



Welcome To Your City Commission Meeting - Please turn off all cell phones during the commission meeting.
Meetings are televised everyday on Channel 2 at 7 p.m. and midnight

Call to Order – Pledge of Allegiance Followed by Silent Meditation

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

1. Minutes from December 12, 2017 Regular Meeting **Action:** Motion (pg. 3)

NEW BUSINESS:

Nominations:

2. Nomination of the Governing Body (pg. 9)
- a. Mayor – Term of January 9, 2018 – January 8, 2019 **Action:** Motion
 - b. Mayor Pro-Tem – Term of January 9, 2018 – January 8, 2019 **Action:** Motion
 - c. Financial Claims Reviewer – Term of January 9, 2018 – January 8, 2019 **Action:** Motion

Citizen Participation: *(i.e. Items not listed on the agenda or receipt of petitions)*

General Items:

3. Public Hearing to Vacate Street– Linn Street at 2nd Street & Linn (pg. 10)
- a. Open Public Hearing **Action:** Motion
 - b. Staff and Public Comments
 - c. Close Public Hearing **Action:** Motion
 - d. First Consideration Ordinance Vacate a portion of Linn Street **Action:** Consensus

Bids, Contracts and Agreements:

4. Consider Bids for Chemicals-Water Pollution Control **Action:** Motion (pg. 25)

First Consideration Ordinances:

5. First Consideration Ordinance Vacate Easement in Tract C, The Branches Addition 2 **Action:** Consensus (pg. 28)
6. First Consideration Ordinance Special Use Permit 2115 Ridgeview Drive **Action:** Consensus (pg. 33)
7. First Consideration Ordinance to Remove 225 Delaware from the Downtown Redevelopment District
Action: Consensus (pg. 71)

Consent Agenda:

Claims for December 9, 2017 through January 5, 2018 in the amount of \$ 3,617,753.87; Net amount for Pay #26 effective December 22, 2017 in the amount of \$ 330,622.96 (Including Police & Fire Pension of \$ 11,401.34) and Net amount of Pay 1 effective January 5, 2018 in the amount of \$ 312,516.25 (No Police & Fire Pension). **Action:** Motion

Other Items:

Executive Sessions:

8. Consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship exception per K.S.A. 75-4319 (b) 2. (Eisenhower Rd Improvement Project)
Action: Motion (pg. 78)
9. Consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship exception per K.S.A. 75-4319 (b) 2. (Leavenworth County Port Authority)
Action: Motion (pg. 79)

Adjourn: **Action:** Motion



CALL TO ORDER - The Governing Body met in regular session and the following commission members were present: Mayor Nancy D. Bauder, Mayor Pro-Tem Mark Preisinger, Commissioners Larry Dedeke, Charles Raney and Lisa Weakley.

Others present: City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Fire Chief Gary Birch, WPC Superintendent Chuck Staples, Finance Director Ruby Maline, Public Works Director Mike McDonald, City Planner Julie Hurley, Public Information Officer Melissa Bower, City Attorney Tom Dawson, Deputy City Clerk Cary Collins and City Clerk Carla K. Williamson.

Mayor Bauder opened the meeting with the pledge of allegiance followed by silent meditation.

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Dedeke moved to approve the minutes from the November 28, 2017 regular meeting and the December 5, 2017 Special Meeting as presented. Commissioner Raney seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Second Consideration Ordinances:

Second Consideration Ordinance 8064 Appendix F, Schedule of Fees— City Manager Paul Kramer presented for Roll Call vote Ordinance 8064. The ordinance was presented for first consideration at the November 28, 2017 Commission Meeting. There have been no changes since that meeting.

Mayor Bauder called the roll call vote and Ordinance No. 8064 was unanimously approved.

Second Consideration Ordinance 8065 Amendment to Sec. 2-28 Distinction Between Commissioners; Compensation— City Manager Paul Kramer presented for Roll Call vote Ordinance 8065. The ordinance was presented for first consideration at the November 28, 2017 Commission Meeting. There have been no changes since that meeting.

Mayor Bauder called the roll call vote and Ordinance No. 8065 was approved 4-1; Commissioner Raney voting no.

NEW BUSINESS:

Citizen Participation: none

General Items:

Review of Property on Demolition List – 800 Miami Street – City Planner Julie Hurley presented for consideration a request to grant an extension for repairs. On October 10, 2017 the City Commission passed Resolution 2179 finding eight structures to be unsafe or dangerous and directed the structures to be repaired or removed. 800 Miami Street was included in that resolution. The owner of the property, Mid First Bank/Midland Mortgage contacted staff

indicating intent to repair the property. They have provided proof of funds secured from HUD and signed the Remediation Agreement with staff with a deadline of March 1, 2018 to have all repairs complete.

Commissioner Preisinger moved to keep the property at 800 Miami on the Demlition list and review again on March 1, 2018 or first meeting after March 1, 2018. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Public Hearing for Amending the 2017 Budget

Open Public Hearing:

Commissioner Dedeke moved to open the public hearing. Commissioner Preisinger seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Staff and Public Comments:

Finance Director Ruby Maline presented the proposed republication of the 2017 budget increasing the expenditure authority to accommodate unanticipated expenditure for the following funds according to K.S.A 79-2929 a. Municipalities are authorized to amend budgets to spend money not in the original budget as long as it does not require additional tax levies.

- Recreation Fund
- Street & Highway Fund
- Hotel Tax Increment Financing (TIF) Fund

Summary of Amendments

Fund	2017 Adopted Budget			2017 Proposed Amended Expenditures
	Actual Tax Rate	Amount of Tax that was Levied	Expenditures	
Special Highway Fund			1,078,759	1,417,441
TIF-Hotels			121,981	289,277
Recreation Fund	2.602	529,562	1,573,080	1,645,082
			0	0
			0	0
			0	0

Close Public Hearing:

Commissioner Preisinger moved to close the public hearing. Commissioner Raney seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Consider Amendments:

Commissioner Preisinger moved to approve the amendment to the 2017 budget as presented. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

2018 Cereal Malt Beverage Licenses – City Clerk Carla Williamson presented for approval the following Cereal Malt Beverage Licenses effective January 1, 2018:

Abe’s Place

5101 10th Ave

ON

AZNZ Enterprises dba Woody's Food Mart	700 Eisenhower Rd	OFF
AZAD Inc dba 7-Eleven Store	701 Metropolitan Ave	OFF
Casey's Retail Store #1261	2004 Spruce St	OFF
Casey's Retail Store #2609	950 Eisenhower Rd	OFF
Casey's Retail Store #2826	2100 S 4 th St	OFF
Dillon's #40	720 Eisenhower Rd	OFF
Eddie's Grocery	1101 Spruce St	ON
Family Bistro	227 Cherokee St	ON
Four B dba Price Chopper	2107 S 4 th St	OFF
GOJRA LLC dba K7 Stop	300 N 4 th St	OFF
Hometown Store	111 N Broadway St	OFF
Little Bar	1431 10 th Ave	ON
Murphy's USA #7486	1050 Eisenhower Rd	OFF
TA Operating LLC dba Minit Mart	3122 S 4 th St	OFF
The Towne Pub Restaurant	1001 Ottawa St	ON
Walgreens #12923	2900 S 4 th St	OFF
Walmart Store #326	5000 10 th Ave	OFF

Commissioner Preisinger moved to approve the 2018 Cereal Malt Beverage Licenses as presented. Commissioner Raney seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

2018 Massage & Tattoo Establishments Licenses – City Clerk Carla Williamson presented for approval the following Licenses effective January 1, 2018:

Bella Vita Salon & Day Spa	4516 S 4 th St	Lyndsay Hubbard
Eden's Gate	2916 S 4 th St	Rodney L. Steven II
Elemental Wellness Spa	425 Shawnee St	Roxanne Joslin
Gail Reardon Therapeutic Massage	2300 S 4 th St	Gail Reardon
Healing Touch	530 W 7 th St	Deborah Leavitt
Leavenworth Yoga Co-op	521 Delaware St	Joyce Chalmers
Life Family Chiropractic	211 B Delaware St	Dr Kristen Simpson
Oriental Massage	2920 4 th St, Suite G	Lixin Zhou & Na Dong
Serenity Hair Design & Spa	630 Cherokee St	Veronica Carroll
Teri's Hair Loft	221 ½ Delaware St	Teri Pizarro
Testament Tattoo	404 S 5 th St	Clinton Burk
Vision's Salon & Spa	516 Shawnee St	Jessica Johnson

Commissioner Dedeke moved to approve the 2018 Massage & Tattoo Establishment Licenses as presented. Commissioner Raney seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Consider Commercial Insurance Renewal for 2018 - City Clerk Carla Williamson presented for consideration the renewal quote for the 2018 City Insurance policy in the amount of \$382,997.00 effective January 1, 2018 with OneBeacon Insurance through the City's Insurance Broker, The Reilly Company.

Commissioner Preisinger moved to approve the 2018 insurance premium of as presented. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Approval of the 2018-2022 Capital Improvement Program (CIP) – City Manager Paul Kramer presented for consideration the 2018-2022 Capital Improvements Program for approval. There have been no changes to the CIP since the November 21, 2017 City Commission Meeting. Thornton Street is not included. Design plans have not been completed only conceptual plans. Design phase to include full design, right of way, possibly the need to acquire property and utilities. The design phase will take at least 9 months before complete. No construction could begin until spring of 2019. This will come back to the Commission in about 60 days for further discussion. The process would not have gone any faster had it been included in the CIP.

Commissioner Preisinger moved to approve the 2018-2022 Capital Improvement Program as presented. Commissioner Weakley seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Cancellation of the December 26, 2017, Regular Meeting – City Manager Paul Kramer presented for consideration the cancellation of the December 26, 2017 Regular City Commission Meeting due to the Christmas Holiday. This requires that the City Commission formally cancel the meeting by motion and approval.

Commissioner Preisinger proudly moved to cancel the December 26, 2017 Regular meeting. Commissioner Weakley seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Resolutions:

Resolution B-2184 Planters II Tenant Write-off Accounts – City Manager Paul Kramer presented for adoption a resolution to remove two uncollectable accounts.

Commissioner Weakley moved to adopt Resolution No. B-2184, Planters II Tenant Write-off accounts as presented by staff. Commissioner Preisinger seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Resolution B-2185 Planters II Disposed Assets – City Manager Paul Kramer presented for adoption a resolution to remove property from the assets inventory of the Leavenworth Housing Authority.

Commissioner Preisinger moved to adopt Resolution No. B-2185 Planters II Disposed Assets. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Bids, Contracts and Agreements:

Consider Agreement with KDOT for Community Center Stone Restoration Phase 4 – Public Works Director Mike McDonald presented for consideration and agreement with KDOT. Kansas Department of Transportation (KDOT) requires that local officials sign the Project Program Request prior to authorizing funds as verification that sufficient matching funds are available for the completion of the project.

Commissioner Dedeke moved to approve the agreement with KDOT for the Community Center Stone Restoration Phase 4. Commissioner Preisinger seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Consider Change Order to Contract 2017-11 with L. G. Barcus and Sons Inc. for 2nd Street Over 3-Mile Creek Bridge Replacement Project - Public Works Director Mike McDonald presented for consideration the change order in the amount of \$48,045.43 for 4 additions to the project. Mr. McDonald reviewed the 4 items totaling \$48,045.43

Commissioner Weakley moved to approve Change Order No. 1 to the construction contract with L. G. Barcus for the 2nd Street over 3-Mile Creek Bridge Project. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0

CONSENT AGENDA:

Commissioner Weakley moved to approve claims for November 24, 2017 through December 8, 2017 in the amount of \$1,728,569.45; net amount for Longevity Pay effective December 1, 2017 in the amount of \$45,241.11 and Pay #25 effective December 8, 2017 in the amount of \$316,024.48 (No Police & Fire Pension). Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Other Items:

Presentation to Outgoing Commissioners – Mayor Bauder, on behalf of the City and the City Commission recognized Charles Raney and Lisa Weakley for their service to the City as City Commissioners.

Executive Session:

Executive Session – Attorney Client

Commissioner Preisinger moved that the City Commission recess into executive session pursuant to the consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship exception per K.S.A. 75-4319 (b) 2 to discuss a real estate contract. The open meeting to resume in the City Commission Chambers at 8:45 p.m. by the clock in the City Commission Chambers. Commissioner Raney seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

It was determined that Commissioner Preisinger’s motion was to return at 8:45 and it should have been 7:45.

Commissioner Preisinger moved to resend his motion. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Commissioner Preisinger moved that the City Commission recess into executive session pursuant to the consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship exception per K.S.A. 75-4319 (b) 2 to discuss a previous real estate contract. The open meeting to resume in the City Commission Chambers at 7:45 p.m. by the clock in the City Commission Chambers. City Manager Paul Kramer and City Attorney Tom Dawson are requested to be present during the Executive Session. Commissioner Raney seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

The City Commission returned to open session at 7:45 p.m. with no action taken.

Executive Session – Personnel Matters of Nonelected Personnel per K.S.A. 75-4319 (b) 1.

Commissioner Weakley moved that the City Commission recess into executive session to discuss the annual performance review of the City Manager pursuant to the nonelected personnel matter exception K.S.A. 75-4319 (b). The open meeting to resume in the City Commission Chambers at 7:55 by the clock in the City Commission Chambers. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

The City Commission returned to open session at 7:55 p.m.

Mayor Bauder moved to approve a 1.5% salary increase effective December 18, 2017 for the City Manager. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Additional Items:

City Manager Paul Kramer- No Study Sessions for December 19, 2017 or January 2, 2018 scheduled at this time.

Commissioner Weakley – Stated that she served on the Community Relations Board at Providence Hospital and the Mayor or City Manager will be contacted to appoint a new representative.

Adjourn:

Commissioner Dedeke moved to adjourn the meeting. Commissioner Raney seconded the motion and was unanimously approved. The Mayor declared the motion carried and the meeting adjourned.


Time Meeting Adjourned 7:57 p.m.

Minutes taken by City Clerk Carla K. Williamson, CMC

**POLICY REPORT
MAYOR, MAYOR PRO-TEM AND FINANCIAL CLAIMS REVIEWER
NOMINATIONS**

JANUARY 9, 2018

Prepared by:


Carla K. Williamson, CMC
City Clerk

Reviewed by:


Paul Kramer
City Manager

ACTION:

Nominations for Mayor, Mayor Pro-Tem and Financial Claims Reviewer:

- | | |
|-------------------------------------------------------------------|-----------------------|
| 1. Mayor – January 9, 2018 to January 8, 2019 | Action: Motion |
| 2. Mayor Pro-Tem – January 9, 2018 to January 8, 2019 | Action: Motion |
| 3. Financial Claims Reviewer – January 9, 2018 to January 8, 2019 | Action: Motion |

POLICY REPORT PWD NO. 18-02

**CONSIDER AN ORDINANCE VACATING LINN STREET ROW
BETWEEN LOT 10 BLOCK 5 and LOT 9 BLOCK 4
OF FACKLER'S ADDITION**

January 9, 2018

Prepared by:


Michael G. McDonald, P.E.,
Director of Public Works

Reviewed by:


Paul Kramer,
City Manager

ISSUE:

Consider a petition for vacation of the Linn Street Right of Way (ROW) between Lot 10, Block 5 and Lot 9 Block 4, Fackler's Addition.

