

**CITY OF LEAVENWORTH
PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N. 5th Street
Leavenworth, KS 66048**

**REGULAR SESSION
Monday, October 5, 2020
6:00 p.m.**

A facemask covering the mouth & nose is required for anyone attending the meeting in-person. Citizens wishing to comment may choose to join the meeting via GoToMeeting by calling in at 6:00 p.m.:

Phone Number: +1 (646) 749-3122

Access Code: 724-877-429

Your call will be placed into queue for comment.

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: July 13, 2020 and September 14, 2020**

NEW BUSINESS:

- 1. 2020-32 SUB – FORT GATE MARKETPLACE FINAL PLAT**
Consider a final plat for the Fort Gate Marketplace subdivision.
- 2. 2020-33 SUP – 611 MIAMI STREET**
Conduct a public hearing for Case No. 2020-33 SUP – 611 Miami. The applicant is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 611 Miami Street. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

OTHER BUSINESS:

NONE

ADJOURN

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, July 13, 2020
6:00 PM

CALL TO ORDER:

Commissioners Present

Mike Burke
Sherry Hines Whitson
Linda Bohnsack
Claude Wiedower
Chris Murphy

Commissioners Absent

City Staff Present

Julie Hurley
Michelle Baragary

Mike Burke, Claude Wiedower, Julie Hurley, Jackie Porter and Michelle Baragary were present in the commission chambers. Sherry Hines Whitson, Linda Bohnsack and Chris Murphy participated via GoToMeeting.

Chairman Burke called the meeting to order at 6:05 p.m. and noted a quorum was present.

APPROVAL OF MINUTES: June 1, 2020

Chairman Burke asked for comments or a motion on the minutes presented for approval: June 1, 2020. Mr. Wiedower moved to accept the minutes as presented, seconded by Ms. Whitson. The minutes were approved by a vote of 5-0.

OLD BUSINESS:

1. 2020-09 SUP – 1019 OTTAWA

Conduct a public hearing for Case No. 2020-09 SUP – 1019 Ottawa. The applicant, David F. Anaya, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

Chairman Burke called for the staff report.

City Planner Jackie Porter stated this item was tabled at the June 1, 2020 Planning Commission meeting for additional information/consideration. The applicant, David Anaya, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6, High Density Single-Family Residential, zoning district. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The current location is an empty lot. The property owner recently purchased the lot, and is requesting a Special Use Permit to allow the development of a two-family (duplex) structure.

At the June 1, 2020 Planning Commission meeting, the commissioners requested for the applicant to provide a conceptual site plan. Mr. Anaya has submitted some documentation for the commission to review along with a few plans and list of possible conceptual ideas.

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.

The property fills a need in the community by providing a two-family housing option.

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.

The property currently does not have any structures on it. Any future structure will be required to meet the development regulations of the zoning district.

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 inquires.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein.

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

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

Mr. Murphy asked if the applicant plans to choose one of the three concept designs.

The applicant, David Anaya, reviewed the three various concepts and stated Concept #3 is his preferred choice.

Concept #1: Basic Design, no fireplaces, main part of the duplex will be widened by 3' on each side, timberline shingles or something alike.

Concept #2: Concept #1 plus install a double gable roof on the front (gables will be symmetrical with each other), construct two 2-car carports on the south side of the duplex close to the alley.

Concept #3: Concept #2 plus brick veneer on the front of the house, plant 4-5 trees on each side of the duplex, install a fence on the side and rear, and install a utility shed with a divider so each tenant would have their own personal space.

With no questions from the commissioners, Chairman Burke opened the public hearing. With no one wishing to speak, Chairman Burke closed the public hearing and called for a motion. Mr. Wiedower moved to recommend approval to the City Commission a Special Use Permit to allow a two-family dwelling in the R1-6 (High Density Single-Family Residential District) zoning district based on the analysis and findings presented, seconded by Mr. Murphy and approved by a vote of 5-0.

NEW BUSINESS:

1. 2020-16 SUP – 4320 HUGHES RD

Conduct a public hearing for Case No. 2020-16 SUP – 4320 Hughes Rd. The applicant, Network Real Estate LLC, is requesting a Special Use Permit to allow a 196' tall communication tower and related ground equipment in the R1-9, Medium Density Single-Family Residential, zoning district.

Chairman Burke called for the staff report.

City Planner Jackie Porter stated Glen Klocke on behalf of Network Real Estate LLC and the subject property owner, are requesting a Special Use Permit to allow a 196' tall monopole type communication tower and related ground equipment. The subject property is zoned R1-9, Medium Density Single-Family Residential District, and is occupied by the residential dwelling with accessory structures.

The proposed 196' tower is commissioned by AT&T to serve customers in the Leavenworth area, with space available for 2 additional carriers to co-locate. The maximum height of a tower and antenna when two or more antennas are co-located by two or more companies on a single tower is 170'. The Planning Commission has the authority to make an exception to the height requirement as a condition to the approval of the Special Use Permit. The proposal includes a 70' x 70' fenced area to enclose the tower and related ground equipment. Access will be provided by a paved 12' wide access drive coming off Hughes Road.

There is no signage proposed except for safety and identification as required by the Federal Communications Commission. The 70' x 70' fenced enclosure will be screened with green privacy slates. Sufficient existing foliage exists around the site of the tower from adjoining properties.

The Development Regulations require that for each foot of tower height there shall be a minimum of 1.05 foot of setback from any property line. This would require a minimum 205.8' setback from all property lines for the proposed tower, which is provided.

COMMISSION FINDINGS

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

5. 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

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

A communication tower will provide numerous benefits to the economic development, welfare and convenience of the public through improved cellular communication capabilities.

7. 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 communication tower will cause any substantial injury to the value of other property in the neighborhood.

8. 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 location and size of the proposed communication tower are such that it will not dominate the neighborhood and prevent development and use of neighboring properties. The proposed tower will be situated to maximize distance from and impact on any adjoining single-family residences. The subject property is bordered by a creek to the west, with dense tree growth to the north and west of the subject communication tower, minimizing visibility from surrounding properties.

Notification was sent to property owners within 200' of the subject property, as required by Kansas statute.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request with an exception to the height regulations to allow 196' based on the analysis and findings included herein.

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

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

Mr. Wiedower asked if staff has received any protests for the special use permit.

Ms. Porter stated two citizens in opposition called staff.

Mr. Murphy expressed concern for the need of the additional 26' for the tower.

Glen Klocke (Network Real Estate representing AT&T) stated the additional height is to reach the VA Hospital and University of Saint Mary from this location. The ground level at this location is low but the location is buffered by trees so the visual will almost be just the top of the tower.

Mr. Burke asked how many other locations were looked at before deciding on this one.

Mr. Klocke stated four to five locations where researched.

Mr. Wiedower asked other than the hospital and college, who else will benefit from this tower.

