

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

**REGULAR SESSION
Monday, April 3, 2023
6:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: March 6, 2023**

OLD BUSINESS:

None

NEW BUSINESS:

1. 2023-09 SUP – 728 POTTAWATOMIE

Conduct a public hearing for Case No. 2023-09 SUP – 728 Pottawatomie. The applicant is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, High Density Single Family Residential District. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

2. 2023-10 SUP – 1906 5TH AVENUE

Conduct a public hearing for Case No. 2023-10 SUP – 1906 5th Avenue. The applicant is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, High Density Single Family Residential District. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

3. 2023-11 TXT – ARTICLE 9

Conduct a public hearing for Case No. 2023-11 TXT for proposed text amendments to Article 9 of the adopted Development Regulations.

OTHER BUSINESS:

None

ADJOURN

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, March 6, 2023
6:00 PM

CALL TO ORDER:

Commissioners Present

Joe Burks
Bill Waugh
Kathy Kem
James Diggs
Brian Stephens
Sherry Whitson

Commissioners Absent

Don Homan

City Staff Present

Julie Hurley
Michelle Baragary
Bethany Falvey

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

APPROVAL OF MINUTES: December 5, 2022

Chairman Burks asked for comments or a motion on the minutes presented for approval: December 5, 2022. Commissioner Stephens moved to approve the minutes as presented, seconded by Commissioner Whitson and approved by a vote of 6-0.

Planning Director Julie Hurley introduced the new City Planner Bethany Falvey.

OLD BUSINESS:

None

NEW BUSINESS:

1. 2023-04 SUP – 113 SENECA STREET

Conduct a public hearing for Case No. 2023-04 SUP – 113 Seneca Street. The applicant is requesting a Special Use Permit to allow a two-family dwelling in the CBD, Central Business District, located at 113 Seneca Street. Two-family dwellings are allowed in the CBD with the approval of a Special Use Permit.

Chairman Burks called for the staff report.

City Planner Bethany Falvey stated the applicant, NLG, LLC, is requesting a Special Use Permit to allow a two-family dwelling in the CBD zoning district located at 113 Seneca Street. Two-family dwellings

are allowed in the downtown redevelopment overlay district with the approval of a Special Use Permit.

The structure has evidence of previously functioning as a two-family dwelling based on separate entrances and electric boxes, but has been vacant for over 2 years. Previously the structure was considered an existing legal nonconforming use. Section 1.05.D of the adopted Development Regulations states:

When a nonconforming use is abandoned for a period of twenty-four (24) consecutive months any subsequent use or occupancy of such land after this period shall comply with the regulations of the zoning district in which such land is located.

The applicant intends to renovate and restore the structure to its previous use, to include new electrical, plumbing, HVAC, walls, ceilings, doors, windows, fixtures, cabinetry, and flooring.

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.

Currently the property is vacant. If approved, the property will fill a need in the community by providing a two-family housing option. Restoring the property to its previous use will continue to fill that need.

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 function as it did previously.

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

Chairman Burks asked for questions from commissioners about the staff report.

Commissioner Kem asked if the structure to the west is currently being used as multi-family.

Ms. Falvey responded in the affirmative stating the structure to the west is legal nonconforming but has been a continued use.

Chairman Burks called upon the applicant to speak about the subject property.

Chioma Njoku, owner/applicant resides at 601 Cottonwood Dr., stated the property is vacant, and is an eye sore for the community. They want to renovate it to bring it back to a functional use, and meet a need for the military by using the property as a rental.

Commissioner Whitson asked what their timeline is for completion.

Ms. Njoku responded they would like it available for rent by May 1st.

With no further questions for the applicant, Chairman Burks opened the public hearing. With no one wishing to speak, Chairman Burks closed the public hearing and called for a motion. Commissioner Diggs moved to recommend approval of the special use permit to the City Commissioner to allow a two-family dwelling in the CBD, seconded by Commissioner Kem and passed by a vote of 6-0.

