NO. 2526

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT ON CERTAIN LANDS LOCATED IN THE CITY OF GARDNER, KANSAS, UNDER THE AUTHORITY GRANTED BY TITLE 17 OF THE MUNICIPAL CODE OF THE CITY OF GARDNER, KANSAS (CUP-16-01).

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: That having received a recommendation from the Planning Commission on September 27, 2016, and proper notice having been given and hearing held as provided by law and under the authority of and subject to the provisions of the Gardner, Kansas, Land Development Code, a Conditional Use Permit is issued on lands legally described as follows:

LEASE AREA (CUP AREA) – AS SURVEYED

A TRACT OF LAND BEING PART OF LOT 2, MOONLIGHT BUSINESS PARK II, A SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY KANSAS. SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 15 DEGREES 24 MINUTES 43 SECONDS WEST, A DISTANCE OF 69.31 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 02 MINUTES 05 SECONDS EAST, A DISTANCE OF 36.10 FEET; THENCE SOUTH 88 DEGREES 14 MINUTES 31 SECONDS WEST, A DISTANCE OF 30.02 FEET; THENCE NORTH 00 DEGREES 02 MINUTES 05 SECONDS WEST, A DISTANCE OF 30.81 FEET; THENCE NORTH 78 DEGREES 19 MINUTES 06 SECONDS EAST, A DISTANCE OF 30.64 FEET TO THE POINT OF BEGINNING, CONTAINING 1,004 SQUARE FEET OR 0.023 ACRES, MORE OR LESS.

AND

A TRACT OF LAND BEING PART OF LOT 2, MOONLIGHT BUSINESS PARK II, A SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY KANSAS. SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 15 DEGREES 24 MINUTES 43 SECONDS WEST, A DISTANCE OF 69.31 FEET; THENCE SOUTH 78 DEGREES 19 MINUTES 06 SECONDS WEST, A DISTANCE OF 30.64 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 02 MINUTES 05 SECONDS EAST, A DISTANCE OF 33.82 FEET; THENCE SOUTH 88 DEGREES 14 MINUTES 31 SECONDS WEST, A DISTANCE OF 22.01 FEET; THENCE NORTH 00 DEGREES 02 MINUTES 05 SECONDS WEST, A DISTANCE OF 29.94 FEET; THENCE NORTH 78 DEGREES 19 MINUTES 06 SECONDS EAST, A DISTANCE OF 22.46 FEET TO THE POINT OF BEGINNING, CONTAINING 701 SQUARE FEET OR 0.016 ACRES, MORE OR LESS.

CASE NO. CUP-16-01

A Conditional Use Permit to allow for a 120 feet wireless telecommunications tower within an M-2 – General Industrial District, on 0.039 acres of property located upon the above described

property, having an address of 790 East Warren Street in Gardner, Kansas, subject to the following conditions:

1. The owner of the wireless facility/tower shall be responsible for the removal of the wireless facility/tower should the facility become unused and abandoned for a period of time exceeding six months. In the failure of the wireless facility/owner to do this it shall become the responsibility of the land owner upon which the wireless facility/tower exists to perform this duty.
2. The communication tower and antenna shall be field inspected and approved by a licensed structural engineer registered in the State of Kansas before the placement of additional antenna, and shall thereafter be re-inspected by such professional every five years to ensure the structural integrity and safety of the antenna, and proof of such field inspections and approvals shall thereafter be submitted to the City.
3. The conditional use permit for the facility shall be valid for 25 years past the date of approval by the Governing Body.

SECTION TWO: That this Ordinance shall take effect and be in force from and after its adoption by the Governing Body and publication in the official City Newspaper.

APPROVED and ADOPTED this 17th day of October, 2016.

(SEAL)

CITY OF GARDNER, KANSAS

/s/ Chris Morrow
Chris Morrow, Mayor

Attest:

/s/ Jeanne Koontz
Jeanne Koontz, City Clerk

Approved as to form:

/s/ Ryan B. Denk
Ryan B. Denk, City Attorney