Mr. Klocke responded the radius for this tower is approximately 5 to 5.5 miles; therefore, it will benefit any AT&T user 2.5 miles in each direction of the tower.

Ms. Bohnsack asked if there will be any additional lighting on the tower (other than what is required by the FCC) and if the lighting will be switched to a red light at night.

Mr. Klocke responded in the negative. He further stated the fenced in area will not have lighting.

Mr. Wiedower asked if AT&T already has other providers to also use that tower.

Mr. Klocke stated they currently do not have another provider. Per city code the tower must be built for co-locations. Once the tower is constructed, the co-locate will be marketed.

With no further questions about the staff report, Chairman Burke opened the public hearing.

Gordon Cunning, 540 Muncie Road, asked how many cell towers are within the city limit of Leavenworth.

Ms. Porter stated staff does not have that information readily available but could get that for him.

Mr. Cunning asked if the alternative locations are still being reconsidered in case this location does not pass.

Mr. Klocke stated the alternative locations get ruled out one at a time based on the coverage objectives and how the signals carry; therefore the alternative locations are no longer being considered.

Mr. Cunning asked if other service providers can also use the tower.

Ms. Porter responded the tower will be equipped to sublet to two other providers.

Mr. Cunning stated his last concern is health related and if any consideration has been given to how electromagnetic radiation from cell towers in residential areas can impact one's health. Referring to a study done in 1998 and 2007 where 75% of those who participating in the study and lived within 900' of a cell

tower experienced over a dozen health issues. For residents who lived further from the tower, the health issues decreased.

Mr. Klocke stated the FCC controls the amount of signal coming from a cell tower. The tower will be below the allowed frequency/signal requirements mandated by the FCC. Mr. Klocke is not aware of the study Mr. Cunning is referring to; however, Mr. Klocke stated the American Cancer Society published an extensive study several years ago stating there are no health impacts.

Mr. Burke asked how often the FCC checks on the output generated from the towers.

Mr. Klocke responded he does not know; however, each company monitors their towers daily.

Mr. Cunning asked what the diameter of the tower is and if there are support cables.

Mr. Klocke stated there are no cables. The tower is a monopole, which looks like a large light structure. Mr. Klocke estimates the diameter at the top is about 3-1/2' and about 6' at the base.

Janelle Defrees, 4237 Lakeview Drive, stated not only would the tower be an eyesore and decrease the value of her property but she is also concerned with the health implications. Ms. Defrees stated she read an American Cancer Society study today stating there are findings of health implications; but they are not listed as strong implications.

Mr. Anaya asked what the size of the lot is at 550 Muncie Road.

Ms. Porter responded the lot size is 7.25 acres.

Mr. Anaya stated he is an engineer. When dealing with high voltage you must stay at least 200' away from the structure.

Mr. Klocke stated the power coming from a cell tower is very low; each antenna is less than 100 watts and is serviced by a 200 amp breaker.

David Graham, 500 Muncie Road, asked about the access road that will be install behind his property and how often that road will be used.

Mr. Klocke stated the access road will be gravel during construction of the tower with an increase in activity. Once the tower is installed, the road will be paved and will only be used approximately once every two months.

Mr. Graham asked why the applicant cannot use the tower located near Xavier Elementary School.

Mr. Klocke explained AT&T provides Network Real Estate with the search area, which was only a quarter mile. Network Real Estate gathers information, such as locations of nearby towers, and sends this to the engineers who are designing the networks to figure out what will work. Using the existing tower did not fit into AT&T's network they are trying to build and the coverage they want to improve.

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

With no further discussion, Chairman Burke called for a motion. Mr. Wiedower stated the commission is sensitive to the concerns communicated by citizens on safety and land value. However, enhancing communication strength four to five miles to include the University of Saint Mary and VA Hospital is in the interest of the greater good. Mr. Wiedower moved to recommend approval to the City Commission for a Special Use Permit to allow a 196' monopole type communication tower and related ground equipment based on the analysis and findings presented, seconded by Mr. Murphy and passed by a vote of 4-1. Ms. Whitson voted nay.

Staff stated there is a 14-day protest period before this item goes before the City Commission.

2. 2020-22 SUP – 1906 CLEVELAND TER

Conduct a public hearing for Case No. 2020-22 SUP – 1906 Cleveland Ter. The applicants, Candido and Kathleen Vazquez, are requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 1906 Cleveland Ter. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

Chairman Burke called for the staff report.

City Planner Jackie Porter stated the applicants, Candido and Kathleen Vazquez, are requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 1906 Cleveland Ter. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The structure on the property has been functioning as a two-family dwelling. The property owner is requesting a Special Use Permit to adequately represent the current use of the structure on the property.

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.

The property fills a need in the community by providing a two-family housing option.

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 modification are proposed as part of this special use permit. The property will continue to function as it has in previous years.

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 inquires.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein.

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

Chairman Burke called for questions from the commissioners about the staff report and stated this is much like the special use permit application the commission reviewed at last month's meeting.

With no questions, Chairman Burke opened the public hearing. With no one wishing to speak, Chairman Burke closed the public hearing and called for a motion. Mr. Wiedower moved to recommend approval to the City Commission a Special Use Permit to allow a two-family dwelling in the R1-6 (High Density Single-Family Residential District) zoning district based on the analysis and findings presented, seconded by Ms. Whitson and passed by a vote of 5-0.

Ms. Porter stated the next Planning Commission meeting will be September 14, 2020. There is also a joint meeting with the City Commission and Planning Commission Tuesday, July 21, 2020 to discuss the Comprehensive Plan.

With no further business, Chairman Burke adjourned the meeting.

The meeting adjourned at 6:55 p.m.

JP/mb

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, September 14, 2020
6:00 PM

CALL TO ORDER:

Commissioners Present

Mike Burke
Claude Wiedower
James Diggs
Joseph Burks

Commissioners Absent

Sherry Hines Whitson
Chris Murphy
Linda Bohnsack

City Staff Present

Julie Hurley
Michelle Baragary
Jackie Porter

Mike Burke, Claude Wiedower, Joseph Burks, Julie Hurley, Jackie Porter and Michelle Baragary were present in the commission chambers. James Diggs participated via GoToMeeting.

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

Chairman Burke welcomed the new Planning Commissioners James Diggs and Joseph Burks.

APPROVAL OF MINUTES: July 13, 2020

Chairman Burke asked for comments or a motion on the minutes presented for approval: July 13, 2020. Joseph Burks and James Diggs recused themselves, as they were not at the July meeting. Chairman Burke tabled the item for the next meeting.

OLD BUSINESS:

None

NEW BUSINESS:

1. 2020-28-REZ – 619 S. 4TH STREET

Conduct a public hearing for Case No. 2020-28 REZ – 619 S. 4th Street. The applicant is requesting a rezoning of the property located at 619 S. 4th Street from OBD, Office Business District, to GBD, General Business District.