2. 2023-07 REZ – 3523 10TH AVENUE

Conduct a public hearing for Case No. 2023-07 REZ – 3523 10th Avenue. The applicant is requesting a rezoning of their property located at 3523 10th Avenue from R-MF, Residential Multi Family District, to R1-9, Medium Density Single Family Residential District.

Chairman Burks called for the staff report.

Planning Director Julie Hurley stated the owner and applicant, Nicholas Tevebaugh, is requesting a rezoning of their property located at 3523 10th Avenue from R-MF, Residential Multi Family District, to R1-9, Medium Density Single Family Residential District. The property is 2.8 acres in size and is occupied by a single family home. The owner is requesting the rezoning in order to bring the zoning of the property into conformance with the actual use of the property for marketing purposes to aid in the sale of the property. The property is identified as appropriate for Single Family uses on the Future Land Use map, and no development is proposed as part of this rezoning application.

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 2.8 acres in size and is located on 10th Avenue, just south of Gatewood Street. There are a mix of uses nearby, included single family, multi family, a mobile home park, and the Richard Warren Middle School campus across 10th Street.

- b) The zoning and use of properties nearby;

The properties directly to the north are zoned R-MF, Residential Multi Family District, and are developed with single family homes. Further to the north is the Pin Oak Acres apartment complex, which is zoned PUD, Planned Unit Development. The property is zoned MP, Mobile Home Park District, and is developed with the Woodmore Court mobile home park. The property directly to the south is zoned R1-9, Medium Density Single Family Residential District, and is vacant and currently owned by the City of Leavenworth. The properties further to the south are zoned R1-9 and are developed with single family homes. The property to the west, across 10th Avenue, is zoned R1-9, and is occupied by the Richard Warren Middle School campus.

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

The subject property is occupied by a single family home and has been identified as appropriate for single family uses on the Future Land Use map.

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

The proposed rezoning should have no detrimental effect upon surrounding properties, as there is no development proposed as part of the rezoning request.

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

The subject property is not vacant.

- 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 neutral impact on economic development, public health, safety, and welfare, as there is no development proposed as part of the rezoning request.

- 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 single family residential uses on the Comprehensive Land Use 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.

After the required notice was published and mailed to property owners within 200' of the subject property as required by Kansas State Statute, staff received one call from a notified property owner to clarify the property being included in the request. No other comments have been received.

REZONING ACTION/OPTIONS:

- Recommend approval of the rezoning request from R-MF to R1-9 to the City Commission
- Recommend denial of the rezoning request from R-MF to R1-9 to the City Commission
- Table the issue for additional information/consideration.

Chairman Burks asked for questions from commissioners about the staff report.

With no questions about the staff report, Chairman Burks opened the public hearing. With no one wishing to speak, Chairman Burks closed the public hearing and called for a motion. Commissioner Whitson moved to recommend approval of the rezoning request from R-MF to R1-9 to the City Commission for property located at 3523 10th Avenue, seconded by Commissioner Diggs and approved by a vote of 6-0.

OTHER BUSINESS:

None

Ms. Hurley stated there are items on the agenda for April. She also informed the commissioners one of the applicants will be flying in from California, and stressed the importance of a quorum.

Staff will send an email to the commissioners of their terms as a couple terms are due to expire in May.

The meeting adjourned at 6:18 p.m.

Minutes taken by Planning Assistant Michelle Baragary.

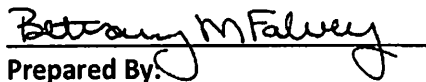
DRAFT

**PLANNING COMMISSION AGENDA ITEM
2023-09-SUP
728 Pottawatomie**

APRIL 3, 2023

SUBJECT:

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



Prepared By:
Bethany Falvey
City Planner



Reviewed By:
Paul Kramer
City Manager

NATURE OF REQUEST

The applicant, Depaul USA, Inc., is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 728 Pottawatomie. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The property previously had a four-plex apartment building, but was demolished in January 2017. It is currently a vacant lot. The applicant is proposing construction of a two-family residential property 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.