BACKGROUND:

Geiger Ready-Mix owns the properties north and south of Linn Street east of 2nd Street to the alley (approximately 150 feet). They have requested that the street Right of Way (ROW) adjacent to these properties be vacated. This results in the ownership of the street ROW being transferred to adjoining property owners.



City staff has reviewed this proposal and location and offers the following observations:

1. The topography is severe and will take considerable resources of the City to make a roadway for public travel.
2. There is no current plan to extend Linn Street at this location.

Staff is reluctant to recommend that the City relinquish ownership of public property without some public purpose being served. Representatives of Geiger have stated that in the future they intend to revise their stockpile layout and traffic patterns. As they have been at this location since the mid 1950s and have invested millions of dollars in a new plant and other

equipment, it is reasonable to assume that they have long-term plans to remain on the property. Based on this expectation, and having no plans to extend Linn Street, the Engineering Office supports this request.

The City has contractual agreements with the major utilities that allow them to use the ROW for their purposes. Notification has been sent to all of the local utility companies and their responses received as noted or attached. Two noted items are shown below:

1. WESTAR proposes that an easement and/or agreement be created with Geiger that allows them to continue using the ROW for WESTAR purposes.
2. ATT has yet to respond to the letter.

RECOMMENDATION:

Staff recommends that the City Commission place an ordinance for first consideration for vacation of Linn Street ROW between Lot 10, Block 5 and Lot 9 Block 4, Fackler's Addition.

POLICY:

The City Commission reviews proposed vacations. Staff generally supports such requests if they facilitate a greater public purpose. This request does meet the criteria for a favorable recommendation by the City Engineer's Office with the above noted exceptions.

ATTACHMENTS:

Copies of letters from utilities
Surveys and legal descriptions
Draft Ordinance



1372

City of Leavenworth
100 N 5th St
Leavenworth, Ks 66048
Telephone: 913-682-9201

City of Leavenworth
City Clerk's Office

NOV 13 2017

Received by: Q via US mail

Filing Date 12-11-2017
Fee of \$250.00 Paid \$250.00
Certified Adjacent Property Owners
Publication Date of Hearing _____
Date of Hearing January 9 2018

**VACATION PETITION FOR
SITE OR ADDITION/ALLEY/ STREET/EASEMENT/BUILDING SETBACK LINES**

1. Apply for vacating petitions in the Office of the City Clerk.
2. A petition, if approved, may take up to 60 days for complete action. The amount of time would depend on when the application is filed with respect to the City Commission meetings.
3. The application shall be filled out completely by the applicant in order that the City Commission has a clear understanding of what the applicant desires. You must be the legal owner of the property (NOT LEASEE OR RENTER).
4. Procedure for filing and reviewing petitions shall be as follows:
 - a. Applications shall be filled out completely and filed in the Office of the City Clerk. If additional space is needed, attach additional sheets.
 - b. A non-refundable fee of \$250 shall be paid at the City Clerk's Office at the time the application is filed.
 - c. Upon receipt of the properly executed application, **CERTIFIED OWNERSHIP OF ADJACENT PROPERTY OWNERS** and required filing fee, the City Clerk shall forward the application to the City Engineer and City Planner for review and recommendations.
 - d. **CERTIFIED OWNERSHIP OF ADJACENT PROPERTY OWNERS SHALL BE CERTIFIED BY AN ABSTRACTOR.** Listing shall include **ADJACENT PROPERTY OWNERS ONLY**, not a 200' radius.
 - e. **All** applications require the signatures of adjoining (adjacent) property owners.
 - f. After being reviewed by City Staff, the City Clerk shall publish a notice of this request and place this item on the agenda for the City Commission's consideration.

Geiger Ready Mix Co Inc, residing at 1333 S 2nd St
(Owner(s) Name) (Owner(s) Address)

Daytime Telephone: 913 772 4010 E-mail: blaineweeks@geigerreadymix.com

Intended use of the vacated street, alley, or easement by petitioner: storage

Must be described by the present legal owner of the property. Legal Description of property to be vacated:

Located between parcel 0773604006007000 owned by Geiger and Parcel 0773604007003000 also owned by Geiger

Located at: (Street Address) 2nd & Linn; do hereby petition the Leavenworth City Commission for the vacating of the site or addition/street/alley/easement (circle one) as indicated on the sketch below. Sketch must show vicinity, adjacent streets and legal description of lots abutting proposed vacation. (Include sketch of property)

see attached, area in red is property requesting to be vacated.

All applications require signatures of adjoining property owners. In submitting this petition, the undersigned agrees to pay a \$250 non-refundable fee and certifies he/she is the present owner of the property adjacent to the site or addition/street/alley/easement.

Signed: Blaine Weeks Date: 10/16/17 12/11/17

THIS PETITION MUST BE ACCOMPANIED BY A CERTIFIED LIST OF ADJACENT PROPERTY OWNERS (pursuant to K.S.A. 12-504)



November 29, 2017

P.O. Box 50
Leavenworth, KS 66048-0050
www.geigerreadymix.com

Central Dispatch
913-281-0111
Fax 913-281-1492

Administrative Office
913-772-4010
Fax 913-772-8661

Leavenworth, Kansas

Kansas City, Kansas

Olathe, Kansas

Liberty, Missouri

Lee's Summit, Missouri

To the City of Leavenworth,

Geiger Ready-Mix, the owner of 1319 and 1333 S. 2nd Street, agree to vacate said properties. Thank you for your time with this matter.

Sincerely,

Blaine Weeks
Geiger Ready-Mix
913-772-4010 Office
913-772-8661 Fax

Billy Daniels
Geiger Ready-Mix
913-772-4010 Office
913-772-8661 Fax





- Legend**
- OK_UIC_Wells
 - ◆ Exceptionally Deep Main
 - ◆ Cast Iron Sample
 - Marker Ball
 - Placard
 - In Active Well Head
 - Pipe Line Marker
 - Pinch Point
 - ⬇ Work Order Polygon
 - Proposed
 - Approved
 - Under Construction
 - In Service
 - In Service/Under Construction (Log Posted)
 - Map Correction
 - Field Verified (Not Shown)
 - Design Abandoned Service Line
 - Proposed to Abandon (Contains G; Approved to Abandon)
 - In Service (Abandoned and No Gas)
 - Design Service Line
 - Proposed
 - Approved Design
 - Pending
 - In Service
 - Design Gas Main Casing
 - Design Gas Main
 - Proposed
 - Approved Design
 - In Service
 - In Service/Under Construction (Log Posted)
 - Design Gas Valve
 - Proposed
 - Approved Design
 - In Service
 - Design Controllable Fitting
 - Short Stop
 - 3 Way Tee
 - Tapping Tee
 - Design Non-Controllable Fitting
 - Design Regulator Station
 - Design CP Test Station
 - Design Notes
 - Gas Sector
 - Service Area
 - Data Error Reports
 - Completed
 - In Progress
 - Reviewed and Rejected
 - Submitted
 - CP Bond Junction
 - CP Cable
 - Bond Wire
 - Reg Meter Cable
 - CP Ground Bed
 - CP Rectifier
 - CP Anode
 - CP Test Station
 - CP System Label
 - Controllable Fitting
 - Short Stop
 - 3 Way Tee
 - Tapping Tee
 - Meter Setting
 - Gas Valve
 - Critical Inspection Not Required
 - Critical Inspection Required
 - Non-Critical
 - Regulator Station
 - Town Border Station
 - Drip
 - Non Controllable Fitting
 - Other Non Controllable Fittings
 - Investigated Outgoing

188.1 0 94.04 188.1 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
© Latitude Geographics Group Ltd

DISCLAIMER: This document and information herein is a visual representation and approximation of ONE Gas facilities and is subject to revision at any time without notice. It is an informational tool and is not guaranteed, warranted, or represented to be to scale, complete, accurate, or depicting depth. ONE Gas disclaims any and all liability for same. Call 811 by dialing 811 prior to and excavation.

Notes

2017 - GEIGER READY MX REQUEST TO VACATE ALLEY/STREET



December 28, 2017

Time Warner Cable / Spectrum
8221 W. 119th St.
Overland Park, Kansas 66213

Attn. Steve Baxter

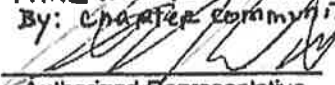
RE: Linn Street ROW Vacation, Leavenworth, Kansas

This office has received the attached request to Vacate a 80 foot ROW of a part of Linn Street running between lot 10, Block 5 and Lot 9, Block 4 of Fackler's Addition, a subdivision of land in the City of Leavenworth, Leavenworth County, Kansas; subdivision of land in the City of Leavenworth, Leavenworth County Kansas

The intent is for commercial development and any/all utilities will need to be removed and relocated to serve the proposed development.

Please review the attached documents and indicate your wishes below.

- No objection to the request.
- Objection to the request for the following reason/reasons.

Time Warner Cable Midwest LLC
 By: *Charles Communications, Inc. its manager*

 Authorized Representative
 Date 1/2/18

Vincent Percy Watson, Area Vice President, Field Operations
 We would appreciate your reply no later than 3.00 p.m., January 4, 2018. You may scan your response and Email to Jstewart@firstcity.org or Fax it to 913-682-1512 Thank you in advance for your timely consideration of this

Justin Stewart – Sr. Engineering Technician

File:



December 28, 2017

Leavenworth Water Department
601 Cherokee
Leavenworth, Kansas 66048

Attn. Joel Mahnken

RE: Linn Street ROW Vacation, Leavenworth, Kansas

This office has received the attached request to Vacate a 80 foot ROW of a part of Linn Street running between lot 10, Block 5 and Lot 9, Block 4 of Fackler's Addition, a subdivision of land in the City of Leavenworth, Leavenworth County, Kansas; subdivision of land in the City of Leavenworth, Leavenworth County Kansas

The intent is for commercial development and any/all utilities will need to be removed and relocated to serve the proposed development.

Please review the attached documents and indicate your wishes below.

- No objection to the request.
 - Objection to the request for the following reason/reasons.


Authorized Representative


Date

We would appreciate your reply no later than 3:00 p.m., January 4, 2018. You may scan your response and Email to jstewart@firstcity.org or Fax it to 913-682-1512 Thank you in advance for your timely consideration of this

Justin Stewart – Sr. Engineering Technician

File:



December 28, 2017

WESTAR Energy
2720 Second Ave.
Leavenworth, Kansas 66048

Attn. Jon Hain

RE: Linn Street ROW Vacation, Leavenworth, Kansas

This office has received the attached request to Vacate a 80 foot ROW of a part of Linn Street running between lot 10, Block 5 and Lot 9, Block 4 of Fackler's Addition, a subdivision of land in the City of Leavenworth, Leavenworth County, Kansas; subdivision of land in the City of Leavenworth, Leavenworth County Kansas

The intent is for commercial development and any/all utilities will need to be removed and relocated to serve the proposed development.

Please review the attached documents and indicate your wishes below.

- No objection to the request.
- Objection to the request for the following reason/reasons.

Westar Energy does not object to the request, provided that Westar Energy is permitted to leave its existing facilities in the corridor under prescriptive rights, as discussed with the City. Westar would retain its right to access and maintain those facilities, and would require that standard clearance from those lines to any new buildings or structures be maintained.



Authorized Representative

12-28-17
Date

We would appreciate your reply no later than 3:00 p.m., January 4, 2018. You may scan your response and Email to Jstewart@firstcity.org or Fax it to 913-682-1512 Thank you in advance for your timely consideration of this

Justin Stewart – Sr. Engineering Technician

File:



December 27, 2017

Kansas Gas, ONEOK
2720 Second Ave.
Leavenworth, Kansas 66048

Attn: Scott Evans

RE: Linn Street ROW Vacation, Leavenworth, Kansas

This office has received the attached request to Vacate a 80 foot ROW of a part of Linn Street running between lot 10, Block 5 and Lot 9, Block 4 of Fackler's Addition, a subdivision of land in the City of Leavenworth, Leavenworth County, Kansas; subdivision of land in the City of Leavenworth, Leavenworth County Kansas

The intent is for commercial development and any/all utilities will need to be removed and relocated to serve the proposed development.

Please review the attached documents and indicate your wishes below.

- No objection to the request.
- Objection to the request for the following reason/reasons.


Authorized Representative

12/27/2017
Date

We would appreciate your reply no later than 3:00 p.m., January 4, 2018. You may scan your response and Email to Jstewart@firstcity.org or Fax it to 913-682-1512 Thank you in advance for your timely consideration of this matter.

Justin Stewart – Sr. Engineering Technician

File:

(Summary Published in the Leavenworth Times on January 26, 2018)

ORDINANCE NO. _____

AN ORDINANCE VACATING A PART OF LINN STREET RUNNING BETWEEN LOT 10, BLOCK 5 AND LOT 9, BLOCK 4 OF FACKLER'S ADDITION, A SUBDIVISION IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS

WHEREAS, a petition was filed with the City Clerk of the City of Leavenworth, Kansas for a vacation of a part of Linn Street running between lot 10, Block 5 and Lot 9, Block 4 of Fackler's Addition, a subdivision of land in the City of Leavenworth, Leavenworth County, Kansas; and

WHEREAS, the City Clerk of the City of Leavenworth, Kansas gave public notice of the same by publication in the official City newspaper stating that a petition has been filed in the office of the City Clerk praying for such vacation, describing the property fully and setting January 9, 2018 as the hearing date on which the petition shall be presented to the Governing Body of the City for hearing and that at such time and place all persons interested can appear and be heard under the petition; and

WHEREAS, the petition did proceed to hearing as published and no objections were filed with the City Clerk or received at the time of the hearing; and

WHEREAS, all utility companies were notified and agreed to such vacation with the stipulations noted in Section 2 by Westar Energy; and

WHEREAS, all the requirements of K.S.A. 12-504 *et seq* have been complied with; and

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

Section 1. a tract of land, being a part of the North Half and South Half of platted Linn Street being between Lot 10, Block 5 and Lot 9, Block 4 of Fackler's Addition, a subdivision in the City of Leavenworth, Leavenworth County, Kansas, and more particularly being described as follows: Beginning at the Northwest Corner of said Lot 10; thence North to the Southwest Corner of said Lot 9, thence East along the South line of said Lot 9 to the Southeast Corner of said Lot 9; thence South to the Northeast Corner of said Lot 10; thence West along the North line of said Lot 10 to the Northwest Corner of said Lot 10, said point also being the Point of Beginning, containing 12,000.00 square feet more or less. (See attached Exhibits A & B).