Chairman Burke 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 619 S. 4th Street from OBD, Office Business District, to GBD,

General Business District. The office building that operated as an American Family Insurance office has been vacant for 5 to 6 years. Development, Inc. purchased the property in October 2019.

The rezoning is being requested by the property owner to allow the opportunity for a broader variety of uses to be considered at the property. This property is in close proximity to downtown commercial uses.

CONDITIONS OF DETERMINATION

Whenever the Planning Commission or 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 American Family Insurance office building, which is currently vacant. To the south is "Leavenworth Laundromat". To the southeast is a single-family home. To the west is "First United Methodist Church". To the northwest is the "First Presbyterian Church". To the north is a single-family home. To the east is a single-family neighborhood. The subject property is located along South 4th Street, which is classified as arterial street and designed to handle high volume traffic.

- b) The zoning and use of properties nearby;

To the south of the subject property is a laundromat, zoned NBD, Neighborhood Business District. To the southeast is a single-family home, zoned R1-6, High Density Single Family Residential District. To the west is a church "First United Methodist Church" zoned OBD, Office Business District. To the northwest is a church "First Presbyterian Church" zoned ODB, Office Business District. To the north is a single-family home, zoned OBD, Office Business District. To the east is a single-family residential neighborhood zoned R1-6, High Density Single Family Residential District. The remainder of the neighborhood consists of single-family homes zoned R1-6, High Density Single Family Residential District and other NBD, Neighborhood Business District.

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

The subject property was built in 1970. The building has been used as an office building, 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 office space prior to the current owner. 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 an office business district use since construction in 1970. The last remaining tenant vacated the building after the passing of the previous owner 5 to 6 years ago.

- 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 densely used arterial 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 commercial 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 OBD to GBD to the City Commission
- Recommend denial of the rezoning request from OBD to GBD to the City Commission
- Table the issue for additional information/consideration.

Jackie Porter stated there is a typo in the policy report. Under Rezoning Action/Options, it should be ODB and not R1-6.

Chairman Burke called for discussion among the commissioners.

Mr. Wiedower stated he does not see any conflict with the rezoning request.

With no further questions about the staff report, Chairman Burke opened the public hearing.

With no one else wishing to speak, Chairman Burke closed the public hearing and called for a motion. Mr. Wiedower moved to recommend approval of the rezoning request from OBD to GBD to the City Commission, seconded by Mr. Diggs and approved by a vote of 4-0.

2. 2020-29-SUP – 220 SPRUCE STREET

Conduct a public hearing for Case No. 2020-29 SUP – 220 Spruce Street. The applicant is requesting a Special Use Permit to allow the operation of a Child Care Center in their home located at 220 Spruce Street. The property is currently zoned R1-6 (High Density Single Family Residential District). Child Care Centers are allowed in the R1-6 zoning district with issuance of a special use permit.

Chairman Burke called for the staff report.

Planning Director Julie Hurley stated the applicant, Savannah Nelson, is requesting a Special Use Permit to allow the operation of a Child Care Center in their home located at 220 Spruce Street. The property is currently zoned R1-6 (High Density Single Family Residential). Child Care Centers are allowed in the R1-6 zoning district with issuance of a special use permit. The applicant previously received approval of a Special Use Permit in 2018 to operate a Child Care Center in their home at 1922 5th Avenue. That structure was damaged by fire earlier this year, and the applicant has since relocated to the subject property and intends to continue her Child Care operations.

The applicant is licensed by the State of Kansas to care for a maximum of 12 children, dependent upon the ages of the children in care.

CONDITIONS OF DETERMINATION

In recommending approval of a special use, the Planning Commission may impose such conditions, safeguards and restrictions as may be necessary to carry out the general purpose and intent of the ordinance. The development regulations stipulate specific conditions as a requirement for the approval of Child Care Centers as follows:

1. Shall not be located along an arterial street as designated on the Major Street Plan Map unless indirect vehicular access to that street, such as with a frontage road is available. The City Planner, with the advice of the DRC, shall determine if the drop off and pick up arrangements of a childcare center or business appear safe. Appeal of any negative decision shall be to the City Commission.

The subject property is located along Spruce Street, which is classified as a Residential street.

2. Shall provide at least one hundred (100) square feet of open space per child. This open space shall be 100% enclosed by a minimum four (4) foot high fence or wall.

The subject property includes a back yard area of approximately 2,100 sqft., enclosed by a 4' chain link fence. The back yard is adjacent to an existing alley, and there is approximately 25' from the fenced area to the edge of the paved alley.

3. Shall provide a loading zone capable of accommodating at least two (2) automobiles for the easy picking up and discharging of passengers.

The subject property does not include a driveway or other paved off-street loading area. However, in the area of town in which the property is located, the majority of homes do not have a driveway or other off-street paved parking/loading area. There is ample on-street parking in front of the subject property, and access may be obtained off the rear alley if needed.

4. Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas Child Care Center License.

The applicants have provided a copy of their Group Day Care Home permit from the Kansas Department of Health and Environment.

5. All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.

The home functions as the only residence of the operator/owner.

6. Childcare centers in residential districts may have one non-illuminated monument sign with no more than 3 square feet per side and a maximum of 2 sides or one non-illuminated sign affixed to the main structure with a maximum of the 3 square feet.

The applicant is currently displaying two yard signs in the front of the house. The applicant will need to remove one of the yard signs.

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.

Child Care Centers are an essential service to working parents in the community, and promote the economic development, welfare and convenience of the public.

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 Child Care Center 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 a residential structure.

Notification was sent to property owners within 200' of the subject property, as required by Kansas Statue. The policy report states staff had not received any contact from notified property owners; however, since the report was written, staff has received one phone call in opposition to the proposed Special Use.

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. A minimum of 1,200 square feet of open space 100% enclosed by a minimum 4' high fence or wall shall be provided and maintained in good condition.

2. A copy of the permanent Group Day Care Home license shall be provided annually upon renewal by the State of Kansas.
3. The operation shall be limited to a maximum of 12 children.
4. No additional home occupations may be carried out at the residence.

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
- Motion, to recommend denial to the City Commission
- Table the issue for additional information/consideration

Chairman Burke called for discussion among the commissioners about the staff report.

With no further questions about the staff report, Chairman Burke opened the public hearing.

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

Mr. Wiedower stated it is obvious the operator has been in compliance with all the State requirements. He does not feel that one opposition will negatively impact the community in that area.

With no further discussion among commissioners, Chairman Burke called for a motion. Mr. Wiedower moved to recommend approval of the Special Use Permit at 220 Spruce Street to the City Commission, seconded by Mr. Burks and approved by a vote of 4-0.