Currently the property is a vacant lot. If approved, the property will fill a need in the community by providing a two-family housing option. Constructing a residential property on a vacant lot will continue to fill that need.

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.

A new construction of a residential duplex is proposed as part of this special use permit. The property will be returned to a residential use, as it had previously.

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:

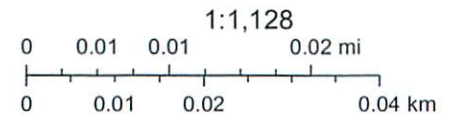
- Motion, based upon findings as stated and conditions as presented, to recommend approval to the City Commission with included conditions
- Motion, to recommend denial to the City Commission
- Table the issue for additional information/consideration.

SUP - 728 Pottawatomie



3/21/2023, 2:20:00 PM

-  Parcels (City Owned)
-  Parcels_Current
-  Buildings
-  Leavenworth City Limits
-  City Right-of-Way
-  Address (Points)
-  Road Centerline



Platte County, Missouri Dept. of Conservation, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA



SPECIAL USE PERMIT
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO.: 2023-09 SUP

Application No.	12760
Fee (non-refundable)	\$350.00
Filing Date	
Received By	
Hearing Date	4-3-23
Publication Date	3-9-23

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 duplex

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

Subject Property:	728 Pottawatomic, Leavenworth, KS		
Legal Description:	(Attach a full legal description provided by the Register of Deeds Office)		
Real Estate PID #:	052-077-26-0-41-07-018.00-0		
Zoning:	R1-L	Historic District:	N/A

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

Name(s) of Owner (print):	Depaul USA, Inc.		
Owner Address:	PO Box 756 CHICAGO, IL 60690		
Contact No.	C.W. Levesque	Email:	Charles.levesque@depaulusa.org
Signature of Owner(s):	<i>Charles W. Levesque for Depaul USA</i>		

State of Illinois

County of COOK (SEAL)



Signed or attested before me on: February 14, 2023

Notary Public: T. Moore

My Appointment Expires: 07/14/2025

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.

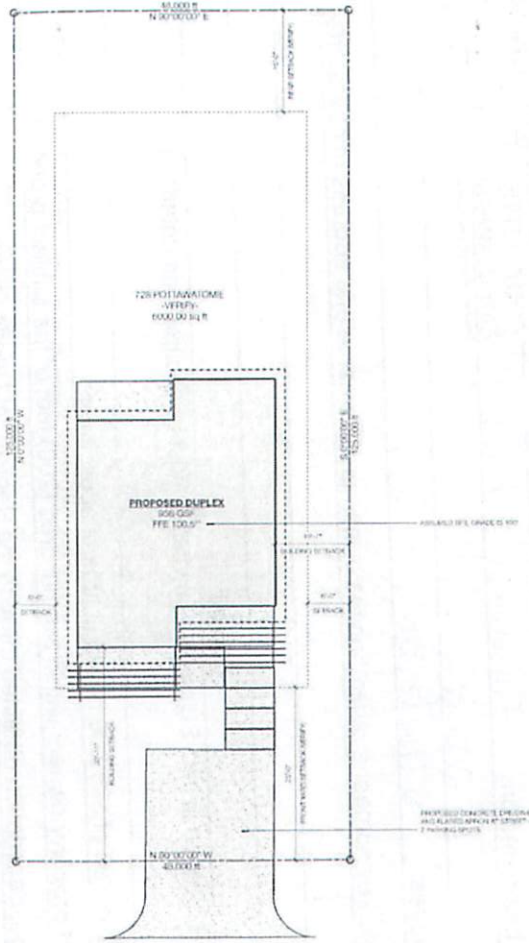
Check list below...