Section 2. Westar Energy is permitted to leave its existing facilities in the corridor under prescriptive rights, and shall retain its right to access and maintain those facilities, and requires that standard clearance from those lines to any new buildings or structures be maintained.

Section 3. That this Ordinance shall take effect upon passage and publication as provided by law.

Passed by the Leavenworth City Commission on this 23rd day of January, 2018.

ATTEST:

Mayor

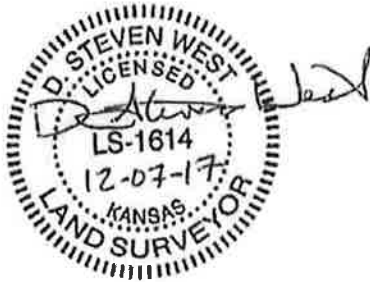
Carla K. Williamson, CMC, City Clerk

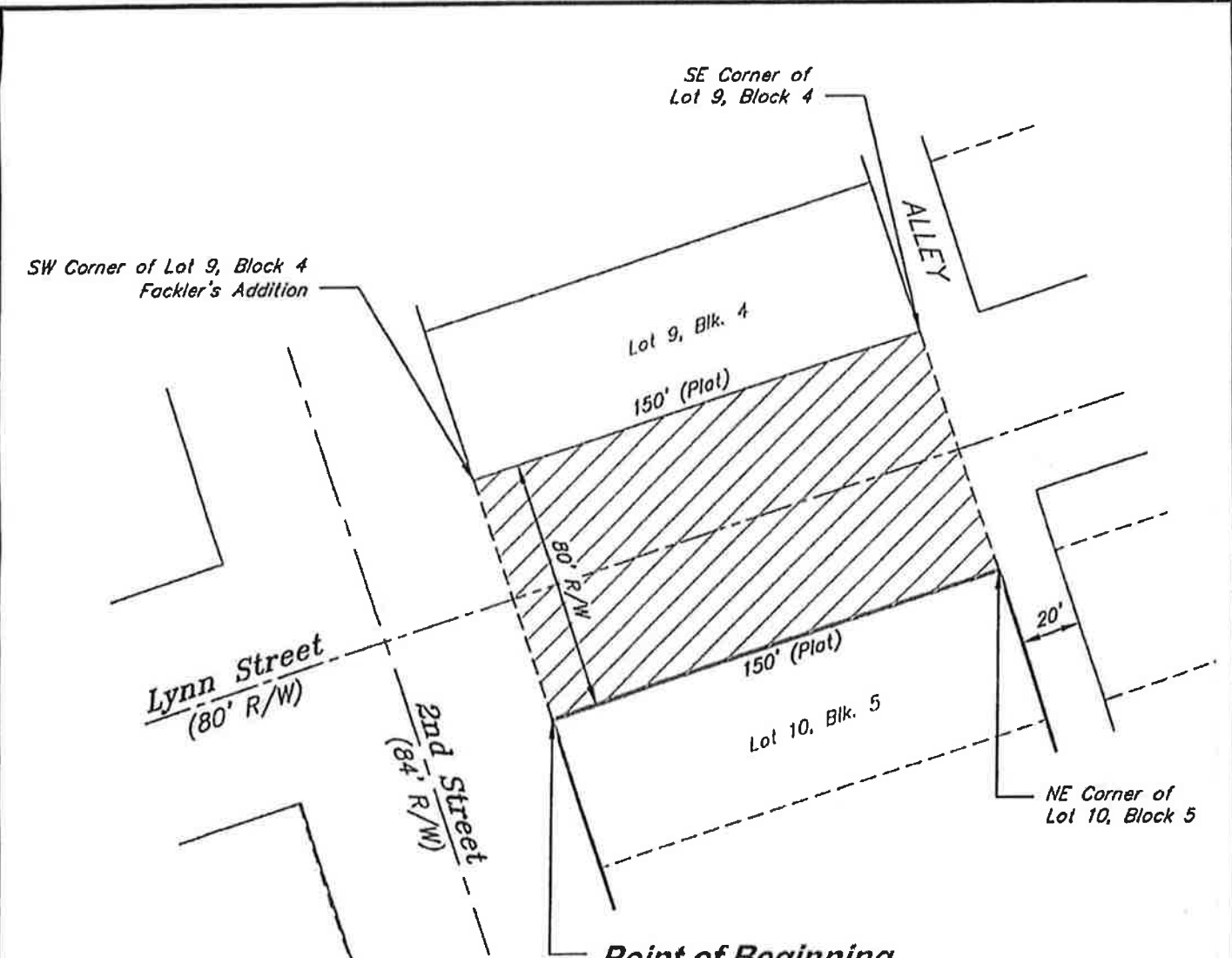
Exhibit A

LEGAL DESCRIPTION:

A tract of land, being a part of the North Half and South Half of platted Lynn Street being between Lot 10, Block 5 and Lot 9, Block 4, Fackler's Addition, a subdivision in the City of Leavenworth, Leavenworth County, Kansas, and more particularly being described as follows:

Beginning at the Northwest Corner of said Lot 10; thence North to the Southwest Corner of said Lot 9, thence East along the South line of said Lot 9 to the Southeast Corner of said Lot 9; thence South to the Northeast Corner of said Lot 10; thence West along the North line of said Lot 10 to the Northwest Corner of said Lot 10, said point also being the Point of Beginning, containing 12,000.00 square feet more or less.





Point of Beginning
 NW Corner of Lot 10, Block 5
 Fackler's Addition



0 50
 SCALE: 1" = 50'

Right Of Way To Be Vacated
 (12,000.0 Sq. Ft.)

NOTE:
 THE PURPOSE OF THIS EXHIBIT IS ONLY FOR THE REPRESENTATION OF THE PROPOSED
 EASEMENTS SHOWN HEREON. THIS EXHIBIT DOES NOT CONSTITUTE A BOUNDARY SURVEY.

Exhibit B
LYNN ST. VACATION
LEAVENWORTH, KS

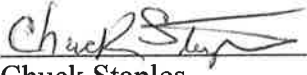


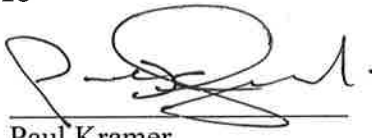
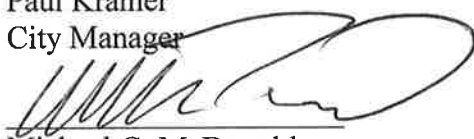
McAFEE HENDERSON SOLUTIONS, INC.
 Civil Engineering + Land Surveying
 18700 College Blvd., Suite 202 Lenexa, KS 66219
 Ph: (913) 888-4547 Fax: (913) 350-8855

Policy Report No. WPC 1.1.18

Bid Approval – Water Pollution Control Division Chemicals
Bid No. #62WW-2017-18

January 9, 2018

Prepared by: 
Chuck Staples
WPC Superintendent

Reviewed by: 
Paul Kramer
City Manager

Michael G. McDonald
Public Works Director

Issue:

Consider approval of bids for the purchase of chemicals used in the operation and maintenance of the Wastewater Treatment Plant.

Background:

These chemicals are used for a variety of processes in the treatment of wastewater. A summary of the uses is shown below.

- Hydrogen Peroxide is injected into the raw sludge line before the belt press to control the release of hydrogen sulfide gas in the press room.
- Sodium Hypochlorite and Sodium Hydroxide are used in the wet air scrubber to control odors from the dewatering operation.
- Ferrous chloride is added to the influent to control odors from the plant processes.
- Polymer is a coagulating agent used in the sludge dewatering process.

A Summary of the bids received for 2018 as compared with 2017 is shown below

<u>Chemical</u>	<u>Cost is 2018</u>	<u>Cost in in 2017</u>	<u>Vendors for 2018</u>
Ferrous Chloride	\$ 0.92/lb. Fe	\$0.73/lb. Fe	PVS Technologies
Hydrogen Peroxide	\$ 0.325/lb.	\$0.34/lb.	Brenntag Mid-South
Sodium Hypochlorite	\$ 2.25/gal	\$1.25/gal.	Univar USA
Sodium Hydroxide	\$.244/lb	\$.185/lb.	Univar USA
Polymer	\$ 1.489/lb	\$1.51/lb.	Atlantic Coast Polymers

Staff Recommendation:

Staff recommends approval by the City Commission of the low bids that meet the specifications for the following chemicals as shown not to exceed \$55,000 in total.

Options/Alternatives: The City Commission can accept any or all of the low bids as recommended by the City Staff, or can ask the Staff to re-bid any or all of these.

Chuck Staples

From: Charity Frey
Sent: Thursday, January 04, 2018 1:31 PM
To: Chuck Staples
Subject: 2017 Chemical Usage

Ferrous Chloride - 35,917.34lbs
Hydrogen Peroxide - 18 (55 gallon) drums
Sodium Hypochlorite - 2 (55 gallon) drums
Sodium Hydroxide - 1 (55 gallon) drums
Polymer - 288 (55 lb.) bags = 15,840lbs

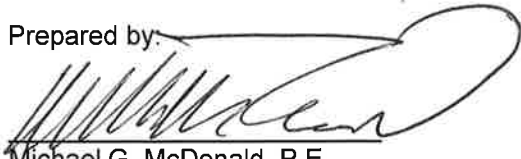
2018 BID AMOUNT
~~ORDER~~
31,000 lb
23 DRUMS
3 DRUMS
2 DRUMS
14,000 lb

POLICY REPORT PWD NO. 18-03

CONSIDER AN ORDINANCE VACATING EASEMENTS
IN TRACT C, BIRCH STREET/BRANCHES ADDITION 2A

January 9, 2018

Prepared by:



Michael G. McDonald, P.E.,
Director of Public Works

Reviewed by:



Paul Kramer,
City Manager

ISSUE:

Consider a request for vacation of all easements except utility easements in Tract C of Birch Street/ Branches Addition 2A Subdivision.

BACKGROUND:

Birch Street/ Branches Addition Subdivision was established in 2010. The plat included several odd-shaped lots that were to be owned and maintained by the Home Owners Association (HOA). Staff assumes this lot would have had a sign or monument on it at some point. There is also blanket easement across the tract from the plat dedications that imply there is public use and a city drainage easement on the property. There is no known need for this drainage easement or public use.

There is no HOA and the property is owned by a new developer who desires to address these types of issues.

It is proposed that this property will become part of Lot 1, Birch Street/ Branches Addition 2A to the north. There are no easements on the lot line between the tract and Lot 1. There are general utility easements along the East and West lot lines which will remain.



City staff has reviewed this proposal and location and finds no reason the City should retain a general easement over this tract for public use and drainage; however, the utility easements should remain.

The City has contractual agreements with the major utilities that would have access to these utility easements. In this case there are no utility easement vacations being considered other than for drainage which is a City function.

RECOMMENDATION:

Staff recommends that the City Commission place an ordinance for first consideration for vacation of easements within Tract C, Birch Street/ Branches Addition 2A.

POLICY:

The City Commission reviews proposed vacations. Staff generally supports such requests if they facilitate a greater public purpose. This request does meet the criteria for a favorable recommendation by the City Engineer's Office.

ATTACHMENTS:

Surveys and legal descriptions
Draft Ordinance

Dedications from Plat for Branches Addition 2A indicating Tract C uses included public use and drainage.

DEDICATION

The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision and plat shall hereafter be known as "THE BRANCHES ADDITION NO. 2."

The streets and roads shown on this plat and not heretofore dedicated to public use, are hereby so dedicated.

An easement or license to enter upon, locate, construct and maintain or authorize the location, construction, or maintenance and use of conduits, water, gas, electrical, sewer pipes, poles, wires, drainage facilities, ducts and cables, and similar utility facilities upon, over, and under these areas outlined and designated on this plat as "Utility Easement" or "U/E", is hereby granted to the City of Leavenworth, Kansas, and other governmental entities as may be authorized by state law to use such easement for said purposes.

"Drainage Easements" or "D/E", are hereby established as shown to provide for the detention of storm surface water. All maintenance within the drainage easement (D/E) shall be the right, duty and responsibility of the property owners of the property in which the easement is so located.

An easement or license to lay, construct, alter, replace and operate one or more sewer lines and all appurtenances convenient for the collection of sanitary sewage, together with the right of ingress and egress, over and through those areas designated as "Sanitary Sewer Easement" or "SS/E" on this plat is hereby dedicated to the City of Leavenworth, Kansas.

The use of all lots in this subdivision shall hereafter be subject to the restrictions which will be executed as a separate instrument of writing and will be recorded in the Office of the Register of Deeds of Leavenworth County, Kansas, said restrictions will thereby be made a part of the dedication of this plat as though fully set forth herein.

Tracts "A", "B", and "C" shall be owned and maintained by Larkin Homes, Inc., and are intended to be used for landscaping, monuments, drainage, public open space.

Tract "B" is reserved for the use of future road right of way, pending Planning Commission approval of a revised Preliminary Plat for the property to the north.

(Summary Published in the Leavenworth Times on January 26, 2018)

ORDINANCE NO. _____

AN ORDINANCE VACATING CERTAIN EASEMENTS IN TRACT C, THE BRANCHES ADDITIONS NO. 2, A SUBDIVISION IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS; AMENDING APPENDIX B, ARTICLE III, EASEMENT VACATIONS OF THE CITY OF LEAVENWORTH CODE OF ORDINANCES.

WHEREAS, a petition was filed with the City Clerk of the City of Leavenworth, Kansas for a vacation of certain city easements in tract C, The Branches Addition No. 2, a subdivision of land in the City of Leavenworth, Leavenworth County, Kansas; and

WHEREAS, on January 9, 2018 the petition was presented to the Governing Body for consideration.

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

Section 1. Vacation of all City Easements within All of tract C, The Branches Addition No. 2, A Subdivision of land in the City of Leavenworth, Leavenworth County, Kansas Containing 6,617 Square feet more or less, excluding Utility easement which shall remain in place. (See attached Exhibits A).

Section 2. That this Ordinance shall take effect upon passage and publication as provided by law.

Passed by the Leavenworth City Commission on this 23rd day of January, 2018.