3. 2020-30 REZ – 728 EISENHOWER RD

Conduct a public hearing for Case No. 2020-30 REZ – 728 Eisenhower Rd. The applicant is requesting a rezoning of their property located at 728 Eisenhower from R1-25, Low Density Single Family Residential District, to GBD, General Business District.

Chairman Burke called for the staff report.

Planning Director Julie Hurley stated the applicant is requesting a rezoning of their property at 728 Eisenhower from R1-25 (Low Density Single Family Residential) to GBD (General Business District). The 14.35 acre lot is currently occupied by a single family home and agricultural uses, and is located directly west of the existing Dillon's grocery store, and to the east of the existing Westside Family Church.

The rezoning is being requested in order to allow for future commercial development along the Eisenhower Road corridor, and is consistent with the 2010 Comprehensive Plan. The applicant has provided a conceptual site plan showing 3 commercial pad sites along the southern portion of the property adjacent to Eisenhower Road, with mixed-use or multi-family in the northern portion of the site to act as a transition to the single family development to the north. Dependent upon how the

northern portion of the site develops in the future, it is anticipated that an additional rezoning request may be necessary.

The Development Review Committee reviewed the project at their July 23, 2020 meeting and discussed items related to platting, easements, and utilities. No major issues were identified, and all items discussed will be addressed as the site develops.

CONDITIONS OF DETERMINATION

Whenever the Planning Commission or 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 directly adjacent to the Eisenhower Road corridor, with an existing Dillon's grocery store to the east and Westside Family Church to the west. To the north is a single family residential development, and to the south, across Eisenhower Road in Lansing, is a cemetery. Further to the east and west is additional commercial development.

- b) The zoning and use of properties nearby;

To properties to the east and west are zoned GBD, General Business District. The property to the north is zoned R1-9, Medium Density Single Family Residential.

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

The subject property is currently zoned R1-25, Low Density Single Family Residential, which is typical of agricultural uses within the City and does not allow for the highest and best use of a property situated along a major thoroughfare.

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

The proposed rezoning should have little to not detrimental effect on nearby property. The majority of uses along the Eisenhower Road corridor are commercial or industrial in nature.

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

The property has always been single-family/agricultural in nature.

- 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 upon the economic vitality of Leavenworth by allowing for more commercial development along the Eisenhower Road corridor at a time corresponding with major road improvements to be undertaken which are intended to increase the capacity and safety of the corridor.

- 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 subject area is identified as appropriate for commercial uses in the 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 of note.

REZONING ACTION/OPTIONS:

- Recommend approval of the rezoning request from R1-25 to GBD to the City Commission
- Recommend denial of the rezoning request from R1-25 to GBD to the City Commission
- Table the issue for additional information/consideration.

Chairman Burke called for questions about the staff report.

Mr. Burke asked if staff received any oppositions to the rezoning request.

Ms. Hurley stated within the City a 200' notification is required, and anything that borders the city limits requires a 1000' notification. On the south side of the subject property which leads into Lansing, notification was sent to property owners within 1000'. Staff did not receive correspondence for or against the rezoning request.

Chairman Burke opened the public hearing.

Mr. Burke asked if the applicant owned the properties to the north of the subject property.

Mark Rozalski, 5006 Shrine Park Road, approached the commissioners stating he owns the 5 acres directly north of the subject property. Mr. Rozalski vehemently opposes the rezoning request for several reasons. First, the request is too ambiguous. He wants to know what the subject property will be used for. Second, the noise level. He already deals with noisy trucks at Dillon's. Third, how will this affect his property value with a commercial district butted up to his property. He is also concerned this will increase his property taxes.

Dan Sachse, 5004 Shrine Park Road, approached the commissioners stating he owns the property to the north of Mr. Razalski's property. Mr. Sachse stated he is in opposition for many of the same reasons: what will the subject property be used for, how will this affect his property value, increased noise, etc. Would like to know if roads will be installed that would but up against Mr. Rozalski's property or would businesses only be to the south portion of the subject property.

Mr. Burke asked if the applicant was present.

Ms. Hurley responded the applicant is not present.

Mr. Burke asked at what point would the Planning Commission ask the applicant to produce a more detailed plan regarding the usage of the subject property.

Ms. Hurley responded that would occur when they have tenants secured, which may occur at various times through the development. It is much easier to market properties which are already zoned correctly if they are looking for commercial type uses. A site plan would be provided when they have a tenant. This would go through the Development Review Committee and not the Planning Commission.

Mr. Rozalski stated he was approached by a realtor to sell his property but he declined. He further stated Coldwell Banker currently has a for sale sign on the subject property. It is his understanding they do not have a buyer at this time and are just looking for anyone to purchase the property without knowing what type of commercial use will go in there.

Mr. Rozalski further stated he would be more inclined to accept the rezoning if only the frontage of the property was used for commercial use and there was some sort of green space between his property and the subject property.

Mr. Burke stated this board has in the past requested the developers to include some sort of barrier.

Ms. Hurley stated that would be the risk the board would take if they recommended approval with a conceptual site plan and not more of a development final site plan. If this was a set site plan with identified tenants, the board would have more control over requesting certain accommodations and site development features. However, with a conceptual plan as the one presented that it not tied into anything concrete, the board loses a little bit of that control.

Mr. Burke asked if the developer would need to come back to the Planning Commission.

Ms. Hurley responded they would not. Once the rezoning is in place, the developer can put any commercial use on the property that is permitted in that zoning district.

Mr. Burke asked if the commissioners could recommend a condition requiring the developers to come back to the Planning Commission with a more detailed plan.

Ms. Hurley stated the board could not do that since the Planning Commission is not setup to do site plan reviews unless they are tied to a rezoning. The site plan would need to be tied to this rezoning and come through at the time of approval.

Mr. Burks asked Mr. Rozalski how long he has lived at his property on Shrine Park Road.

Mr. Rozalski responded approximately eight years.

Mr. Burks asked if his property value has decreased because of Dillon's.

Mr. Rozalski responded the value of his property has gone up based on the property taxes he pays.

Mr. Burks asked for clarification that the commission cannot ask for a more detailed plan from the applicant.

Ms. Hurley responded the commission can by tabling the issue and requesting a more developed site plan.

Mr. Diggs asked if the commission has the authority to keep part of the subject property residential and rezone the other portion.

Ms. Hurley responded two different zoning district couldn't be placed on one lot, and the subject property could not be divided into two lots from east to west (with a north lot and a south lot) because it would leave the north portion cut-off from any road frontage. Therefore, any rezoning would need to be for the entire lot unless they come through with a more developed site plan in which they were going to plat it into multiple lots that have access and different easements that would allow access to the entire property.

With no further questions or comments, Chairman Burke closed the public hearing and called for discussion among the commissioners.