<input type="checkbox"/>	Non-Refundable Fee of \$350.00 is due at time of application
<input type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property
<input type="checkbox"/>	Attach full legal description obtained through the Register of Deeds Office
<input type="checkbox"/>	Site Plan drawn to scale (See General Instructions)
<input type="checkbox"/>	Supporting documentation (See General Instructions)

primary contact Sr. Vickie

913-530-4535

vperkins scl@gmail.com



POTTAWATOMIE

1 ARCHITECTURAL SITE PLAN
Scale: 1/8" = 1'-0"



A1.1

DEPAUL USA
NEW DUPLEX
DEVELOPMENT

728 Pottawatomie
Lawrence, KS

ROGUE
architecture

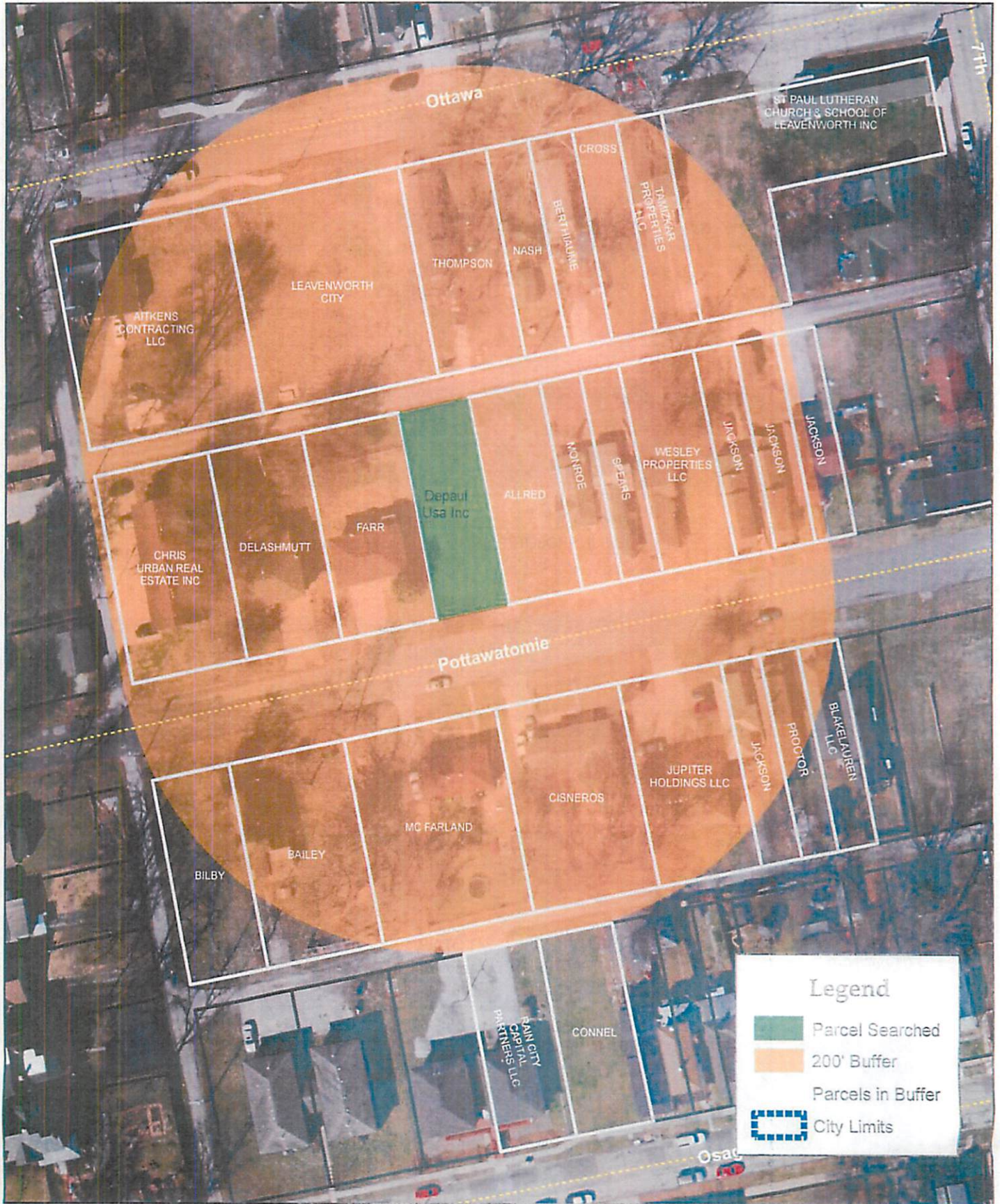
ROGUE Architecture PLLC
308 S Spring Street
Suite 201
Little Rock, Arkansas 72201
Tel: 501.675.4444
info@roguearch.com