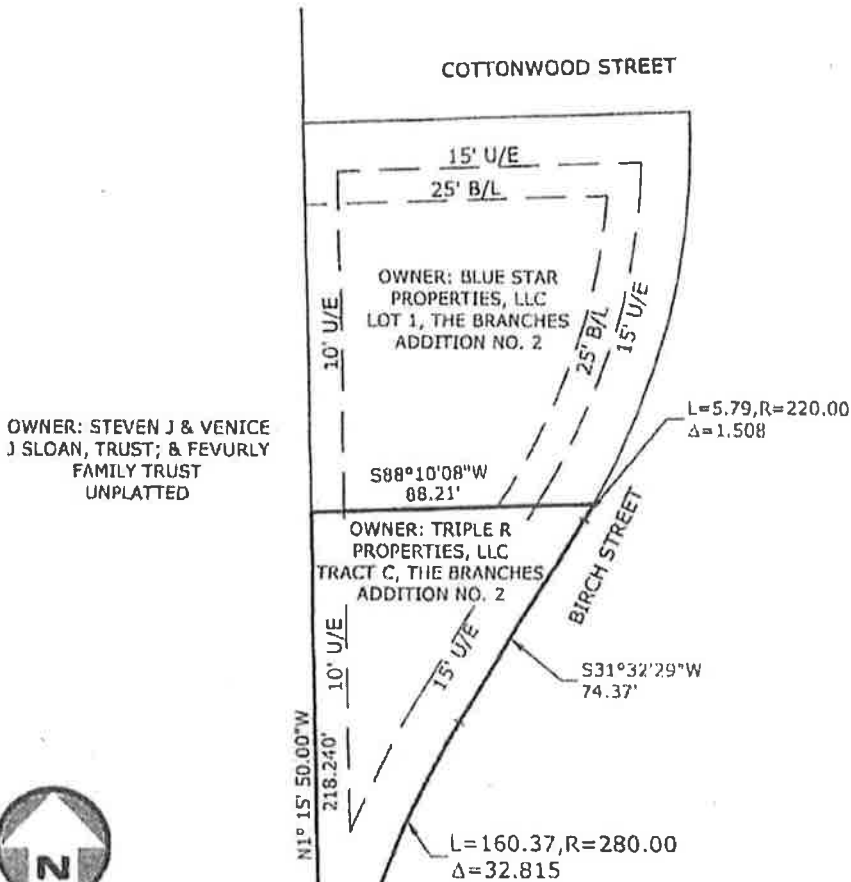
Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

EXHIBIT A

TRACT C, THE BRANCHES ADDITION NO. 2



OWNER: STEVEN J & VENICE
J SLOAN, TRUST; & FEVURLY
FAMILY TRUST
UNPLATTED



NOT TO SCALE

DESCRIPTION:

ALL OF TRACT C, THE BRANCHES ADDITION NO. 2, A SUBDIVISION OF LAND IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS.

CONTAINS: 6,617 SQUARE FEET MORE OR LESS

NOTES:

UTILITY EASEMENTS SHOWN ON THIS EXHIBIT TO REMAIN IN PLACE

This is to certify on this 22ND DAY OF NOVEMBER 2017 this field survey was completed on the ground by me or under my direct supervision.

12/12/17

SIGNED:
ROGER B. DILL L.S. 1408

EXHIBIT A
TRIPLE R PROPERTIES, LLC TRACT C, THE BRANCHES ADDITION NO. 2
ATLAS SURVEYORS, L.L.C. <i>Taking care of your needs</i>
207 South 8th Street Leavenworth, Kansas 66048 913.682.8000 913.682.8000 (F)

**POLICY REPORT
LEAVENWORTH CITY COMMISSION
FIRST CONSIDERATION ORDINANCE
2017-21-SUP
2115 RIDGEVIEW DRIVE**

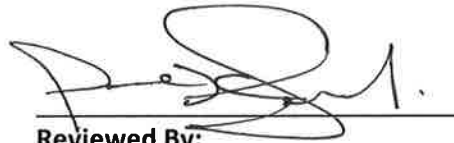
JANUARY 9, 2018

SUBJECT:

A request for a Residential Home-Stay in a district zoned R1-9.



Prepared By:
Julie Hurley
City Planner



Reviewed By:
Paul Kramer
City Manager

NATURE OF REQUEST

The applicant, Arwa Habib, is requesting a Special Use Permit to allow a Residential Home-Stay in a district zoned R1-9, Medium Density Single Family Residential District. The subject property is a single family home that is part of the Oakwood Estates subdivision and is surrounded by other similar single family homes. The owner of the property resides at 2115 Cedar Ridge Drive in the same residential subdivision. The owner currently utilizes the subject property as a short term rental to cover the costs associated with maintaining the property. The subject property is advertised as available for rent on the short-term rental website Airbnb. The subject property is also currently listed for sale.

With the rise of short-term rental properties and home-sharing sites such as Airbnb, the City of Leavenworth has determined that properties identified as meeting this description be processed as a “Residential Home-Stay” as currently defined in the Development Regulations. The Development Regulations define a Residential Home Stay as follows:

Residential Home-Stay: Any furnished residential structure wherein one limited-term boarder (not to exceed 180 days) is allowed the use of an entire structure and its grounds and housekeeping services are provided at least weekly. No management or owner presence is required and no meals are served. In approval of a **Residential Home Stay** the city may consider impact on neighbors' parking needs, etc. and place additional requirements as deemed appropriate. Such a business shall be registered with the City Clerk as a rental property.

A Residential Home Stay is a permitted use in the R1-9 zoning district with the issuance of a Special Use Permit. There are currently no other Special Use Permits issued within the City of Leavenworth for a Residential Home Stay. The City has identified one other specific property operating as a short-term rental advertising on the Airbnb website, however, that property is located within the Central Business District (CBD) which allows a Residential Home Stay by right with no requirement for issuance of a Special Use Permit.

Since notification was sent to property owners within 200’ of the subject property, staff has received contact from multiple neighbors indicating concerns with the requested Special Use Permit. Concerns involve parties

being held at the property by renters, with Leavenworth Police confirming one incident requiring police involvement.

COMMISSION FINDINGS

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.

2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

A Residential Home-Stay at this location contributes to the economic development and convenience of the public by providing an alternative rental solution for individuals seeking a short-term stay in Leavenworth. However, past incidences at the subject property have indicated a negative impact on existing neighbors.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

Staff does not believe that the use, as proposed, would cause injury to the value of other property in the neighborhood. A Residential Home-Stay, as defined, is compatible with the R1-9 zoning district and existing land use within the neighborhood. However, past incidences at the subject property have indicated a pattern that, should they continue, the value of neighboring properties may be compromised.

4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.

The proposed Residential Home-Stay, as proposed, is compatible with existing residential uses within the neighborhood in regards to nature and intensity. Any approval of a Special Use Permit for a Residential Home-Stay would require that the owner of the property ensure that all activities taking place at the property fall within the definition of the use. As the property is situated on a cul-de-sac, parking on the street is limited for existing neighbors. The driveway of the subject property can reasonably accommodate 4 vehicles. With the definition of a Residential Home-Stay stipulating that the property be used by just one limited term boarder, there should be no need for any activity taking place at the property to interfere with parking available to the neighbors.

The Planning Commission considered this item at their December 4, 2017 meeting and voted 5-0 to recommend denial of the Special Use Permit request. During the Planning Commission meeting, 4 people spoke in opposition to the proposed Special Use Permit, with a total of 21 people in the audience indicating their opposition to the proposal. Additionally, Mr. Doug Waters, representing the Oakwood Estates Homeowners Association, indicated during the Planning Commission meeting that the proposed Residential Home Stay violates the terms of the HOA covenants and distributed the relevant portion of the covenants to the Planning Commissioners and staff. The City cannot consider HOA covenants in their evaluation of a proposal, however, the submitted document is provided in this packet as it is a part of the public record after being distributed to the Planning Commission.

A protest petition has been submitted to the City Clerk's office regarding this action. The petition has been evaluated by the City Attorney to be invalid. The submitted petition is included in this packet.

ACTION/OPTIONS:

- Place an ordinance on first consideration to approve the Special Use Permit request to allow a Residential Home Stay at 2115 Ridgeview Drive.
- Deny the Special Use Permit request to allow a Residential Home Stay at 2115 Ridgeview Drive.

Should the City Commission opt to place an ordinance on first consideration to approve the Special Use Permit request, staff would recommend that the Special Use Permit be subject to the following conditions:

1. The owner of the property shall be registered with the City Clerk as a rental property.
2. The Special Use Permit shall become null and void upon the sale of the property.
3. The property shall be used for the boarding of one limited-term boarder (individual or family) only, and shall not function as an event venue, to include the hosting of parties attended by individuals not listed on the lease agreement.
4. Any guests of the property must park in the driveway or garage of the home.
5. Any police response to the subject property shall be reported to the City Commission, which may result in revocation of the Special Use Permit.

Attachments:

Application materials

Location map

Minutes of December 4, 2017 Planning Commission meeting

Development Regulations Use Table, excerpt

Submitted Protest Petition

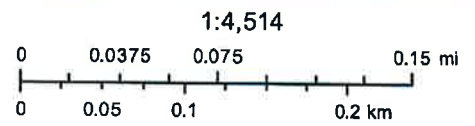
Letter and HOA Covenants as submitted by attorney for Oakwood Estates HOA

Draft ordinance

2115 Ridgeview



November 30, 2017



City of LV GIS, 2017
LV GIS Dept 09/23/2016
City of LV GIS
Dave Griffith, 2013
Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the

City of Leavenworth
2017



SPECIAL USE PERMIT
CITY OF LEAVENWORTH, KANSAS

APP# 3008

Projec. no. 2017-21 SUP
 Fee \$350.00
 Filing Date 10-18-17
 Fees Paid/Date \$350.00 10-18-17
 Received By [Signature]
 Hearing Date 12-4-17 Publication Date 11-9-17

As provided in Section 2.04 of the 2016 Development Regulations, application is hereby made for a SPECIAL USE PERMIT for the operation of a: Residential home stay

in accordance with the attached site plan on the following described property:

Address:	<u>2115 Ridgview Dr. Leavenworth Ks 66048</u>		
Legal Description:	<i>(Attach full legal description provided by the REGISTER OF DEEDS OFFICE or a TITLE COMPANY)</i>		
Real Estate PID #	<u>102-10-0-00-00-074-00-0</u>		
Zoning:	<u>R 1-9</u>	Historic District:	<u>N/A</u>

I/We, the undersigned, depose and state we are the owners of the above described property:

Name(s) of Owner (print or type):	<u>Arwa Habib</u>		
Address:	<u>2119 Cedar Ridge Dr. Leavenworth, Ks 66048</u>		
Contact No. <u>(913) 240 6742</u>	Email Address: <u>arwa.sawaf@hotmail.com</u>		
Signature of Owner(s):	<u>[Signature]</u>		

State of <u>KANSAS</u>)	 MICHELLE BARAGARY Notary Public - State of Kansas My Appl. Expires <u>8-16-20</u>
County of <u>Leavenworth</u>)	

This instrument was acknowledged before me on _____ Date: 10-6-17

Notary Public: owner - Michelle Baragary appointment expires: 8-16-20

If business is operated by someone other than the owner, provide name and address of operator(s).

Name(s) of Applicant: <u>owner</u>	
Address:	
Contact No: ()	Email Address:

NOTE: All signatures must be in ink. Signature of owner(s) must be secured and notarized.
Check list below...

1. Non-Refundable Fee of \$350.00 is due at time of application
2. Attach list of the owners for property within two hundred (200) feet of the above property
3. Site Plan drawn to scale (See General Instructions)
4. Supporting documentation (see General Instructions)

October 8, 2017

Dear whomever this may concern:

I am writing you in reference of my house located on 2115 Ridgeview Drive, Leavenworth, KS 66048. This is a home that I own, and have in the past allowed my parents to reside in over the past few years. Recently, my parents have moved in with me in the house that I currently reside in. As a result, I have been renting my house a few days per month to help me cover the expenses needed to maintain the property.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arwa Habib', written in a cursive style.

Arwa Habib

CITY OF LEAVENWORTH PLANNING COMMISSION

COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048

REGULAR SESSION

Monday, December 4, 2017

7:00 PM

CALL TO ORDER:

Commissioners Present

Jay Byrne
Mike Burke
Claude Wiedower
Camalla Leonhard
Sherry Hanson

Commissioners Absent

John Karrasch
Linda Bohnsack

City Staff Present

Julie Hurley
Michelle Baragary

Chairman Byrne called the meeting to order at 7:00pm and noted a quorum was present.

Approval of Minutes: November 6, 2017

Chairman Byrne asked for comments or a motion on the minutes presented for approval: November 6, 2017. Ms. Leonhard moved to accept the minutes as presented, seconded by Mr. Wiedower. The minutes were approved by a vote of 5-0.

OLD BUSINESS:

None

PLANNING COMMISSION PUBLIC HEARING PROCESS:

Chairman Byrne explained the public hearing process for those in the audience. City Planner will provide the staff report based on the request by the applicant and an explanation of the decision factors, which will be used by the Planning Commission with its determination. The City Planner will explain those planning factors and provide the commission with her results of the staff analysis and her recommendation regarding those factors. The Planning Commission can accept or reject the recommendation of the city staff as far as a recommendation but the planning factors themselves are what the commissioners will use as far as making their determination. Once the staff report is provided, the Planning Commissioners may ask questions of the City Planner and the applicant. Once that is completed, the Chairman will open the public hearing. At that time, anyone wishing to speak for or against the Special Use Permit request is invited to the podium. All questions should be addressed to the Planning Commission. The commissioners will then ask the applicant the questions. When the public hearing is complete, there will be a discussion among the commissioners, followed by a motion. There are three motions available: 1) motion to recommend approval to the City Commission, 2) motion to recommend denial to the City Commission, and 3) motion to table the issue for

additional information/consideration. The Planning Commission is not the final decision makers on the Special Use Permit request. The Planning Commission only makes a recommendation to the City Commission.

NEW BUSINESS:

1. 2017-21 SUP – 2115 RIDGEVIEW DRIVE

Conduct a public hearing for Case No. 2017-21 SUP – 2115 Ridgeview Drive. The applicant, Arwa Habib, is requesting a Special Use Permit to allow a Residential Home-Stay in a district zoned R1-9, Medium Density Single Family Residential District. The subject property is a single family home that is part of the Cedar Ridge Drive in the same residential subdivision and is surrounded by other similar single family homes.

Chairman Byrne called for the staff report.

City Planner Julie Hurley stated the applicant, Arwa Habib, is requesting a Special Use Permit to allow a Residential Home-Stay in a district zoned R1-9, Medium Density single Family Residential District. The subject property is a single family home that is part of the Cedar Ridge Drive in the same residential subdivision and is surrounded by other similar single family homes. The owner of the property resides at 2119 Cedar Ridge Drive in the same residential subdivision. The owner currently utilizes the subject property as a short term rental to cover the costs associated with maintaining the property. The subject property is advertised as available for rent on the short-term rental website Airbnb. The subject property is also currently listed for sale.