Mr. Wiedower stated they need to be sensitive to residential owners; however, the commission knows the future of Eisenhower Road and where it is going. The zoning request is from single-family residential to general business, which is the future of Eisenhower Road.

Mr. Wiedower further stated he heard the complaints made about what type of business operation will be going in there and will it increase noise level; but the commission cannot put a condition on those concerns. Mr. Wiedower asked for clarification that the commission is only looking at approving or denying the rezoning request.

Ms. Hurley responded that is correct. The commission does have the option to table the issue and request a more concrete site plan, which could be next month or six months from now depending on where the developer is at with it. It is certainly in the commission's purview to expect a more detailed site plan otherwise the commission would be opening it up to any use that is allowed within the General Business District.

Mr. Burks stated he is not comfortable opening that up to the developer without knowing what their plan might be. Believes he owes it to the community to get more information on the developer's plans.

Mr. Wiedower asked if the Planning Commission needs to know what businesses will be there before approving a rezoning request.

Ms. Hurley interjected and stated she believes there is a difference between knowing the exact business versus the type of use. Again, this is a very conceptual site plan and it is highly unlikely it will stay as it is shown now. It is in the commission's purview to request a detailed site plan. Ms. Hurley used the development going on at 7th Street and Metropolitan. That project has come through the Planning Commission several times. Specific tenants have not been announced but the commission has seen very specific detailed site plan and plat on how this will be developed. That level of development is what you would expect to see on a development like the one brought before the commission today.

With no further comments, Chairman Burke called for a motion. Mr. Burks moved to table the issue pending further information and a more detailed site plan, seconded by Mr. Wiedower and passed by a vote of 4-0.

4. PRICE CHOPPER TIF DISTRICT

Determine consistency of the Redevelopment Project Plan for the Price Chopper TIF District with the adopted Comprehensive Plan.

Chairman Burke called for the staff report.

Planning Director Julie Hurley stated on August 11, 2020, the Leavenworth City Commission adopted an ordinance establishing a Redevelopment (TIF) District encompassing the existing Price Chopper store located at 2107 S. 4th Street. The TIF District shall be in effect for 20 years from the date the Project Plan is approved by the City Commission. As part of the establishment of the TIF District, one cent of the City's sales tax and the incremental ad valorem property taxes generated from the property within the district shall constitute TIF Revenues for the developer.

The owner/developer of the property, Super Market Developers, Inc., has proposed improvements including a multi-million dollar renovation of the interior and exterior of the Price Chopper grocery store to upgrade and enhance the store layout, equipment, offerings and other features, along with improvements to the property just north of the store for parking.

Any eligible project located within a redevelopment district established pursuant to KSA 12-1770 must be found to be consistent with the intent of the adopted Comprehensive Plan of the City. While the 2011 Comprehensive Plan does not specifically address redevelopment of existing services, such as grocery stores, there are several key areas in which this proposal is in line with the Plan.

The Comprehensive Plan states that the 4th Street corridor should be enhanced and emphasized as an integral complimentary commercial corridor leading into downtown. The Plan also emphasizes that incentivizing in-fill development should be prioritized. While not strictly "in-fill", the revitalization of existing businesses that service established areas meets the same overall goal. Finally, the Comprehensive Plan identifies Tax Increment Financing (TIF) as an appropriate and desirable incentive for commercial and retail redevelopment opportunities.

Staff finds that the Redevelopment Project Plan for the Price Chopper TIF District is consistent with the overall intent of the Comprehensive Plan.

ACTION:

Motion finding that the Redevelopment Project Plan, Price Chopper TIF District is consistent with the intent of the Comprehensive Plan.

Ms. Hurley stated Pete Haven, representing the developer, has joined the GoToMeeting if the commissioners have questions for him.

Chairman Burke asked Mr. Haven if he would like to add anything.

(There appears to be technical difficulties on Mr. Haven's end).

With no questions, comments or discussion among the commissioners, Chairman Burke called for a motion. Mr. Wiedower moved that the Redevelopment Project Plan, Price Chopper TIF District is consistent with the overall intent of the adopted Comprehensive Plan, seconded by Mr. Burks and passed by a vote of 4-0.

Ms. Hurley stated there are two items on the agenda for the October meeting.

With no further business, Chairman Burke adjourned the meeting.

The meeting adjourned at 6:49 p.m.

JH/mb

DRAFT

**PLANNING COMMISSION AGENDA ITEM
2020-32-SUB
FORT GATE MARKETPLACE, FIRST PLAT**

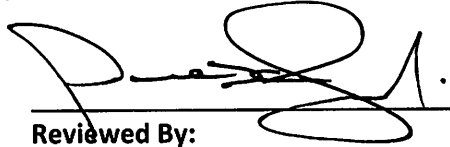
OCTOBER 5, 2020

SUBJECT:

A request for a final plat of Fort Gate Marketplace, First Plat


Prepared By:

Julie Hurley
Director of Planning and
Community Development


Reviewed By:

Paul Kramer
City Manager

ANALYSIS:

The subject property is owned by Fort Gate Properties, LLC, plat prepared by Renaissance Infrastructure Consulting. The applicant is requesting approval of a 2.072 acre, 2 lot and 1 tract plat for the Fort Gate Marketplace commercial development. The property is zoned GBD, General Business District, and is currently vacant. The site was previously occupied by the Armed Forces Bank, which was recently demolished.

The plat includes dedication of necessary utility easements, as well as the vacation of a portion of 6th Street. The remainder of the 6th Street Right-of-Way between Metropolitan Avenue and Cheyenne Street will be vacated by separate instrument, and is scheduled to be considered by the City Commission on October 13, 2020. The applicant intends to redevelop the property with an Armed Forces ATM on Tract A (already in place), a convenience store, and a fast food restaurant.

The Project Plan to establish the North Gateway Redevelopment District for this project was reviewed by the Planning Commission for conformance with the Comprehensive Plan in November, 2019, and approved by the City Commission.

