

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, December 2, 2019
6:00 PM

CALL TO ORDER:

Commissioners Present

Jay Byrne
Mike Burke
John Karrasch
Linda Bohnsack
Camalla Leonhard
Claude Wiedower

Commissioners Absent

Sherry Hines Whitson

City Staff Present

Julie Hurley
Michelle Baragary

Madam Chairman Leonhard called the meeting to order at 6:00 p.m. and noted a quorum was present.

Approval of Minutes: September 9, 2019

Madam Chairman Leonhard asked for comments or a motion on the minutes presented for approval: September 9, 2019. Mr. Byrne moved to accept the minutes as presented, seconded by Ms. Bohnsack. The minutes were approved by a vote of 6-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. 2019-15 SUP – 729 PENNSYLVANIA

Conduct a public hearing for Case No. 2019-15 SUP – 729 Pennsylvania. The applicant is requesting a Special Use Permit to allow the operation of an adult daycare center at 729 Pennsylvania in an existing building located on the Saint Casmir Church property.

Madam Chairman Leonhard called for the staff report.

Planning Director Julie Hurley the applicant, Elaine Belardo, is requesting a Special Use Permit to allow the operation of an adult daycare center at 729 Pennsylvania Avenue in an existing building located on the Saint Casmir Church Property. The property is currently zoned R1-6, High Density Single Family Residential District. The adopted Development Regulations do not have a definition for “Adult Daycare Center”. Therefore, staff evaluated the request in conformance with the closest defined use, that being Child Care Center. Child Care Centers are allowed in the R1-6 zoning district with issuance of a Special Use Permit.

Ms. Belardo represents The Deeper Window Project organization, a 501(c)(3), and is not affiliated with the Roman Catholic Archdiocese of Kansas City or with Saint Casmir Parish. The proposed use involves daytime care and programming for adults living with early to middle stages of dementia. There will be two 16-person groups that meet either Monday/Wednesday or Tuesday/Thursday, with Friday open for socialization at the facility. Participants will meet from 9am to 3pm for art, music, drama, cognitive, stimulation, community projects, and peer support. The proposed use is a nonmedical program, offering respite to the participants' caregivers. The program will be staffed by a primary and assistant facilitator, with additional therapists and volunteers participating for various activities.

The State of Kansas does not require licensure for Adult Daycare facilities.

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 provision of the 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.

There is a current need within the community for Adult Daycare uses. Residents caring for family members with dementia or Alzheimer's have few to no resources for the type of service being proposed. The proposed facility will allow caregivers respire and help to improve the overall wellbeing of both caregivers and participants.

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 feel that the proposed use will cause any substantial injury to the value of other property in 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.

No new structures or building modifications are proposed as part of this special use permit. The property will continue to look and function as it currently does. There was previously a preschool/daycare facility located in the subject property, operated by St. Casmir Parish.

Notification was sent to property owners within 200' of the subject property, as required by Kansas statute. Since notifications were mailed, staff has received no comments or inquiries.

Nationally, there continues to be an increased demand for daycare facilities offering services for adults with dementia/Alzheimer's. As the proposed use is not currently addressed in the adopted Development Regulations, staff intends to add a definition and review criteria for this use during the next update to the Development Regulations to adequately prepare for any future proposals that are similar in nature. Staff

has researched how other municipalities in the metropolitan area handle this type of use and will have draft language ready for review by this body during the annual update to the Development Regulations.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein, subject to the following conditions:

1. The operation shall be limited to a maximum of 16 adult participants.
2. No medical services shall be offered in conjunction with the facility.

Failure to maintain compliance with all conditions shall result in revocation of the Special Use Permit.

ACTION/OPTIONS:

- Motion, based upon findings as stated and conditions as presented, to recommend approval to the City Commission with included conditions.
- Motion, to recommend denial to the City Commission.
- Table the issue for additional information/consideration.

Madam Leonhard opened the public hearing.

Elaine Belardo approached the board stating she has some a dispute with the definition being used. She further stated there is a need for services for families living with dementia. Her husband was diagnosed at the age of 50. She can drive up to 40 miles one-way in order to take her husband to a non-medical support group he attends twice a week. This type of service is not available in Leavenworth County. Programs like this can delay placement into a long-term care facility.

Mrs. Belardo and her husband, Jose, started a nonprofit organization called The Deeper Window Association, which is a non-medical dementia education program that engages and empowers people living with dementia while providing respite care for their partners. This is a needed service in Leavenworth County. Mrs. Belardo further stated people in the early to moderate stages of this disease do not need nor are they responsive to the term adult daycare.