With the rise of short-term rental properties and home-sharing sites such as Airbnb, the City of Leavenworth has determined that properties identified as meeting this description be processed as a “Residential Home-Stay” as currently defined in the Development Regulations. The Development Regulations define a Residential Home-Stay as follows:

Residential Home-Stay: Any furnished residential structure wherein one limited-term boarder (not to exceed 180 days) is allowed the use of an entire structure and its grounds and housekeeping services are provided at least weekly. No management or owner presence is required and no meals are served. In approval of a ***Residential Home-Stay*** the city may consider impact on neighbors’ parking needs, etc. and place additional requirements as deemed appropriate. Such a business shall be registered with the City Clerk as a rental property.

A Residential Home-Stay is a permitted use in the R1-9 zoning district with the issuance of a Special Use Permit.

Since notification was sent to property owners within 200’ of the subject property, staff has received contact from multiple neighbors indicating concerns with the requested Special Use Permit. Concerns involve parties being held at the property by renters, with at least one incident requiring police involvement.

COMMISSION FINDINGS

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.

2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

A Residential Home-Stay at this location contributes to the economic development and convenience of the public by providing an alternative rental solution for individuals seeking a short-term stay in Leavenworth. However, past incidences at the subject property have indicated a negative impact on existing neighbors.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

Staff does not believe that the proposed use will cause injury to the value of other property in the neighborhood. A Residential Home-Stay, as defined, is compatible with the R1-9 zoning district and existing land use within the neighborhood.

4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.

The proposed Residential Home-Stay is compatible with existing residential uses within the neighborhood in regards to nature and intensity. Any approval of a Special Use Permit for a Residential Home-Stay will require that the owner of the property ensure that all activities taking place at the property fall within the definition of the use. As the property is situated on a cul-de-sac, parking on the street is limited for existing neighbors. The driveway of the subject property can reasonably accommodate 4 vehicles. With the definition of a Residential Home-Stay stipulating that the property be used by just one limited term boarder, there should be no need for any activity taking place at the property to interfere with parking available to the neighbors.

STAFF RECOMMENDATION:

Ms. Hurley stated staff recommends approval of the Special Use Permit request based on the analysis and findings included herein, subject to the following conditions:

1. The owner of the property shall be registered with the City Clerk as a rental property.
2. The Special Use Permit shall become null and void upon the sale of the property.

3. The property shall be used for the boarding of one limited-term boarder (individual or family) only, and shall not function as an event venue, to include the hosting of parties attended by individuals not listed on the lease agreement.
4. Any guests of the property must park in the driveway or garage of the home.
5. Any police response to the subject property shall be reported to the City Commission, which may result in revocation of the Special Use Permit.

ACTION/OPTIONS:

- Motion, based upon findings as stated to recommend approval to the City Commission
- Motion, to recommend denial to the City Commission
- Table the issue for additional information/consideration

Chairman Byrne called for questions from the commissioners about the staff report.

Ms. Hines Whitson asked what the situation was with the police department being called.

Ms. Hurley stated there was a party reported to the police department which involved a weapon being fired. At least one arrest was made for underage drinking. This occurred on November 4, 2017.

Ms. Hines Whitson asked if it was a family member who hosted the party.

Ms. Hurley stated she did not believe it was a family member. It was a renter of the property.

Mr. Wiedower asked how the revocation of the Special Use Permit would work if there should be a problem at the property.

Ms. Hurley stated that would be up to the City Commission since the City Commission is the body to grant final approval or denial of the Special Use Permit. If the Special Use Permit were to be approved with these stipulations then any police response would be reported to the City Planner. The City Planner would report the issue to the City Commission and they would make the decision based on the nature of the response if it warranted revocation of the Special Use Permit. It would be the decision of the City Commission if the revocation would be immediate or if they would allow a certain amount of days for the revocation (i.e. 30 days).

Ms. Hines Whitson asked if the Special Use Permit is for the 180 days or is it to make the property a rental property for an unspecified amount of days.

Ms. Hurley stated the 180 days is what a boarder would be limited to. The 180 days is considered short term so a person could choose to rent the property for up to 180 days. Should the Special Use Permit be approved, it would be in place until the property is sold or until the City Commission may have cause to revoke the Special Use Permit.

Mr. Byrne asked for clarification that a Special Use Permit for a Residential Home-Stay is permitted all residential districts, not just the R1-9 District.

Ms. Hurley responded in the affirmative.

Mr. Byrne asked if the City Commission has revoked a Special Use Permit since Ms. Hurley has been employed with the City of Leavenworth.

Ms. Hurley stated that some daycare Special Use Permits have been rescinded because the owner had moved or chose not to pay the renewal fee but she is not aware of any that have been revoked for infractions or anything of that nature.

Mr. Byrne asked if the Planning Commission recommends approval with the conditions provided by staff, how would that keep an incident from occurring.

Ms. Hurley stated the owner would be under the understanding that they must comply with all the conditions. Once a Special Use Permit is in place, the City has more oversight over its operations. If an incident occurs, the City has the right to revoke the permit and disallow the use at the property. It would still be at the discretion of the property owner to ensure they are renting to appropriate individuals and keeping track of the activities occurring at the property.

Mr. Byrne stated one of the conditions is that the property shall be used for the boarding of one limited-term boarder (individual or family) only. Mr. Byrne asked if it is obvious that more than one boarder (individual or family) is living at the property, who would be enforcing this.

Ms. Hurley stated with any Special Use Permit, if they receive a report about activities taking place which are in opposition to what the approval stipulated, the report is sent to the City Commissioners and they will review the use of the Special Use Permit and have the ability to revoke the permit at their discretion.

Mr. Wiedower stated the staff report indicated at least one incident required police involvement. He asked if they would have knowledge of the police being called to this property more than once.

Ms. Hurley stated she spoke with Police Chief Pat Kitchens and verified only one call has been made to this property.

Mr. Burke asked for clarification for the term 'party'.

Ms. Hurley responded her interpretation is no gathering should be taking place at the property. The only person(s) at the property are those listed on the lease agreement.

Mr. Burke asked if airbnb or the homeowner require a list of names for everybody staying at the property.

Ms. Hurley stated she is not sure but the owner could answer that question.

Ms. Hines Whitson asked if someone is currently staying at the property.

Ms. Hurley stated the owner could answer that question.

Mr. Byrne asked if there are currently any Special Use Permits for a Residential Home-Stay.

Ms. Hurley responded there are not. She stated airbnb does not give an exact address of a property but rather shows a general location, which makes it difficult for the city to locate properties like this. This is the first one in a residential area that has been reported to the city.

With no further questions regarding the staff report, Chairman Byrne opened the public hearing.

The petitioner, Arwa Habib, who lives at 2119 Cedar Ridge Drive, addressed the board stating she and her husband have lived in this community for 20 years. The property located at 2115 Ridgeview Drive was purchased for her family. The house is currently for sale. To help with expenses maintaining the property until it sells, the Habib's listed the property on airbnb. She stated there were no issues with the first five people who rented the home. She has a restriction that no more than six people are allowed to live at the property and no parties are allowed. Since the incident with the police, Ms. Habib has added other restrictions to Airbnb, which requires preauthorization prior to making a reservation and a background check. The preauthorization requires names and drivers licenses of the people who will be staying at the house. Ms. Habib further stated she and/or her husband will check on the property 4-5 times per night when the home is rented.

Ms. Leonhard asked how long the home has been for sale.

Ms. Habib stated the house has been on the market for two weeks.

Ms. Hanson asked if the home was rented through airbnb when the people rented the home in November when the police were called.

Ms. Habib said it was through airbnb but the background check and preauthorization restrictions were not on the airbnb account at that time.

Mr. Wiedower states he appreciates the Habib's admitting to making mistakes and learning lessons through this process. However, he further stated it is the Habib's responsibility as property owners to manage their property in a way to keep harmony within the community.

Ms. Habib apologizes for what happened and hopes it does not happen in the future.

Josh Hoppes (3941 21st Street), representing the HOA, addressed the board in opposition of the proposed special use permit. He addresses the findings individually.

1. The proposed special use complies with all applicable provisions of this ordinance.
The HOA does not disagree with this finding.
2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

The HOA believes the special use fails to provide any of this. There are four new hotels in the city limits. Airbnb competes directly with these hotels and pays no transient guest tax. Every time airbnb takes a room away from the four hotels that's fewer dollars for the Convention and Visitors Bureau and less rooms rented at the four hotels, which we have built here in the city. This fails the economic development test.

Mr. Hoppes further states the HOA agrees with staff's last sentence, "past incidences at the subject property have indicated a negative impact on existing neighbors". The operation of a Residential Home-Stay at this location has already had a negative impact on the neighbors in the short time it has been operating, which fails the public welfare test.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

Mr. Hoppes argues it does requesting the board to look no farther than the covenants and restrictions that govern their community. The primary purpose of covenants and restrictions is to provide a layer of protection for homeowners in that neighborhood that their property values will be protected from poor property maintenance and undesirable uses. The proposed special use permit would violate Oakwood's covenants in three separate instances.

Mr. Hoppes stated there was another incident on November 18, 2017 where the police were not called. There were five vehicles at the residence. The vehicle tags were from Wyandotte, Douglas, Johnson and Missouri. Mr. Hoppes stated this was another party which occurred after the incident on November 4, 2107 and after the Habib's had put the additional safeguards in place.

Regarding the November 4th incident, Mr. Hoppes stated Mr. Habib came by the subject property while the party was going on and did nothing. The incidences on November 4th and 18th show a property owner who is not capable of properly vetting the tenants in the property. The willful violation of the covenants shows a property owner who does not want to concern himself with the rules that govern his property.

Mr. Hoppes stated the stipulations added by staff are a clear indication that staff has a concern that the property owner will not properly operate the Residential Home-Stay. If the board recommends approval, Mr. Hoppes feels the board is shirking the responsibility and pushing it to the folks in the neighborhood to monitor the operations.

Mr. Byrne asked if the two events on November 4th and 18th had not occurred, would this still be in violation of the covenants of their Homeowners Association.

Mr. Hoppes stated that any short-term rental is in violation of the covenants.

Mr. Byrne stated he is not sure if an HOA can restrict such as use.

Ms. Hurley stated the City of Leavenworth has no involvement in an HOA's covenants and restrictions and it is not something the City enforces or considers in their review.

Mr. Byrne asked if a covenant for no short-term rentals can be legally enforced.

Ms. Hurley stated from a legal standpoint she is not sure. She further stated there are other rental properties in the neighborhood but none have been reported to the City as short-term rentals. Any discrepancy between HOA covenants and a use within a neighborhood are outside city regulations and becomes a civil matter for the HOA to pursue.

Mr. Burke asked how many homes are not occupied by their owners.

Ms. Hurley stated there are nine homes not occupied by their owners.

Mr. Hoppes wanted to clarify the nine rentals are long-term rentals.

Mr. Burke asked if the police have been dispatched to the neighborhood often or if this is the only time the police have been called.

Mr. Hoppes stated he did not know as he does not monitor every police call. He further stated it is public record if the board would like to look into it.

Doug Waters (867 Clearview, Lansing), attorney representing Oakwood Estates of Leavenworth Association, Inc., addressed the board. Mr. Waters stated the General Warranty Deed for the subject property is owned by Arwa Habib, it was purchased in 2012, and the deed itself is subject to the easements, restrictions and assessments of record, which would include the Homeowners Association. The HOA was last modified in 2007. Mr. Waters presented a copy of the police report from November 4, 2017 (staff already has a copy of it). Mr. Waters stated the police response involved gun shots, there were no adults at the property, alcohol was in use by minors, evidence of marijuana in one of the vehicles, a young lady was passed out in one of the vehicles, and cars were lining both sides of the street. Mr. Waters further stated the owner of the subject property has indicated the property is scheduled to be rented three more times in December.

Mr. Waters provided the board with a copy of the HOA restrictions. You can have a home business; however, your home business cannot have employees or customers on the premises for the protection of the neighborhood. No more than three people in the home who are not family members. The home shall not be rented for transient or hotel purposes.

Dave Zoellner (2116 Ridgeview Drive) addressed the board. Mr. Zoellner spoke of the party on November 4, 2017. He stated there were 16 vehicles lining the streets on both sides of the street, 35-40 people were at the party, beer cans laying around outside and there were 9 guns shots around 11:45 p.m. Two female police officers responded. He stated the police said everyone at the party was 18 years of age. Mr. Zoellner responded that is underage drinking. He further stated the police were shutting down the party and had to attend to a female that was passed out in a van. This occurred at 1:30 a.m. At 3:05 a.m., Mr. Zoellner stated the party was still going on to include loud music. Mr. Zoellner did state that Mr. Habib came by around 2:15 a.m. and spoke with someone in the driveway at the subject property. Mr. Habib drove by again approximately 20 minutes later and left. Mr. Zoellner stated he spoke with Mr. Habib around 10:00 a.m. and asked him what is going on at the subject property. Mr. Habib said everything was legal with the city. Mr. Zoellner stated he thought a special use permit was needed as the property is not commercial.

Mr. Zoellner spoke of the party on November 18, 2017 stating there were 15-20 people at the subject property having another party. Mr. Zoellner stated he overheard the partygoers saying to park further up the street at the swimming pool parking lot so the neighbors would not know there was a party. He said the party was still going on at 4:30 a.m.

Mr. Zoellner stated he purchased his home on Ridgeview Drive as his retirement home. The short-term rental at the subject property is negatively affecting his quality of life, negatively impacting the entire neighborhood and bringing down the property values in the neighborhood.

Chairman Byrne asked if anyone else would like to speak or provide new information. Chairman Byrne asked for a show of hands from people in the audience for those who support the special use permit. Mr. and Mrs. Habib raised their hands in support of the special use permit. Mr. Byrne asked for a show of hands for those who are in opposition of the special use permit. Twenty-one people raised their hands.

Don Clauser, HOA board member, addressed the Planning Commissioners. Mr. Clauser stated he wrote down tag numbers to the various vehicles attending the party on November 18, 2017. The vehicles were from Wyandotte, Douglas, Johnson counties and Missouri. He asked if that is what we want in Leavenworth...people bringing in drugs and partying. Mr. Clauser said at 7:30 a.m. he spoke with a young man who was attending the party and asked him what he was doing. The young man said they were having a party. Mr. Clauser responded to the young man saying they were not welcome here and that the neighborhood would continue to call the police if the parties continued. Mr. Clauser then spoke with Mr. Habib telling him there is a problem with the activities going on at the subject property.

With no one wishing to speak, Chairman Byrne closed the public hearing and called for any additional questions from the commissioners.