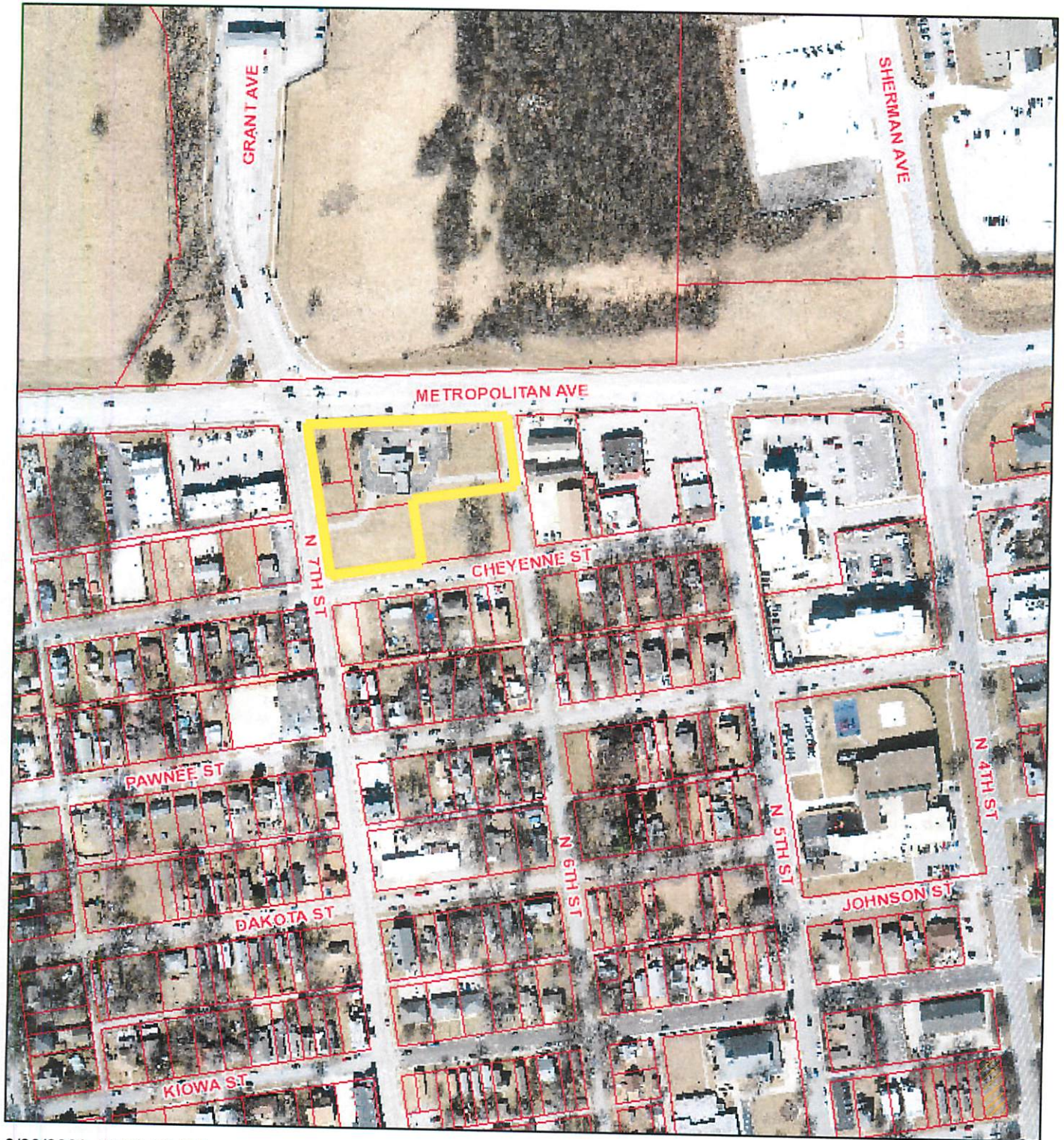
The preliminary plat was approved by the Planning Commission at the May 5, 2020 Planning Commission meeting. Pending action by the Planning Commission, the City Commission will review the plat to accept land dedicated for public purposes in the form of utility easements.

Staff recommends approval of the Fort Gate Marketplace, First Plat

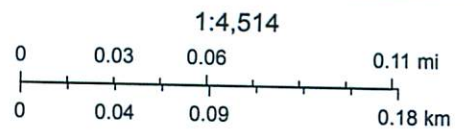
ACTION/OPTIONS:

- Approve the Final Plat
- Deny the Final Plat
- Table the issue for additional information/consideration.

2020-32-SUB



9/30/2020, 11:39:33 AM



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Project No. 2020-32 SUB

OFFICE USE ONLY
Application No. 8097
Fee: 350.00
(\$350 plus \$10 per lot over 5 lots)
Date Paid 8-27-20
Received By SA
NOH, N2PO, Publication - NA

Planning Comm. 10/5/20

FINAL PLAT APPLICATION
CITY OF LEAVENWORTH

615 Metropolitan

NAME OF SUBDIVISION/PROJECT: FORT GATE MARKETPLACE, FIRST PLAT

NAME OF PROPERTY OWNER: (If Corporation, include name and address of Director or President)

NAME: Fort Gate Properties, LLC
STREET ADDRESS: 7939 Floyd, Suite 200
CITY: Overland Park STATE: KS ZIP: 66204
PHONE: 913-747-3340 FAX: _____ EMAIL: justin@cadencekc.com

NAME OF DEVELOPER: (If Corporation, include name and address of Director or President)

NAME: Cadence - Justin Kaufmann
STREET ADDRESS: 7939 Floyd, Suite 200
CITY: Overland Park STATE: KS ZIP: 66204
PHONE: 913-747-3340 FAX: _____ EMAIL: justin@cadencekc.com

NAME OF ENGINEER PREPARING PLAT:

NAME: Brent Thompson
STREET ADDRESS: 132 Abbie Avenue
CITY: Kansas City STATE: KS ZIP: 66103
COMPANY: Renaissance Infrastructure Consulting
PHONE: 913-317-9500 FAX: _____ EMAIL: bthompson@ric-consult.com

PARCEL NO: _____ SEC.TWP.RNG. _____

ZONING OF SUBJECT PROPERTY: GBD CURRENT LAND USE: Commercial

TOTAL ACREAGE: 90,273 S.F. or 2.072 Ac. NUMBER OF LOTS: 3

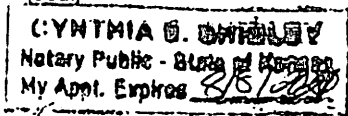
LEGAL DESCRIPTION: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE or a TITLE COMPANY)

DATE OF PRELIMINARY PLAT APPROVAL: May 4, 2020

SIGNATURE OF OWNER(S) _____ Date: 8-13-2020

State of Kansas, County of Dhanson, SS
Signed or attested before me on August 13, 2020 by Cynthia E. Shirley

Cynthia E. Shirley
Notary Appointment Expires 8/18/2020



**PLANNING COMMISSION AGENDA ITEM
2020-33-SUP
611 Miami**

OCTOBER 5, 2020

SUBJECT:

A request for a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district.



Prepared By:
Jacquelyn Porter
City Planner



Reviewed By:
Paul Kramer
City Manager

NATURE OF REQUEST

The applicant, Joseph McKee, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 611 Miami. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

Mr. McKee is in the process of renovating the inside of the 1,908 square foot single-family dwelling to sustain an addition unit to create a two-family dwelling. Staff was made aware of the renovation project by the building inspections department in August 2020.

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.

The property fills a need in the community by providing a two-family housing option.

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. The property owner is renovating interior of the house. This will not impact the development and use of neighboring property.

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.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein.