Mr. Wiedower stated his mother died of Alzheimer's so he understands the need for a program like this. His concern is with security. He wants to know what controls are in place to contain people so they do not wander off.

Mrs. Belardo stated the program is stage specific. One of the eligibility requirements is that the participant is not an elopement risk; they are not going to wander off. There are many stages to this disease. The proposed program is only for the early onset of the disease. Furthermore, the building has three doors and two providers. The providers are with the participants doing activities together. They will move as a group to the next activity. Restrooms are on the interior of the building not the exterior.

Ms. Jeannie Reader, Licensed Master Social Worker, approached the board stating she created the program 9-years ago. In that time, she has never had anyone elope. After assessment, if a participant is found to be too far along with the disease, they will not be eligible for this particular program that is proposed. A program that keeps the participants active and engaged will delay placement and beyond that, will help them maintain relationships.

Ms. Reader further stated the group of 16 people she worked with in 2018 made 3,997 sandwiches, 1,200 sack lunches for two local food pantries in the Kansas City area, made enough soup to feed 385 people at a food kitchen, they made and sold 120 jars of soup mixes and 60 jars of cookies/brownies to raise money to help fund Christmas gifts. For Christmas they made 70 snuggle packs, which includes a 45"x60" fleece blanket, a children's book and a 12"-16" stuffed animal. With support, these folks can remain active and be engaged with their community.

Mr. Wiedower asked what would happen if an individual progressed to a stage that would make them no longer eligible for this program.

Ms. Reader stated if someone progresses to the point where they can no longer participate in the program, the family is notified. Ms. Reader will assist the family in transitioning to a different facility or program.

Mr. Karrasch asked for clarification if the term "adult daycare" is incorrect.

Mrs. Belardo responded that adult daycare is incorrect and an adult daycare would require a licensure and is more medical. The program proposed is an arts and inspiration program.

Mr. Karrasch stated he wants clarity so moving forward after the beginning of the year this need is properly named/identified.

Mrs. Belardo stated it is "social engagement for people who are living with dementia". It offers participants the opportunity to socially engage with their peers and socially engage with their community. Art and inspiration are the methods used.

Ms. Hurley noted for the commission that when Mrs. Belardo brought the proposal to staff, she reached out to the Mid America Regional Council, who in turn reached out to other communities in the region to see how they address this type of use. Every community calls it something a little different in their definitions and addresses it a little bit differently. As with most uses, staff needs to settle on a word or phrase to call it that may not be 100% representative of what goes on; but we need to be able to cover sort of a range of uses within a phrase or title that we are assigning to something. Most of the other cities in the region do have a variation on a care facility that would provide this type of service.

Mary Vardeman, 1802 Cleveland Ter, approached the board stating she lives in the neighborhood and supports the proposed use.

Rev. Dr. Dave York, Pastor of First United Methodist Church of Leavenworth, believes The Deeper Window Project is a great group to partner with. The church provides respite care for the caregivers once a week for three hours. He believes this program can draw the community together and is an advocate for the project.

Shalay Harris, Program Director for the Heart of America Chapter of the Alzheimer's Association, stated she has been a public health nurse for 15-years and has worked with Jose on many levels. The program will help decrease isolation and keep participants in their homes for as long as possible. She is in support of the project. There are resources and support coming from the Heart of America Association to help The Deeper Window Project.

Joseph Clark lives close to 729 Pennsylvania and is in favor of the project.

Bill MacTomey, member of the finance council for Sacred Heart and St. Casmir and representing the property owner of 729 Pennsylvania. Mr. MacTomey provided some history of the property. They have reviewed The Deeper Window Project proposal and are supportive of the project.

Karen Rim, Board Certified Music Therapist, stated music therapy is beneficial to people with Alzheimer's because music is globally processed, which means it bypasses the language centers and goes to the emotional centers of the brain where memory is stored. Music improves mood states, it activates movement, triggers endorphins to feel good, etc. This disease is very isolating, which is why this program is very important and much needed in Leavenworth.

With no one else wishing to speak, Madam Leonhard closed the public hearing and called for discussion among the commissioners.