With no further questions or comments from the commissioners, Chairman Byrne stated this is the first Residential Home-Stay request they have received. He believes anyone who submits a request for a short-term rental will face opposition, as most people would not want this type of use in their neighborhood. If the city keeps this type of use permitted with a special use permit in the Development Regulations, then the city cannot deny all future requests based on the fact that something could happen or that neighbors just don't want this type of use in their neighborhood. It's unfortunate that the first one to go before the Planning Commission is this one, which has caused a lot of problems and raised many concerns with the neighborhood and has not been controlled properly. Chairman Byrne further stated that a special use permit like this, with the conditions that were given, should probably be considered favorably. However, in this case, with what did happen in the neighborhood on at least two occasions, Chairman Byrne would disagree with staff finding on the particular provision that this Residential Home-Stay contributes to the economic development and convenience of the public.

With no further discussion, Chairman Byrne read the special use permit action/options:

- Motion, based upon findings as stated to recommend approval to the City Commission
- Motion, to recommend denial to the City Commission
- Table the issue for additional information/consideration

Mr. Wiedower moved to recommend denial to the City Commission for a special use permit for the property located at 2115 Ridgeview Drive based upon all information presented. The motion was seconded by Ms. Hines Whitson and passed by a unanimous vote 5-0.

Ms. Hurley stated the request will be scheduled to be heard by the City Commission on January 9, 2018, which neighbors are invited to come to speak at. Tomorrow will begin the fourteen day protest petition period. The protest petition is to protest the Planning Commission's motion not protesting the request.

With no further business the meeting was adjourned at 8:01 p.m.

JH/mb

Administrative Note: It was determined after the meeting the statement about the protest petition was incorrect. Letters were mailed to property owners with correct information about the protest petition (see attached). This will be brought up in the next Planning Commission meeting as a General Discussion.



December 7, 2017

Resident

RE: 2017-21-SUP, 2115 Ridgeview Drive

Dear Resident,

During the Planning Commission public hearing regarding the above referenced request for a Special Use Permit on Monday, December 4th, an inaccurate statement was made regarding the process for submittal of a Protest Petition. To clarify, the adopted language regarding submittal of a Protest Petition is as follows:

If a written protest against a proposed special use permit is filed in the office of the City Clerk within 14 days as of the date of the conclusion of the public hearing, pursuant to the publication notice, signed by the owners of record of 20% or more of the total area required to be notified by this application for a special use permit, excluding streets and public ways, the ordinance adopting such amendment shall not be passed except by at least a three-fourths vote of all of the members of the City Commission.

As there may have been some confusion regarding the process for submittal of a Protest Petition, the City shall extend the period in which to submit such petition by 7 days. Any Protest Petition must be submitted to the Office of the City Clerk by 5:00pm on **Tuesday, December 26th** in order to be considered. If you wish to submit such a petition, you may wish to consult with an attorney to ensure proper execution of the petition.

The referenced Special Use Permit request is scheduled to be heard by the City Commission on Tuesday, January 9, 2018.

Sincerely,

Julie Hurley, AICP
City Planner
(913) 680-2616
jhurley@firstcity.org

**DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE**

Table A1-1, TABLE OF PERMITTED USES P = Permitted, S = Special Use Permit Required																		
Use Category	Residential								Non-Residential							Overlay		
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type																		
Gas Station									P		P	P	P			S	P	P
Heavy Vehicle/Equipment Sales, Rentals and Service												P	P	P				
Parking Lot or Garage (Commercial, Non-Accessory)	S	S	S	S				S	S	S	P	P	S	S		S	S	S
Visitor Accommodation																		
Bed and Breakfast Inns	S	S	S	S	S	S	S	P	P	P	P	P				S	S	S
Bed and Breakfast Guest House	S	S	S	S	S	S	S	P	P	P	P	P				S	S	
Bed and Breakfast Home Stay	S	S	S	S	S	S	S	P	P	P	P	P				S	S	
Residential Home Stay	S	S	S	S	S	S	S	P	P	P	P	P				S	S	
Boarding and Rooming Houses									S	S	P	P				S	S	
Camp, Private, Overnight	S																	
Health Resort/Spa	S									P	P	P						
Hotel										P	P	P				P	P	P
Hotel – Limited Service										P	P	P				P	P	P
Residence Hotels								S	S	P	P	P				P	P	P
Retreat House	S	S	S	S														
Travel Trailer Parks	S												P		S			
INDUSTRIAL USES																		
Industrial Service																		
Animal Research Facilities													S					
Builders Supply Yards and Lumberyards (except when indoors as part of a hardware store)												P	S					
Construction Industry Related Businesses (such as general contractors, electrical contractors, plumbing contractors) /Accessory												P	S					

CERTIFICATE OF SERVICE

I hereby certify that I, Douglas G. Waters, Jr., attorney for Oakwood Estates of Leavenworth and Oakwood Estates South, personally delivered to the Office of the City Clerk of the City of Leavenworth, Kansas, Protest Petitions signed by owners of record both within the 200 foot radius and outside the 200 foot radius of properties protesting the application for a residential home stay at 2115 Ridgeview Drive, Leavenworth, KS 66048, and more particularly set out in 2017-21-SUP 2115 Ridgeview Drive.

Dated this 21st day of December, 2017.

Respectfully Submitted:

City of Leavenworth
City Clerk's Office

DEC 21 2017

Received by: 1:45 pm
Cory L. Collins



Douglas G. Waters, Jr. P.A. #07243
Attorney at Law
433 Shawnee Street
Leavenworth, KS 66048
TEL: (913) 682-7343

Protest Petition RE: 2017-21-SUP, 2115 Ridgeview Drive

WHEREAS, the owner of record, Arwa Habib, has requested a Special Use Permit to allow for the operation of a Residential Home Stay at 2115 Ridgeview Drive, Leavenworth, KS 66048, fully described as: Lot 36, Oakwood Estates No. 2, in the City of Leavenworth, Leavenworth County, Kansas; and

WHEREAS, said Petition was heard before the City of Leavenworth Planning Commission on December 4, 2017, at 7:00pm, and the same was unanimously denied by said Commission after a public hearing on all relevant issues; and

WHEREAS, the Special Use Permit request was scheduled to be heard by the City Commission on January 9, 2018, the following owners within a two-hundred (200) foot radius of the above location, as well as other owners within the Oakwood Estates of Leavenworth and Oakwood Estates South, hereby submit their Protest Petition wherein they request that the City Commission deny said permit on the following grounds, which include, but are not limited to:

1. The owner, Arwa Habib, has operated the property on multiple occasions beginning in the Fall of 2017 without a special use permit and has done so in violation of the "one limited term boarder" provision as defined in the Residential Home Stay ordinance.
2. The operation of the property by the owner has resulted in police responses, which include but are not limited to, November 4th and 5th of 2017, involving gunshots, late-hour activities, including extending into the early morning, minors, abuse of alcohol and marijuana, and multiple occupants and vehicles, all as reported in case number 17-022611, by the Leavenworth Police Department.
3. The operation of the property has limited access of the other owners to their properties and city streets and impacted the neighborhood so as to lessen values and impair the public peace.
4. That the operation of the property by the owner has been in violation of the Covenants and Restrictions of the Oakwood Estates of Leavenworth, Inc., to which the owner is a dues paying member, and that the same has been without prior written consent of the Board.
5. That the operation of said property has been and is an annoyance and a nuisance to the neighborhood. Furthermore, the property is being rented for transient or hotel purposes in violation of the Conditions, Covenants,

Within the 200 ft. radius

and Restrictions of the Association and Oakwood Estates of Leavenworth and Oakwood Estates South.

6. That the owner has been placed on notice of the violation of the Conditions, Covenants, and Restrictions of Oakwood Estates of Leavenworth and Oakwood Estates South by letter dated November 20, 2017, from the attorney for the Association, Douglas G. Waters, Jr.
7. That the owner has testified that the property is for sale, which sale, when concluded, would in and of itself cancel the Residential Home Stay permit, if so allowed.

WHEREFORE, the undersigned owners within a two-hundred (200) foot radius of the above location hereby submit their written Protest Petition and ask that the City Commission deny the Special Use Permit application by the hereinabove owner, Arwa Habib for the property located at 2115 Ridgeview Drive, Leavenworth, KS 66048.

This Protest Petition is also being signed by owners outside of the two-hundred (200) foot radius and within the Oakwood Estates of Leavenworth and Oakwood Estates South who are likewise concerned about this issue and who ask that said Special Use Permit application be denied. They will separately indicate their address and the fact that they are outside of the two-hundred (200) foot radius.

DAVID A. ZOELLNER 2116 Ridgeview DR. *David A. Zoellner*
Name Address Signature

Janice R. Zoellner 2116 Ridgeview Dr. *Janice R. Zoellner*
Name Address Signature

Romuald Stone 2119 Ridgeview Dr *Romuald Stone*
Name Address Signature

Kim Chastone 2119 Ridgeview Dr *Kim Chastone*
Name Address Signature

Within the 200 ft. radius

Philip Lee Mayberry 2105 Ridgeway Drive Philip Lee Mayberry
Name Address Signature

Michael F. Cyr 2100 Ridgeway Drive Michael F. Cyr
Name Address Signature

Jeanne P. Cyr 2100 Ridgeway Drive Jeanne P. Cyr
Name Address Signature

James E. Diggs 2104 Ridgeway Drive James E. Diggs
Name Address Signature

Georgette M Diggs 2104 Ridgeway Dr Georgette M Diggs
Name Address Signature

K. Pat Marso 2117 Ridgeway Dr K. Pat Marso
Name Address Signature

Kathleen Marso 2117 Ridgeway Dr Kathleen Marso
Name Address Signature

Derick L. White 2111 Ridgeway Dr. Derick L. White
Name Address Signature

Kathleen A. White 2111 Ridgeway Dr. Kathleen A. White
Name Address Signature

Within the 200 ft. radius

Reilly Hines, UC 3942 21st Street, Leavenworth, KS
Name Address Signature

Priscilla LoPresti 2112 Ridgeway Dr. Priscilla LoPresti
Name Address LV, KS 66048 Signature

Ted LoPresti 2112 Ridgeway Dr. Ted LoPresti
Name Address Signature

Benjamin Anom 2109 Cedar Ridge Dr. Benjamin Anom
Name Address Signature

Lily Wilson-Anom 2109 Cedar Ridge Dr. Lily Wilson-Anom
Name Address Signature

MARCO CONNERS 3920 21st St. LVN KS. Marco Connors
Name Address Signature

Jeffery A. Dickerson 3924 21st St. LVN with, KS
Name Address Signature

Teresa Dickerson 3924 21st St. LVN KS 66048 Teresa Dickerson
Name Address Signature

David Stoppel 3937 21st St. LVN KS 66048 David Stoppel
Name Address Signature

Within the 200ft.
radius

Lou Stafford 3937 21st

Name

Address

Lou Stafford

Signature

FRANK S. SMALLWOOD 3936 21ST STREET.

Name

Address

FRANK S. SMALLWOOD

Signature

Julie Roth

Michael D. Roth

Name

Address

3932 21st
LV. KS 66048

Julie Roth

Michael D Roth

Signature

ST.

STEVIE W. BROOKS 3933 21ST LV, KS 66048

Name

Address

Stevie Brooks

Signature

OSIE M BROOKS 3933 21ST LV. 66048

Name

Address

Osie M Brooks

Signature

Marion Walker Jr 2113 Cedar Ridge Dr

Name

Address

LV, KS
66048

Marion Walker Jr

Signature

Jackie Basilotta 2121 Ridgeview Dr.

Name

Address

Jackie Basilotta

Signature

Chantal Dessaso, 3929 21st

Name

Address

Chantal Dessaso

Signature

Christopher Dessaso 3929-21st Street

Name

Address

Christopher Dessaso

Signature

Within the 200 ft. radius

DONALD HUGHES 3956 21ST ST.
Name Address

Donald R Hughes
Signature

Marcia Hughes 3956 21ST ST.
Name Address

Marcia Hughes
Signature

JEFFREY BASILotta 2121 Ridgeview Dr.
Name Address

Jeffrey Basilotta
Signature

Name Address Signature

Name Address Signature

Name Address Signature

Name Address Signature

Name Address Signature

Name Address Signature

Protest Petition RE: 2017-21-SUP, 2115 Ridgeview Drive

WHEREAS, the owner of record, Arwa Habib, has requested a Special Use Permit to allow for the operation of a Residential Home Stay at 2115 Ridgeview Drive, Leavenworth, KS 66048, fully described as: Lot 38, Oakwood Estates No. 2, in the City of Leavenworth, Leavenworth County, Kansas; and

WHEREAS, said Petition was heard before the City of Leavenworth Planning Commission on December 4, 2017, at 7:00pm, and the same was unanimously denied by said Commission after a public hearing on all relevant issues; and

WHEREAS, the Special Use Permit request was scheduled to be heard by the City Commission on January 9, 2018, the following owners within a two-hundred (200) foot radius of the above location, as well as other owners within the Oakwood Estates of Leavenworth and Oakwood Estates South, hereby submit their Protest Petition wherein they request that the City Commission deny said permit on the following grounds, which include, but are not limited to:

- 1. The owner, Arwa Habib, has operated the property on multiple occasions beginning in the Fall of 2017 without a special use permit and has done so in violation of the "one limited term boarder" provision as defined in the Residential Home Stay ordinance.**
- 2. The operation of the property by the owner has resulted in police responses, which include but are not limited to, November 4th and 5th of 2017, involving gunshots, late-hour activities, including extending into the early morning, minors, abuse of alcohol and marijuana, and multiple occupants and vehicles, all as reported in case number 17-022611, by the Leavenworth Police Department.**
- 3. The operation of the property has limited access of the other owners to their properties and city streets and impacted the neighborhood so as to lessen values and impair the public peace.**
- 4. That the operation of the property by the owner has been in violation of the Covenants and Restrictions of the Oakwood Estates of Leavenworth, Inc., to which the owner is a dues paying member, and that the same has been without prior written consent of the Board.**
- 5. That the operation of said property has been and is an annoyance and a nuisance to the neighborhood. Furthermore, the property is being rented for transient or hotel purposes in violation of the Conditions, Covenants,**

Outside the 200 ft. radius

and Restrictions of the Association and Oakwood Estates of Leavenworth and Oakwood Estates South.

6. That the owner has been placed on notice of the violation of the Conditions, Covenants, and Restrictions of Oakwood Estates of Leavenworth and Oakwood Estates South by letter dated November 20, 2017, from the attorney for the Association, Douglas G. Waters, Jr.
7. That the owner has testified that the property is for sale, which sale, when concluded, would in and of itself cancel the Residential Home Stay permit, if so allowed.

WHEREFORE, the undersigned owners within a two-hundred (200) foot radius of the above location hereby submit their written Protest Petition and ask that the City Commission deny the Special Use Permit application by the hereinabove owner, Arwa Habib for the property located at 2115 Ridgeview Drive, Leavenworth, KS 66048.

This Protest Petition is also being signed by owners outside of the two-hundred (200) foot radius and within the Oakwood Estates of Leavenworth and Oakwood Estates South who are likewise concerned about this issue and who ask that said Special Use Permit application be denied. They will separately indicate their address and the fact that they are outside of the two-hundred (200) foot radius.