ACTION/OPTIONS:

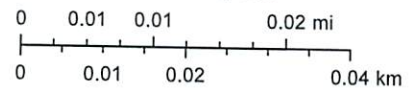
- Motion, based upon findings as stated and conditions as presented, to recommend approval to the City Commission with included conditions
- Motion, to recommend denial to the City Commission
- Table the issue for additional information/consideration.

611 Miami St Aerial Map



9/29/2020, 9:55:24 AM

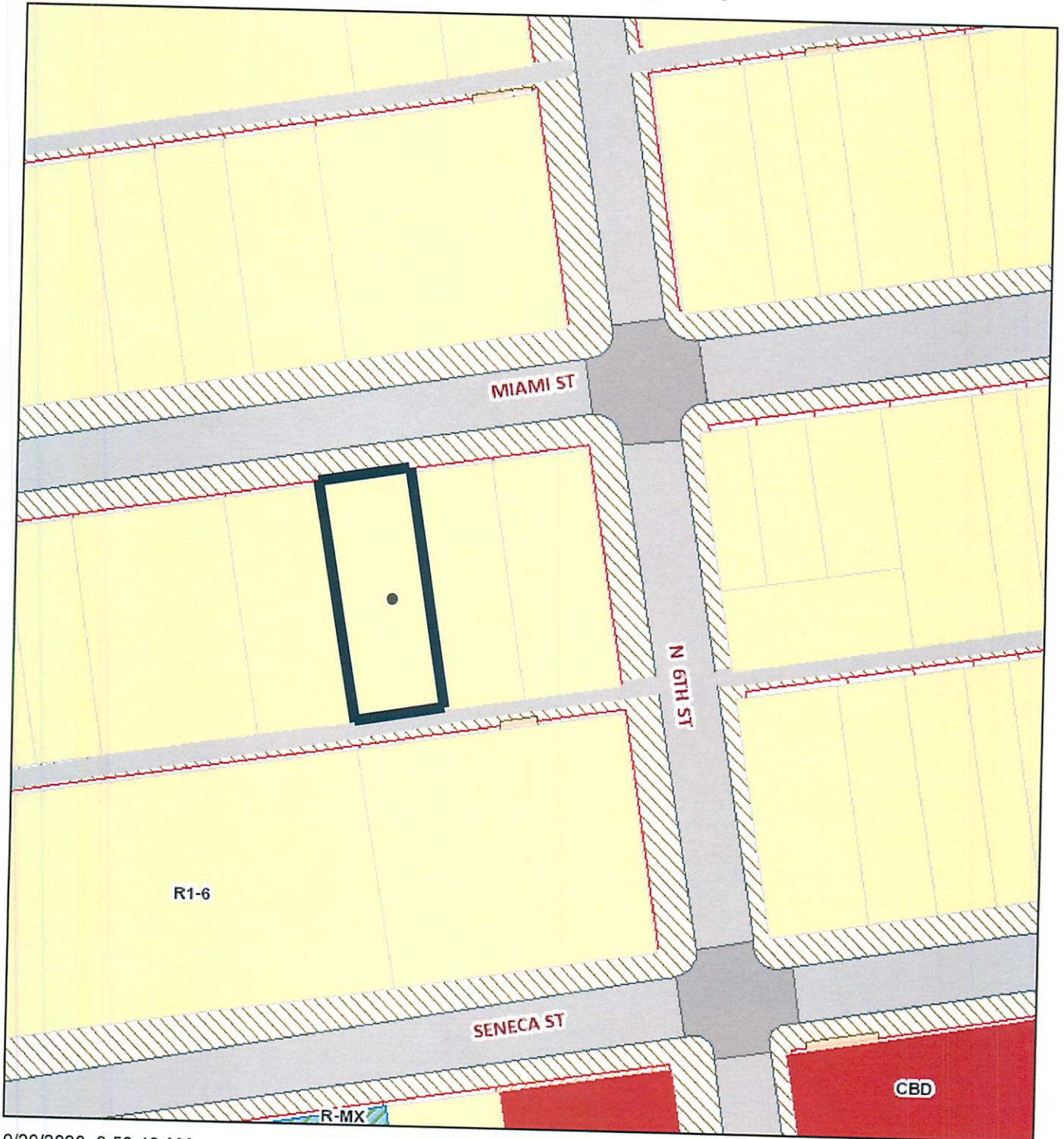
1:1,128



- Override 1
- Green: Band_2
- Blue: Band_3
- Parcels (City Owned)
- Parcels_Current
- East_of_River_Blank
- Address (Points)
- Streets
- Ortho 2018
- Lansing City Limits
- Red: Band_1

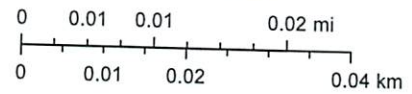
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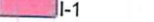
611 Miami St Zoning Map



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- | | | | |
|---|----------------|---|------|
|  | Override 1 |  | MP |
|  | Zoning_CURRENT |  | NBD |
|  | CBD |  | OBD |
|  | GBD |  | PUD |
|  | I-1 |  | R-MF |
|  | I-2 | | |

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SPECIAL USE PERMIT
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

Case No.: 2020-33 SUP
 Application No. 8108
 Fee (non-refundable) \$350.00
 Filing Date 8-19-20
 Received By _____
 Publication Date 9-10-20
 Hearing Date 10-5-20

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: duplex in R1-6 zoning district
 in accordance with the attached site plan on the following described property:

Address: 611 Miami
 Legal Description: (Attach a full legal description provided by the Register of Deeds Office)
 Real Estate PID #: _____
 Zoning: R1-6 Historic District: _____

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

Name(s) of Owner (print): Joseph McKee
 Owner Address: 520 S. 4th Leavenworth, KS 66048
 Contact No. 913-240-4983 Email: mckeeconstructionllcks@gmail.com
 Signature of Owner(s): Joseph McKee

State of Kansas
 County of Leavenworth (SEAL)



Signed or attested before me on: August 18, 2020 By: Joseph McKee
 Notary Public Ann Blockburger
 My Appointment Expires: 07/21/2023