Mr. Wiedower stated he is glad they clarified the point on "adult daycare". He believes "social engagement" or "arts and inspiration" are much more descriptive of the intent. Mr. Wiedower further stated he remembers years ago when Leavenworth started the Shelter of Hope and a daycare center. Hundreds of volunteers worked the Shelter of Hope, which not only helps people in need but it brings dignity to all involved. It is a win-win for everyone. Mr. Wiedower believes the same thing for the proposed Special Use Permit.

Ms. Leonhard agrees that the interaction and engagement people have with each other is a positive experience for everyone. The proposed use allows people to feel safe and not go through this alone.

Mr. Byrne also believes it is a great idea. Mr. Byrne asked staff if the special use is approved then Mrs. Belardo is the special use owner but what happens if Mrs. Belardo leaves.

Ms. Hurley responded the special use is for the Deeper Window Project Organization not Mrs. Belardo specifically.

Mr. Byrne asked if the special use is granted for only one year.

Ms. Hurley responded the special use permit would be granted for this organization, for this use, at this particular location. If the organization wanted to move to a different location, it would need to be re-evaluated at that point.

Mr. Byrne asked if a condition regarding the hours of operation should be included.

Ms. Hurley stated that would be up to the commission if they wanted to add that condition to the special use permit.

Mr. Burke asked if the commission would need to come back to do this process all over again if the name "adult daycare" changed when reviewing the Development Regulations next year.

Ms. Hurley responded this would be issued as it is and then moving forward if the commission adopts different regulations, it would be from that point forward.

Ms. Bohnsack stated this is a much needed service. Ms. Bohnsack is currently her husband's caregiver. When she first started using respite care, she felt guilty but her husband benefited from it as much as she did. This is an absolute need for the community.

With no further discussion, Madam Leonhard called for a motion. Ms. Bohnsack moved to approve a special use permit for an adult daycare center at 729 Pennsylvania Avenue with the following conditions:

1. The operation shall be limited to a maximum of 16 adult participants.
2. No medical services shall be offered in conjunction with the facility.
3. Hours of operation shall be Monday – Friday from 8a.m. – 5p.m.

The motion was seconded by Mr. Burke and approved by a vote of 6-0.

2. 2019-16 REZ – 1101 N. 7TH STREET

Conduct a public hearing for Case No. 2019-16 REZ – 1001 N. 7th Street. The applicant is requesting a rezoning of their property from R1-6, High Density Single Family Residential District to GBD, General Business District. The property used to be a church, Life Connections Ministries, which vacated in the summer of 2019, and has remained vacant to this date.

Madam Chairman Leonhard called for the staff report.

City Planner Jackie Porter stated the applicant, Development Inc., owned by Jeremy Greenamyre, is requesting a rezoning of the property located at 1001 N. 7th Street from R1-6, High Density Single Family Residential District to GBD, General Business District. The property used to be a church, Life Connections Ministries, which vacated in the summer of 2019, and has remained vacant to this date.

The rezoning is being requested by the property owner to allow the zoning to accurately represent the intent of use of the structure, and to correlate with surrounding commercial zoning. Prior uses of the property have been a general business commercial use since 1955. In 1955, the existing building was constructed as an office building, and maintained the use of the building as office space, until the recent use of the building as an assembly hall for the Life Connections Ministries. All prior uses are allowed in GBD zoning.

The applicant suggested that there might be minor changes to the exterior of the structure to maintain the aesthetics of the building.

CONDITIONS OF DETERMINATION

Whenever the Planning Commission of City Commission takes action on an application for amendment to these Development Regulations, and such proposed amendment is not a general revision of existing ordinances, but one which will affect specific property, the Planning Commission and City Commission shall consider the following factors:

- a) The character of the neighborhood;

The subject property is the site of the former Life Connections Ministries building, which is currently vacant. To the south is a multi-story apartment building. To the southeast of the office building is a vacant commercial building. To the east is Excellent Choice, a restaurant. To the north is a

barbershop. The remainder of the neighborhood consists of single-family homes. The subject property is located along North 7th Street, which is classified as a collector street and designed to handle a moderate volume of traffic. To the west of the building is a parking lot that was designed to facilitate the customer base for the building.

- b) The zoning and use of properties nearby;

To the south of the subject property is a multi-story apartment building, zoned OBD, Office Business District. To the southeast of the office building is a vacant commercial building, zoned GBD, General Business District. To the east is Excellent Choice, restaurant, and a vacant building zoned ODB. To the north is a barbershop, zoned OBD. To the west is a single-family resident zoned ODB. The remainder of the neighborhood consist of single-family homes zoned R1-6, High Density Single Family Residential District.