Ann Whittow-Jones 3827 21st St. Leavenworth, KS Ann Whittow-Jones
Name Address Signature


Harry Jones 3827 21st Street, Leavenworth, KS Harry Jones
Name Address Signature


Opal Moore-Harris, 3837 21st St., Leavenworth, KS Opal Moore-Harris
Name Address Signature


Bernard E. Harris, 3837 21st St. Leavenworth, KS BERNARD HARRIS
Name Address Signature

Outside the 200ft. radius

RICHARD (RICK) T. LEE 3801 21ST STREET, LEAVENWORTH KS, 66048 
Name Address Signature

Sue Lee 3801 21ST Street, Leavenworth 
Name Address Signature

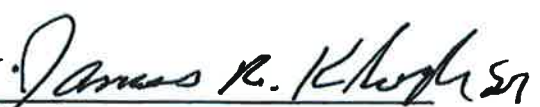
HAMILTON, Victor 3701 21ST ST 
Name Address Signature

Mr. Rodney C. 3720 21ST 
Name Address Signature

Nancy Dawson
Larry Dawson 2100 Cedar Ridge Dr. 
Name Address Signature

NORMAN DAWSON 2100 CEDAR RIDGE DR 
Name Address Signature

CARRIE BEDNARZ 2116 CEDAR RIDGE DR 
Name Address Signature

James R. Klugh Sr 3817 21ST 
Name Address Signature

Theresa J. Klugh 3817 21ST St. 
Name Address Signature

Outside the 200ft. radius

Don Clauson 2011 Heather Court
Name Address Signature

Gail Clauson 2011 Heather Court
Name Address Signature

WALLACE E. MATTESON 2012 Heather Ct Leavenworth, KS
Name Address Signature

Toby Baeuchle 2005 Heather Ct. Toby Baeuchle
Name Address Signature

John Baeuchle 2005 HEATHER CT JB
Name Address Signature

Josh Hoppes 3941 21st St., Leavenworth
Name Address Signature

Marvy Hoppes 3941 21st St. Leavenworth, KS
Name Address Signature

Lynn Blanche 3945 21st St Leavenworth, KS Lynn R. Blanche
Name Address Signature

ROBERT BLANCHE 3945 21st St Robert Blanche
Name Address Signature

Outside the 200ft. radius

Deborah
Debbi Day LEAVENWORTH, KS
3720 21st St

Deborah Day

Name

Address

Signature

BENNY M. MICHAEL
2116 CEDAR RIDGE DR
LEAVENWORTH, KS 66048

Benny Michael

Name

Address

Signature

Baine Mills
2110 Cedar Ridge Dr
Leavenworth, KS 66049

Baine Mills

Name

Address

Signature

Evelyn Mum
2110 Cedar Ridge
Leavenworth, KS 66049

Evelyn Mum

Name

Address

Signature

TRACY KNUFFEN
3739 21st St
Leavenworth, KS 66048

Tracy Knuffen

Name

Address

Signature

Chief Boisson
3731 21st St
Leavenworth, KS 66048

Chief Boisson

Name

Address

Signature

Evelyn Richter
3725 21st
Street, Leavenworth
KS 66048

Evelyn Richter

Name

Address

Signature

Rosie Rosello
3717 21st St Leavenworth
Ks. 66048

Rosie Rosello

Name

Address

Signature

Name

Address

Signature

Outside the 200ft. radius

Fredrick McLeod 2008 HEATHER COURT




Name

Address

Signature

Sharlene Torgensen 3949 21st St



Name

Address

Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

Signature



December 7, 2017

Resident

RE: 2017-21-SUP, 2115 Ridgeview Drive

Dear Resident,

During the Planning Commission public hearing regarding the above referenced request for a Special Use Permit on Monday, December 4th, an inaccurate statement was made regarding the process for submittal of a Protest Petition. To clarify, the adopted language regarding submittal of a Protest Petition is as follows:

If a written protest against a proposed special use permit is filed in the office of the City Clerk within 14 days as of the date of the conclusion of the public hearing, pursuant to the publication notice, signed by the owners of record of 20% or more of the total area required to be notified by this application for a special use permit, excluding streets and public ways, the ordinance adopting such amendment shall not be passed except by at least a three-fourths vote of all of the members of the City Commission.

As there may have been some confusion regarding the process for submittal of a Protest Petition, the City shall extend the period in which to submit such petition by 7 days. Any Protest Petition must be submitted to the Office of the City Clerk by 5:00pm on Tuesday, December 26th in order to be considered. If you wish to submit such a petition, you may wish to consult with an attorney to ensure proper execution of the petition.

The referenced Special Use Permit request is scheduled to be heard by the City Commission on Tuesday, January 9, 2018.

Sincerely,

Julie Hurley, AICP
City Planner
(913) 680-2616
jhurley@firstcity.org

DOUGLAS G. WATERS, JR., P.A.

Attorney at Law
433 Shawnee Street
Leavenworth, Kansas 66048-1954
TELEPHONE: (913) 682-7343
E-MAIL: dwaters@firstcitylaw.com

November 20, 2017

Arwa Habib
2115 Ridgeview Drive
Leavenworth, KS 66048

Fariz and Arwa Habib
2119 Cedar Ridge drive
Leavenworth, KS 66048

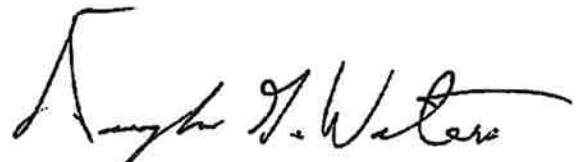
Re: 2115 Ridgeview Drive, Leavenworth, KS

As the attorney for Oakwood Estates of Leavenworth Association, Inc., I have been requested to review the conditions, covenants, and restrictions of Oakwood Estates of Leavenworth and Oakwood Estates South with regards to the above property. This review included police reports from the Leavenworth Police Department relative to an incident on November 5, 2017, and contacts with other owners in the area.

The purpose of this letter is to place you on notice that the operation of the above property by you is in violation of the conditions, covenants, and restrictions which include, but are not limited to, that a home business is not allowed when you involve customers on the premises, three or more non-members of the family without prior written consent of the Board, an annoyance and nuisance to the neighborhood, and the property is being rented for transient or hotel purposes.

I note that you have further applied for a special use permit, which is set for hearing on December 4, 2017, at 7:00pm. The Association will oppose that. I also understand that you have placed this residence for sale. If it is your intention to recall this application and to no longer operate the premises in violation of the conditions, covenants and restrictions, I would ask that you contact this office immediately to verify the same. Otherwise, we must proceed with appropriate proceedings to protect the interests of the Association.

Very truly yours,



Douglas G. Waters, Jr.
Attorney at Law

cc. Oakwood Homeowners Association Board



* 2 0 0 8 R 0 2 3 3 5 3 0 *

Doc #: 2008R02335

STACY R. DRISCOLL/REGISTER OF DEEDS
LEAVENWORTH COUNTY

RECORDED ON
03/10/2008 10:43AM

RECORDING FEE: 124.00

INDEBTEDNESS: 0.00

PAGES: 30

**AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
OAKWOOD ESTATES OF LEAVENWORTH
AND
OAKWOOD ESTATES SOUTH**

THIS DECLARATION is made as of the 13 day of August, 2007, by Larkin Construction, L.L.C. ("Declarant"), and by not less than 75% of the current Owners of Lots in Oakwood Estates No. 2 and Oakwood Estates South.

WITNESSETH:

WHEREAS, the Declarant executed and filed with the Register of Deeds of Leavenworth County, Kansas, a "Declaration of Covenants, Conditions and Restrictions of Oakwood Estates of Leavenworth," recorded at Page 853 of Book 899, for the following described property:

Lots 1 through 41, inclusive, in the Oakwood Estates No. 2 Subdivision, a subdivision in the Southwest Quarter, Northwest Quarter and the Southeast Quarter of Section 10, Township 9 South, Range 22 East of the 6th Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas.

Also described as follows:

Commencing at the Southeast corner of said Southwest Quarter; thence North 01°23'48" West, along the east line of said Southwest Quarter, a distance of 1858.13 feet to a point described to be 792.0 feet South of the Northeast corner of said Southwest Quarter (794.28 feet calculated); thence South 88°10'40" West, 1049.57 feet to a one-half inch iron bar in concrete with DG White LS 358 cap found at the Southeast corner of Oakwood Estates and the Point Of Beginning; thence North 38°13'58" East, along the East line of Oakwood Estates, 378.07 feet to a one-half inch iron bar

Amended Declaration of Covenants, Conditions and Restrictions
Oakwood Estates of Leavenworth and Oakwood Estates South
Page 1 of 31

(l) "Exterior Structure" means any structure erected or maintained on a Lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any deck, gazebo, greenhouse, doghouse, outbuilding, fence, patio wall, privacy screening, boundary wall, bridge, patio enclosure, tennis court, paddle tennis court, swimming pool, hot tub, pond, basketball goal, flag pole, swing set, trampoline, sandbox, playhouse, tree house or other recreational or play structure, and all exterior sculptures, statuary, fountains and similar yard décor.

(m) "Board" means the Board of Directors of the Association.

(n) "Hazardous Substances" means and includes all regulated, hazardous and toxic substances (including without limitation petroleum and petroleum products), pesticides, metals or heavy metals, infectious wastes, solid, liquid or gaseous wastes or materials, any pollutants or contaminants (including, without limitation, PCBs, asbestos and materials or components which include hazardous constituents), or any other similar substances, or materials which are included under or regulated by any local, state or federal law, statute, ordinance, rule or regulation pertaining to environmental protection, regulation, contamination or clean-up, toxic waste, underground storage tanks and hazardous substance or material handling, treatment, storage, use, transportation or disposal, including without limitation the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), the Resource Conservation and Recovery Act ("RCRA"), state lien or environmental clean-up statutes, all as exist from time to time.

2. Use of Land. Except as otherwise expressly provided herein, none of the Lots may be improved, used or occupied for other than single family, private residential purposes. Notwithstanding the foregoing, an Owner is permitted to operate a business from a Home, provided, however, that such business does not have employees and does not involve having customers on the premises at any time. Operation of a daycare business within the Property is specifically prohibited. No trailer, or improvement other than a Home, shall at any time be used for human habitation, temporarily or permanently; nor shall any residence of a temporary character be erected, moved on to, or maintained upon any of the Lots used for human habitation; provided, however, that nothing herein shall prevent the Declarant or others (including, without limitation, builders and real estate sales agencies) authorized by the Declarant from using temporary buildings or structures, or any residence for model, office, sales or storage purposes during the development of the Property.

Para 2

materials, to the extent practical, used in construction of the Home on such Lot, which shall be placed in the rear yard of the Lot, as far away from any adjacent street as possible. Any variance from materials used in the Home on the lot shall be submitted to the Architectural Committee for review and consideration prior to Construction. The Architectural Committee shall make a recommendation to the Board, and the Board shall approve or disapprove such variances in writing. Prefabricated metal or plastic storage sheds are strictly prohibited. Storage shall be permitted under a deck provided such area is screened from the view from any street.

(v) Trash and Refuse. Each Owner shall properly maintain his Lot and the improvements thereon in a neat, clean and orderly fashion. Trash, ashes or other refuse shall not be thrown, placed or dumped upon any Lot, except in trash receptacles complying with this Declaration. All trash cans, garbage cans, and wood piles shall be kept screened by adequate planting or fencing, so as to conceal them from view from any street or adjacent Lot. All rubbish, trash and garbage shall be regularly removed from each Lot and Home. No trash burning shall be permitted anywhere within the Property. No trash, refuse, or garbage can or receptacle shall be placed outside any Home or appropriately screened enclosure, except the day of regularly scheduled trash collection and except for grass bags placed in the back or side yard pending regularly scheduled trash collection.

(w) Hazardous Substances. Each Owner shall keep such Owner's Lot free from Hazardous Substances and in compliance with all applicable environmental laws. Each Owner shall remove any Hazardous Substances and/or cure any violations of any environmental law, as applicable, as required by law, promptly after the Owner becomes aware of same. Nothing herein shall prevent an Owner from recovering such expenses from any other party that may be liable for such removal or cure. In no event shall outside or underground fuel storage tanks of any kind be permitted on any Lot.

(x) Occupancy Restrictions. No Home shall be occupied by more than three (3) persons who are not members of the same family without prior written consent of the Board. The term "members of the same family" shall be deemed to mean spouse, parents, parents-in-law, brothers, sisters, children or grandchildren.

(y) Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of the Property or any Lot, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the Property shall be observed. The obligation of complying with

*Para 10 General Restrictions
10, x, y, z*

requirements of such governmental bodies as to the maintenance, modification or repair of any part of the Property shall be imposed on the same person who has the obligation to maintain and repair such Property by the terms of this Declaration. No noxious or offensive activity shall be carried on with respect to any Lot, nor shall any unsightly objects or nuisances be erected, placed or permitted to remain on any Lot, nor shall anything be done which may become an annoyance or a nuisance to the neighborhood, nor shall any Lot or any Improvement be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident of any Home.

(z) Leasing. No Home shall be rented for transient or hotel purposes. Any lease of a Home shall contain a provision to the effect that the rights of the tenant to use and occupy the Home shall be subject and subordinate in all respects to the provisions of this Declaration.

(aa) Sales. No garage sales, sample sales, yard sales, trunk sales, or similar activities shall be held by any resident, except as a part of an annual or semi-annual event organized and sponsored by the Association. The Association-sponsored event shall be of a frequency, time, and location selected by the Board.

(bb) Signs. Except for signs erected by or for Declarant or its approved realtor for the Property, no sign, advertisement or billboard may be displayed on any Lot, except that:

(i) One (1) sign of not more than three (3) feet high or three (3) feet wide, and not to exceed a total of six (6) square feet, may be maintained offering a Lot for sale or lease.

(ii) One (1) political sign per candidate or issue, not more than three (3) feet high or three (3) feet wide, and not to exceed a total of six (6) square feet, is permitted for up to three (3) weeks before the vote on such candidate or issue, but must be removed within twenty-four (24) hours after such vote.

(cc) Vehicle Repair Prohibited. No vehicle repair (except minor routine maintenance) or rebuilding or any other form of manufacture, whether for hire or otherwise, shall occur on any Lot.

(dd) Parking and Storage of Vehicles Prohibited. No truck or commercial vehicle with gross vehicle weight of 12,000 pounds or over (other than a truck parked on a temporary basis actually being used for the specific purpose for which it was designed), trailer, mobile home, recreational vehicle, boat, personal watercraft, airplane, equipment,

(Summary Published in the Leavenworth Times on _____, 2018)

ORDINANCE NO. _____

AN ORDINANCE ALLOWING A SPECIAL USE FOR A RESIDENTIAL HOME STAY TO BE LOCATED AT 2115 RIDGEVIEW DRIVE IN THE CITY OF LEAVENWORTH, KANSAS.