ARCHITECTURAL SITE PLAN
Issue Date: 2/23/2010

2023.02.10

NOT FOR CONSTRUCTION

City of Leavenworth Property Radius Search



Radius Search Report

Properties Found: 28

02/13/2023



Parcel #	Quick Ref.	Property Owner	Site Address	Mailing Address	Property Type
052-077-26-0-41-07-001.00-0	R3494	ST PAUL LUTHERAN CHURCH & SCHOOL OF LEAVENWORTH INC	521 N 7TH ST, Leavenworth, KS 66048	311 N 7TH ST LEAVENWORTH, KS 66048	Education / public admin / health care / other institutions
052-077-26-0-41-07-002.00-0	R3495	TAMIZKAR PROPERTIES LLC	715 OTTAWA ST, Leavenworth, KS 66048	310 THREE FORKS DR LAWRENCE, KS 66049	Single family residence (detached)
052-077-26-0-41-07-003.00-0	R3496	CROSS, SCOTT A	717 OTTAWA ST, Leavenworth, KS 66048	515 S 9TH ST LEAVENWORTH, KS 66048	Residential highest and best use
052-077-26-0-41-07-004.00-0	R3497	BERTHIAUME, BRYAN L & JENKINS, ROBERT E	719 OTTAWA ST, Leavenworth, KS 66048	6950 COUNTY ROAD 64 SAVANNAH, MO 64485	Single family residence (detached)
052-077-26-0-41-07-005.00-0	R3498	NASH, FRANCES D	721 OTTAWA ST, Leavenworth, KS 66048	1719 SHAWNEE ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-077-26-0-41-07-006.00-0	R3499	THOMPSON, JOHN P	725 OTTAWA ST, Leavenworth, KS 66048	725 OTTAWA ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-077-26-0-41-07-007.00-0	R3500	LEAVENWORTH CITY	727 OTTAWA ST, Leavenworth, KS 66048	100 N 5TH ST LEAVENWORTH, KS 66048	Residential highest and best use
052-077-26-0-41-07-009.00-0	R3502	AITKENS CONTRACTING LLC	741 OTTAWA ST, Leavenworth, KS 66048	25200 METRO AVE TONGANOXIE, KS 66086	Single family residence (detached)
052-077-26-0-41-07-015.00-0	R3507	CHRIS URBAN REAL ESTATE INC	744 POTTAWATOMIE ST, Leavenworth, KS 66048	3505 LAKEVIEW CIR LEAVENWORTH, KS 66048-4798	Garden apartment complex (1-3 stories)