- c) The suitability of the subject property for the uses to which it has been restricted;

The subject property was built in 1955 as an office building. The building has been used as an office building and an assembly hall since construction, and is unsuited for residential use.

- d) The extent to which removal of the restrictions will detrimentally affect nearby property;

The proposed rezoning should have little detrimental effect upon surrounding properties. The subject building has been used for general business district qualified uses since its construction in 1955. No significant effect on nearby property is anticipated due to the rezoning.

- e) The length of time the subject property has remained vacant as zoned;

The existing building has consistently operated in a general business district use since construction in 1955. The last remaining tenant vacated the building in the summer of 2019.

- f) The relative gain to economic development, public health, safety and welfare by the reduction of the value of the landowner's property as compared to the hardship imposed by such reduction upon the individual landowner;

The proposed rezoning will have a positive effect on public health and welfare by providing a correct zoning to correlate with the surrounding properties along a moderately used collector street, which has been proposed by the 2010 Comprehensive Plan to be zoned commercial.

- g) The recommendations of permanent or professional staff;

Staff recommends approval of the rezoning request.

- h) The conformance of the requested change to the adopted or recognized Comprehensive Land Use Plan being utilized by the city;

The area is identified as appropriate for Institutional uses on the Future Land Use map. Therefore, staff finds the proposed use to be in conformance with the overall goals of the adopted Comprehensive Plan.

- i) Such other factors as may be relevant to a particular proposed amendment. The factors considered in taking action on any proposed amendment shall be included in the minutes or otherwise be made part of the written record.

No other factors.

REZONING ACTION/OPTIONS:

- Recommend approval of the rezoning request from R1-6 to GBD to the City Commission
- Recommend denial of the rezoning request from R1-6 to GBD to the City Commission
- Table the issue for additional information/consideration

Ms. Bohnsack asked if a martial arts school was located there at one time.

Ms. Hurley stated she does not believe so but the owner is present and would be better at answering that question.

Mr. Byrne asked if the property is rezoned to GBD and a church wanted to move there, is that allowed.

Ms. Hurley responded in the affirmative.

Mr. Burke stated the rezoning seems to make sense given the topic in September when the commission talked about the North Gateway project. This seems to be supportive of developing that two block area to the north.

Ms. Hurley stated this is the only residentially zoned property along the whole 7th Street corridor. Ms. Hurley further stated she is not sure why there are these pockets throughout town where the zoning does not correlate to any issue that has ever been there. The building was constructed prior to zoning, which she believes zoning took place around 1964. The current rezoning request is just bringing the zoning to match what the building was constructed for.

Ms. Bohnsack stated she drove by there and there are several businesses in that area already. It is obviously a commercial building and the rezoning request would be a correction to the current zoning.

Ms. Hurley mentioned the zoning of the property to the west of the subject property, which is OBD. Staff looked through old ordinances thinking maybe the subject property had been rezoned at some point but was not showing on the map but staff could not find anything to support that theory.

With no further discussion about the staff report, Madam Leonhard opened the public hearing.

With no one wishing to speak, Madam Leonhard closed the public hearing and called for a motion. Based on the findings as stated and the information provided, Mr. Byrne moved to recommend approval to the City Commission the rezoning request for property located at 1001 N. 7th Street from R1-6 to GBD; seconded by Mr. Wiedower and approved by a vote of 6-0.

Ms. Hurley stated tonight is Ms. Leonhard's last meeting as a Planning Commissioner as she was elected to the City Commission and presented Ms. Leonhard with a certificate.

Mr. Karrasch asked if the commission needs to vote on a new officer.

Ms. Hurley responded the mayor is responsible for appointing a new member for the Planning Commission. This will take place sometime after the new mayor is elected on December 10th.

Mr. Burke asked if the City Commission chose a consultant for the Comprehensive Plan.

Ms. Hurley stated the City Commission decided to wait until December 10th to discuss and select a consultant.

Ms. Bohnsack asked if staff received her list of items she had questions about or wanted updates to.

Ms. Hurley stated staff received the list on Tuesday; however, with being out of the office for the holidays staff did not have time to get through it. Information/updates will be provided at the next meeting.

Mr. Karrasch asked if there is anything new with the North Gateway.

Ms. Hurley stated the City Commission approved the proposed project plan that went to the Planning Commission. This sets in place the finance mechanism to move forward.

With no further business, the meeting was adjourned at 7:05 p.m.

JH/mb