WHEREAS, under the 2016 Development Regulations of the City of Leavenworth, Kansas, the Governing Body of the City of Leavenworth is given the power to locate special uses in each zoning district by ordinance within said City; and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the Ordinances of the City of Leavenworth, Kansas, held a public hearing on the 4th day of December, 2017 in the Commission Room, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas, the official date and time set as was published in the Leavenworth Times newspaper and mailed to all property owners within 200 feet of the said property on the 9th day of November 2017; and

WHEREAS, upon a motion made, duly seconded, and passed, the Planning Commission adopted findings of fact and recommended denial of the request for a Residential Home Stay at 2115 Ridgeview Drive, Leavenworth, Kansas.

WHEREAS, upon a roll call vote duly passed, the Governing Body adopted the findings of fact and conclusions to override the recommendation to allow special use for a Home Stay for the property described herein.

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

Section 1. That a special use permit be issued for a Residential Home Stay on the following described property:

Lot 36, Oakwood Estates No. 2, City of Leavenworth, Leavenworth County Kansas and more commonly referred to as 2115 Ridgeview Dr. Leavenworth Kansas in an R1-9 (Medium Density Single Family Residential) District.

Section 2. That this special use permit is subject to the following:

- a.) A Lodging Permit shall be obtained from the City of Leavenworth Office of the City Clerk each year and payment of Transient Guest Taxes as required to the City of Leavenworth.
- b.) The Special Use Permit shall become null and void upon the sale of the property.
- c.) The property shall be used for the boarding of one limited-term boarder (individual or family) only, and shall not function as an event venue, to include the hosting of parties attended by individuals not listed on the lease agreement.
- d.) Any guests of the property must park in the driveway or garage of the home.

e.) Any police response to the subject property shall be reported to the City Commission, which may result in revocation of the Special Use Permit.

Section 3: That this Ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper of the City of Leavenworth, Kansas, as provided by law.

Passed by the Leavenworth City Commission on this ___th day of ____, 2018.

Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

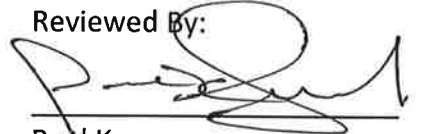
Policy Report
Ordinance to remove a property from the Town Square Redevelopment District
January 9, 2018

Prepared By:



Taylour Tedder
Assistant City Manager

Reviewed By:



Paul Kramer
City Manager

BACKGROUND:

On July 26, 2011 the City created the Downtown Town Square Redevelopment District, which is a Tax Increment Financing (TIF) area, primarily put in place to facilitate the development of a downtown hotel. However, the boundaries of that TIF area extend beyond the area the hotel occupies. Those properties not related to the hotel, but included in the TIF area, consented and were given notice.

A developer has acquired the Landing 4 Theater and plans to rehab and renovate the property, as well as expand it to five screens. This property is currently in the downtown TIF district, and they would like to be removed, as Jeremy Greenamyre has done in the recent past with some of his adjacent properties to be placed back in the Neighborhood Revitalization Area (NRA) tax rebate program. This enables the business to receive tax relief on the incremental improvements in tax value for their property. I have explained to the developer, Clint Francis, of Bramlage Properties, LLC & Francis Paramount, Inc the need to enter into a funding agreement with Katie Logan, Lathrop & Gage, which he has proceeded in doing so. The funding agreement pays for legal costs incurred during the process resulting in no cost to the City.

To accomplish removal of the property from the TIF district and into the NRA, there are many steps required by state statute. Mr. Bramlage has taken those steps, which are attached to this policy report. Staff has reviewed all of the documents submitted by Mr. Bramlage with legal assistance from Lathrop & Gage and is comfortable that they address all legal issues.

ACTION:

Staff supports Mr. Bramlage taking whatever actions, through the correct procedures, to best position the property for success.

ATTACHMENTS:

1. Feasibility Study
2. Required Ordinance

FEASIBILITY STUDY FOR REMOVAL OF PROPERTY FROM DOWNTOWN TOWN SQUARE REDEVELOPMENT DISTRICT

Prepared by Lathrop Gage LLP, Special Counsel to City

January 2, 2018

Pursuant to the provisions of K.S.A. 12-1770 et seq., as amended (the "Act"), and Ordinance No. 7879 adopted on July 26, 2011, the City of Leavenworth, Kansas (the "City") established the Downtown Town Square Redevelopment District (the "Redevelopment District"), consisting of a 12 square block area located in the City, bounded on the North by the North right of way of Seneca Street, bounded on the East by the Westerly Bank of the Missouri River, bounded on the South by the Southerly right of way of Choctaw Street and bounded on the West by the Westerly right of way of Fourth Street (U.S. Highway 73) to include all street and alley rights of way along with all property lying within Blocks 1-4, 17-24 and 43-46 of Leavenworth City Proper.

The owner of certain parcels located within Redevelopment District (to-wit Lots seventeen (17) through twenty-one (21), Block twenty-two (22), Leavenworth City Proper, commonly known as the Landing 4 Theatres) has requested that the City remove those parcels from the District.

Pursuant to KSA 12-1771(i), if any redevelopment project has been approved in the Redevelopment District, the City is required to provide a feasibility study that the incremental tax revenues from the resulting smaller Redevelopment District is expected to be sufficient to pay the costs of the approved redevelopment project.

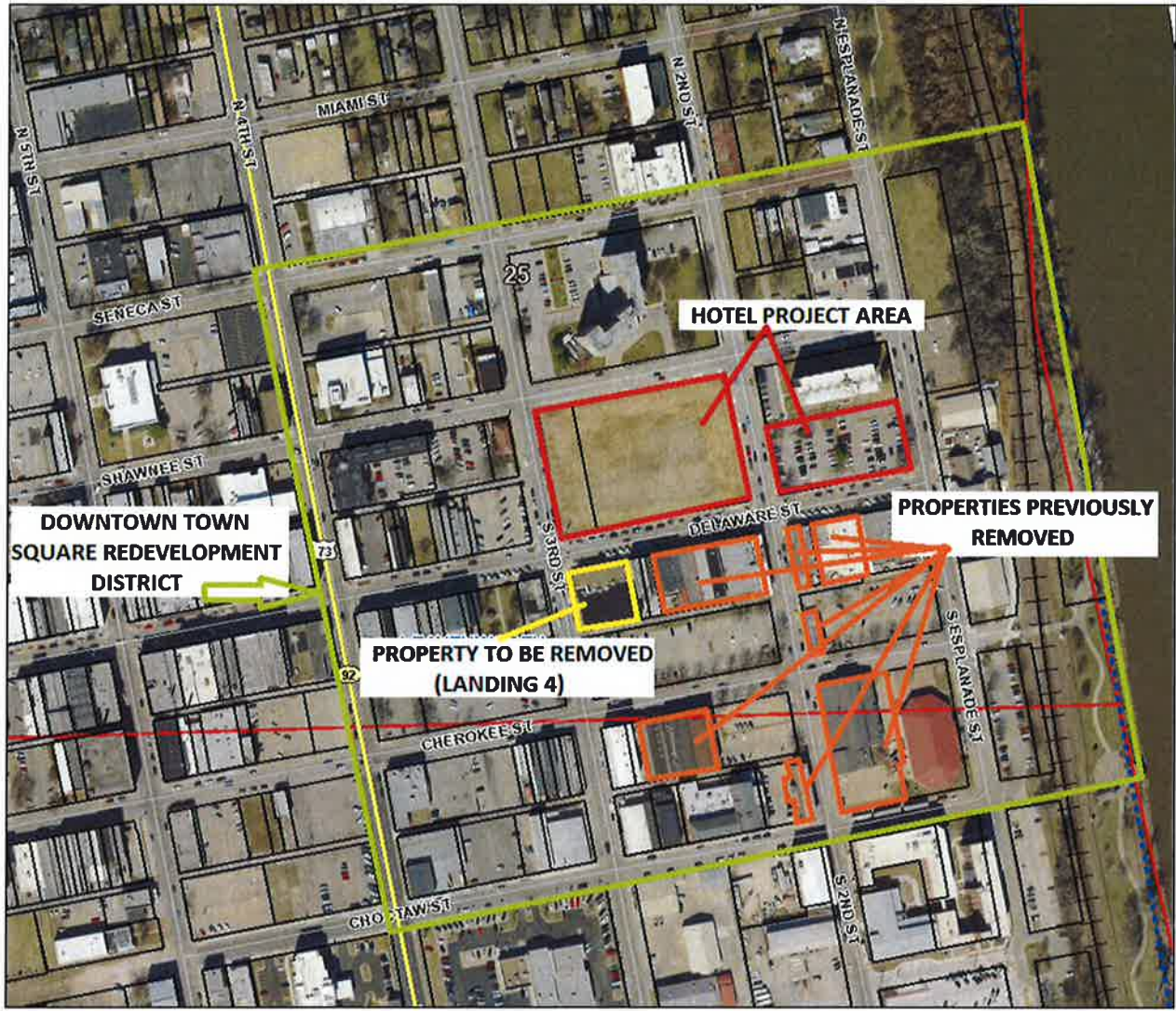
The only project approved for the Redevelopment District is The Downtown Town Square Redevelopment District Hotel Project Plan, approved by Ordinance No. 7965 adopted March 17, 2015 (the "Hotel Project Plan"). The Hotel Project Plan proposes that the costs of certain infrastructure improvements to be completed by the City in the estimated amount of \$739,258.00 will be reimbursed to the City from incremental taxes within the Redevelopment District generated from the construction of a hotel on an area within the Redevelopment District (the "Hotel Project Area").

The original Redevelopment District, the Hotel Project Area, the parcels to be removed from the Redevelopment District at this time, and parcels previously removed from the Redevelopment District are shown on Exhibit A attached hereto.

The Feasibility Study for the original Hotel Project Plan ("Hotel Project Plan Feasibility Study") was summarized in the Hotel Project Plan. According to the Hotel Project Plan Feasibility Study, estimated incremental property tax revenue of \$2,800,256.95 will be generated from building the hotel in the Hotel Project Area. This incremental property tax revenue will be available to pay the approximately \$739,258.00 of costs to be reimbursed to the City. The property proposed to be removed from the Redevelopment District is outside of the Hotel Project Area and, accordingly, is not included in the projection of incremental property tax revenues required to reimburse the City under the Hotel Project Plan.

Based upon the foregoing, it is reasonable for the Governing Body to find that the incremental tax revenues from the resulting smaller Redevelopment District is expected to be sufficient to pay the costs of the approved Hotel Project Plan.

EXHIBIT A



(Published in the Leavenworth Times on _____, 2018)

ORDINANCE NO. _____

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS MAKING FINDINGS AND REMOVING CERTAIN PROPERTY FROM THE DOWNTOWN TOWN SQUARE REDEVELOPMENT DISTRICT PURSUANT TO K.S.A. 12-1770 ET SEQ., AND AMENDMENTS THERETO.

WHEREAS, pursuant to the provisions of K.S.A. 12-1770 et seq., as amended (the "Act"), the City of Leavenworth, Kansas (the "City") is authorized to establish redevelopment districts within a defined area of the City which is an "eligible area" as said term is defined in the Act; and

WHEREAS, pursuant to the Act and Ordinance No. 7879 adopted on July 26, 2011, the governing body established a redevelopment district in the City (the "Redevelopment District") consisting of a 12 square block area located in the City, bounded on the North by the North right of way of Seneca Street, bounded on the East by the Westerly Bank of the Missouri River, bounded on the South by the Southerly right of way of Choctaw Street and bounded on the West by the Westerly right of way of Fourth Street (U.S. Highway 73) to include all street and alley rights of way along with all property lying within Blocks 1-4, 17-24 and 43-46 of Leavenworth City Proper;

WHEREAS, pursuant to the Act and Ordinance No. 7965 adopted on March 17, 2015, the governing body approved a hotel project redevelopment plan (the "Hotel Project Plan") for the Redevelopment District;

WHEREAS, pursuant to Ordinance No. 8044 adopted on July 11, 2017, which itself amended Ordinance No. 8035, the City removed certain real property from the Redevelopment District;

WHEREAS, pursuant to the Act the City desires to remove certain additional property from the Redevelopment District and has prepared a feasibility study (the "Feasibility Study") that shows that the tax increment revenue from the resulting Redevelopment District is expected to be sufficient to pay the redevelopment project costs under the Hotel Project Plan; and

WHEREAS, the City desires to remove the property legally described on Exhibit A and shown on Exhibit B from the Redevelopment District.

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

Section 1. The Governing Body hereby finds that the Feasibility Study presented to the Governing Body satisfies the provisions of K.S.A. 12-1771(i) of the Act.

Section 2. The Governing Body hereby removes the property legally described on Exhibit A from the Redevelopment District.

Section 3. The City Clerk is directed to give notice to the Leavenworth County Clerk and Appraiser to revise the base year assessed valuation of the Redevelopment District in accordance with the Act.

Section 4. This Ordinance shall take effect and be in force from and after its passage by the Governing Body, and its publication once in the official City newspaper.

PASSED AND APPROVED by the City Commission of the City of Leavenworth, Kansas, on _____, 2018.

Mayor

SEAL

ATTEST:

Carla Williamson, City Clerk

APPROVED AS TO LEGAL FORM:

Thomas Dawson, City Attorney

EXHIBIT A

Parcel Tax ID	Full Legal Description	Address
052-077-25-0-34-11-004.00	Lots seventeen (17) through twenty-one (21), Block twenty-two (22), Leavenworth City Proper, in the City of Leavenworth, Leavenworth County, Kansas	225 Delaware Street, Leavenworth, Kansas 66441

EXHIBIT B



**EXECUTIVE SESSION
ATTORNEY-CLIENT PRIVILEGE**

January 9, 2018

CITY COMMISSION ACTION:

Motion:

Move to recess into executive session pursuant to the *consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship* exception per K.S.A. 75-4319 (b) 2 to discuss the Eisenhower Road Improvement Project Three Party Agreement. The open meeting to resume in the City Commission Chambers at _____ by the clock in the City Commission Chambers. City Manager Paul Kramer and City Attorney Tom Dawson are requested to be present during the Executive Session.

**EXECUTIVE SESSION
ATTORNEY-CLIENT PRIVILEGE**

January 9, 2018

CITY COMMISSION ACTION:

Motion:

Move to recess into executive session pursuant to the *consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship* exception per K.S.A. 75-4319 (b) 2 to discuss the operations of the Leavenworth County Port Authority. The open meeting to resume in the City Commission Chambers at _____ by the clock in the City Commission Chambers. City Manager Paul Kramer and City Attorney Tom Dawson are requested to be present during the Executive Session.