Parcel #	Quick Ref.	Property Owner	Site Address	Mailing Address	Property Type
052-077-26-0-41- 07-016.00-0	R3508	DELASHMUTT, DOUGLAS K	736 POTTAWATOMIE ST, Leavenworth, KS 66048	18131 EISENHOWER RD LEAVENWORTH, KS 66048	Single family residence (detached)
052-077-26-0-41- 07-017.00-0	R3509	FARR, JEREMY	732 POTTAWATOMIE ST, Leavenworth, KS 66048	327 MAPLE AVE LANSING, KS 66043	Single family residence (detached)
052-077-26-0-41- 07-019.00-0	R3511	ALLRED, VANCE M	724 POTTAWATOMIE ST, Leavenworth, KS 66048	15799 ARCHER RD BONNER SPRINGS, KS 66012	Residential highest and best use
052-077-26-0-41- 07-020.00-0	R3512	MONROE, DANIEL R	722 POTTAWATOMIE ST, Leavenworth, KS 66048	2500 S 22ND ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-077-26-0-41- 07-021.00-0	R3513	SPEARS, ETHYLINE	720 POTTAWATOMIE ST, Leavenworth, KS 66048	720 POTTAWATOMIE ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-077-26-0-41- 07-022.00-0	R3514	WESLEY PROPERTIES LLC	718 POTTAWATOMIE ST, Leavenworth, KS 66048	823 MIAMI ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-077-26-0-41- 07-024.00-0	R3516	JACKSON, MARY W; TRUST	714 POTTAWATOMIE ST, Leavenworth, KS 66048	2304 SW SHUNGE TOPEKA, KS 66611	Single family residence (detached)
052-077-26-0-41- 07-025.00-0	R3517	JACKSON, MARY W; TRUST	712 POTTAWATOMIE ST, Leavenworth, KS 66048	2304 SW SHUNGE TOPEKA, KS 66611	Single family residence (detached)
052-077-26-0-41- 07-026.00-0	R3518	JACKSON, HENRY JEFFERY	710 POTTAWATOMIE ST, Leavenworth, KS 66048	710 POTTAWATOMIE ST LEAVENWORTH, KS 66048	Single family residence (detached)

Parcel #	Quick Ref.	Property Owner	Site Address	Mailing Address	Property Type
052-077-26-0-41- 10-004.00-0	R3549	BLAKELAUREN LLC	713 POTTAWATOMIE ST, Leavenworth, KS 66048	823 MIAMI ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-077-26-0-41- 10-005.00-0	R3550	PROCTOR, AREE	715 POTTAWATOMIE ST, Leavenworth, KS 66048	624 KICKAPOO ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-077-26-0-41- 10-006.00-0	R3551	JACKSON, MARY W; TRUST	717 POTTAWATOMIE ST, Leavenworth, KS 66048	2304 SW SHUNGE TOPEKA, KS 66611	Single family residence (detached)
052-077-26-0-41- 10-007.00-0	R3552	JUPITER HOLDINGS LLC	719-A POTTAWATOMIE ST, Leavenworth, KS 66048	13340 W 103RD TER LENEXA, KS 66215	Fourplex
052-077-26-0-41- 10-008.00-0	R3553	CISNEROS, LUIS F	723 POTTAWATOMIE ST, Leavenworth, KS 66048	10709 LAKE CENTER PARK LN SANTA FE SPRINGS, CA 90670-4218	Single family residence (detached)
052-077-26-0-41- 10-009.00-0	R3554	MC FARLAND, MICHAEL II	725 POTTAWATOMIE ST, Leavenworth, KS 66048	725 POTTAWATOMIE ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-077-26-0-41- 10-010.00-0	R3555	BAILEY, MARIA	741 POTTAWATOMIE ST, Leavenworth, KS 66048	1314 KINGMAN ST LEAVENWORTH, KS 66048-3076	Single family residence (detached)
052-077-26-0-41- 10-011.00-0	R3556	BILBY, JAMES H SR	745 POTTAWATOMIE ST, Leavenworth, KS 66048	9311 202ND ST E GRAHAM, WA 98338-9262	Residential highest and best use
052-077-26-0-41- 10-021.00-0	R3565	RAIN CITY CAPITAL PARTNERS LLC	726 OSAGE ST #1, Leavenworth, KS 66048	15606 5TH AVE NE SHORELINE, WA 98155	Fourplex
052-077-26-0-41-	R3566	CONNEL, RUSSELL	724 OSAGE ST,	18312	Residential highest