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

Name of Lessee: _____
 Address: _____
 Contact No. _____ Email: _____

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

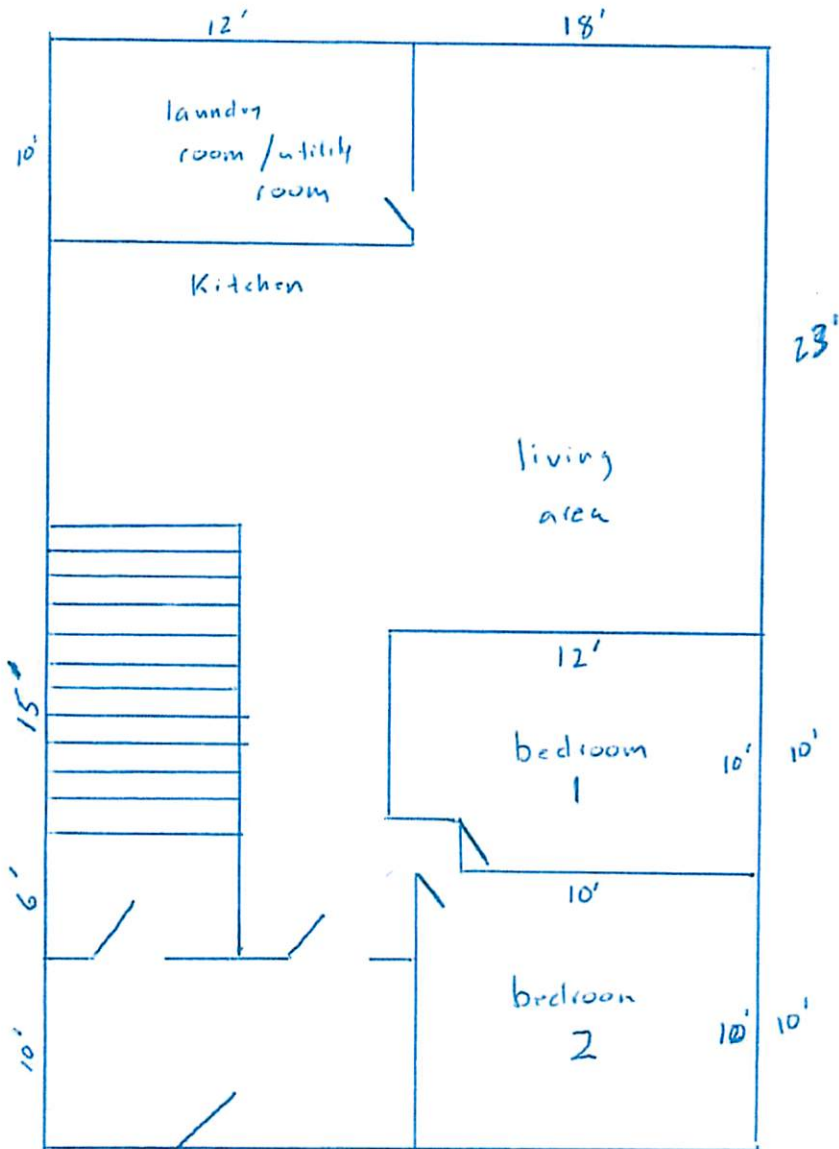
Check list below...

- Non-Refundable Fee of \$350.00 is due at time of application
- City will provide list of owners for property within two hundred (200) feet of the subject property
- Attach **full** legal description (must be provided by the Register of Deeds Office)
- Site Plan drawn to scale (See General Instructions)
- Supporting documentation (See General Instructions)

main level
611 Miami

South

* This is main level. The upstairs is on the back of this



East

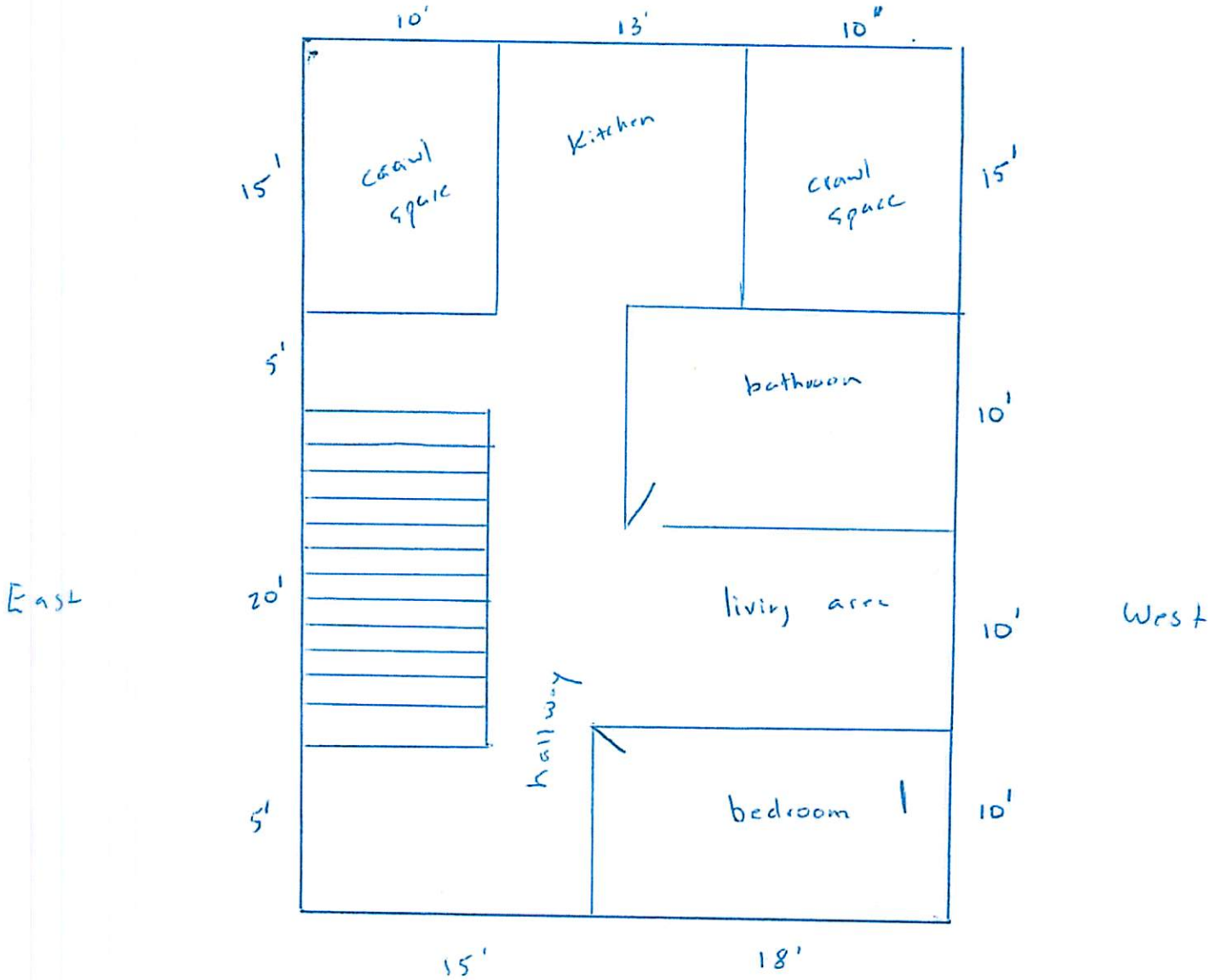
West

North

upstairs 611 Miami

South

your-rent-online



North