

Passed: 07/13/2021  
Published: 07/21/2021

ORDINANCE NO. 2463

**AN ORDINANCE APPROVING  
A SPECIAL USE FOR A  
COMMUNICATION STRUCTURE  
ON CERTAIN LANDS LOCATED  
WITHIN THE B-5 Restricted  
Commercial, Warehousing,  
and Limited Manufacturing  
District, ALL PURSUANT TO  
THE ZONING REGULATIONS  
OF THE CITY.**

**BE IT ORDAINED** by the  
Governing Body of the City of  
Derby, Kansas:

**SECTION 1.** Having received  
the recommendation of the  
City Planning Commission  
following notice and hearing  
thereon as provided by law and  
pursuant to Zoning Regulations  
of the City of Derby, Kansas, a  
special use is hereby approved  
for a communication structure  
located within the B-5 Restricted  
Commercial, Warehousing, and  
Limited Manufacturing District:

Lot 2, Block 1, Mayfield-Minge-  
Rolison Addition, Sedgwick  
County, Kansas, EXCEPT  
the following described tract:  
Beginning at the Northeast  
corner of Lot 2, Block 1,  
Mayfield-MingeRolison Addition,  
Sedgwick County, Kansas;  
thence South along the East line  
of said Lot 2, 492.02 feet to the  
Southeast corner of said Lot 2;  
thence West along the South line  
of said Lot 2, 212.87 feet more or  
less to the midpoint in the South  
line of said Lot 2; thence North  
to the midpoint on the North  
line of said Lot 2, said midpoint  
being 214. 725 feet more or less  
West of the Northeast corner of  
said Lot 2; thence East along the  
North line of said Lot 2, 214.725  
feet more or less to the point of  
beginning.

**General Property Location:**  
South of Patriot Avenue and east  
of K-15 Highway

**SECTION 2.** Approval of the  
special use for a communication  
structure is subject to the following  
conditions:

1. The applicant shall obtain all permits necessary to construct the communication structure by September 16, 2021. Alternatively, the applicant shall enter into a tolling agreement with the City that pauses the 150-day review time required by State law between the time the special use is approved by City Council and the time the building permit application is submitted.
2. The communication structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
3. The communication structure shall be no taller than 180 feet in height, plus an additional 10 feet for lightning suppression equipment.
4. The equipment compound shall be screened by solid fencing, landscaping, or a combination thereof in conformance with Section 304.1.1.b. of the zoning regulations.
5. The equipment compound shall be located on the subject property in a manner that does not impact the drainage channel. Impact shall be determined based on detailed grading plans to be submitted and approved by the City Engineer and Floodplain Administrator.
6. The access drive shall be paved with asphalt or concrete.
7. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and

shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval prior to or at the time of submittal of a building permit application.

8. The site shall be developed in conformance with the approved site plans. All improvements shall be completed before the facility becomes operational.
9. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing the other remedies set forth in the zoning regulations, may declare that the special use is null and void.

**SECTION 3.** Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

**SECTION 4.** This ordinance shall take effect and be in force from and after its passage and publication of the ordinance, or a summary thereof, once in the City's official newspaper as provided by State law.

**PASSED** by the City Council  
this 13th day of July 2021, and  
**SIGNED** by the Mayor.

Randy White, Mayor

Attest:

Lynn Ciarleglio, City Clerk

Approved as to form:

/s/ Jacqueline R. Butler  
City Attorney