Parcel #	Quick Ref.	Property Owner	Site Address	Mailing Address	Property Type
10-022.00-0		L & AUDEANA M	Leavenworth, KS 66048	EISENHOWER RD LEAVENWORTH, KS 66048	and best use

Mail Tax Statement to:
Leavenworth Attainable Housing
Attn: Sister Vickie Perkins, SCL
311 N. 7th St.
Leavenworth, KS 66048

E-recorded
ID: 2022R09945
County: Leavenworth
Date: 11/1/22 Time: 5:13:46pm

Jodi E. Slapper

QUIT CLAIM DEED (Statutory)

THE GRANTOR,
Timothy S. Muchmore, a single person

CONVEYS AND QUITCLAIMS to

Depaul USA, Inc., a Delaware corporation

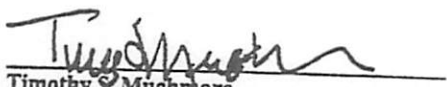
for the sum of One Dollar and Other Valuable Consideration, the following described real estate:

Lots 14 and 15, Block 98 lying partly in WESTERN ADDITION and partly in DAY AND MACAULAY'S SUBDIVISION, a subdivision in the City of Leavenworth, Leavenworth County, Kansas.

(THIS DEED IS BEING RECORDED PURSUANT TO K.S.A. 79-1437e AS AMENDED, EXEMPTION #4)

(Subject to easements, restrictions, and reservations of record, and all taxes and assessments that may be levied, imposed, or become payable hereafter.)

Dated this 28th day of October A.D. 2022

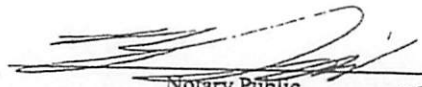

Timothy S. Muchmore

STATE OF With the United States Armed Forces at Fort Myr, VA
COUNTY OF Leavenworth

This instrument was acknowledged before me on this 24 day of October, 2022 by:
Timothy S. Muchmore, a single person

My appointment expires: Indef

United States Army
Military District of Washington
Office of the Staff Judge Advocate
Legal Assistance and Claims
Building 201
Fort Myer, Virginia 22211


Notary Public
Bridley Dennis

10 USC § 1044a Paralegal
Legal Assistance Office
Fort Myer Virginia 22211



Leavenworth, Kansas
City Clerk
100 North 5th Street
Leavenworth, KS 66048
Welcome

02/16/2023 11:38AM Amie K.
008962-0002

PERMITS / INSPECTIONS
2023 Item: 12760|P030 350.00

350.00

Subtotal 350.00
Total 350.00

CHECK 350.00
Check Number 1146

Change due 0.00

Paid by: Leavenworth Attainable Housing

Comments: Special Use Permit
Application
#12760
Case # 2023-09 SUP

Thank you for your payment

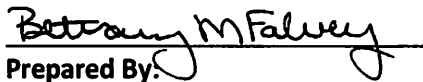
CUSTOMER COPY
DUPLICATE RECEIPT

PLANNING COMMISSION AGENDA ITEM
2023-10-SUP
1906 5th Avenue

APRIL 3, 2023

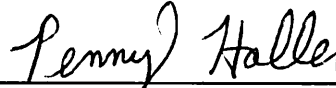
SUBJECT:

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



Prepared By:

Bethany Falvey
City Planner



Reviewed By:

Paul Kramer
City Manager

NATURE OF REQUEST

The applicant, TFP Holds, LLC, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 1906 5th Ave. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The property is currently an existing legal, non-conforming use as a two family dwelling. Section 1.05.D of the adopted Development Regulations states:

Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continue, so long as otherwise lawful.

The applicant is seeking the Special Use Permit to make the use conforming, specifically because "without a special use permit as a loss of 50% or greater must be rebuilt as a single family home," due to the zoning.

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.

Currently the property is functioning as legal, nonconforming two-family dwelling. If approved, the property will fill a need in the community by continuing to provide a two-family housing option. Continuing the use as a two family dwelling will fill that need.

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 function as it is currently.

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.

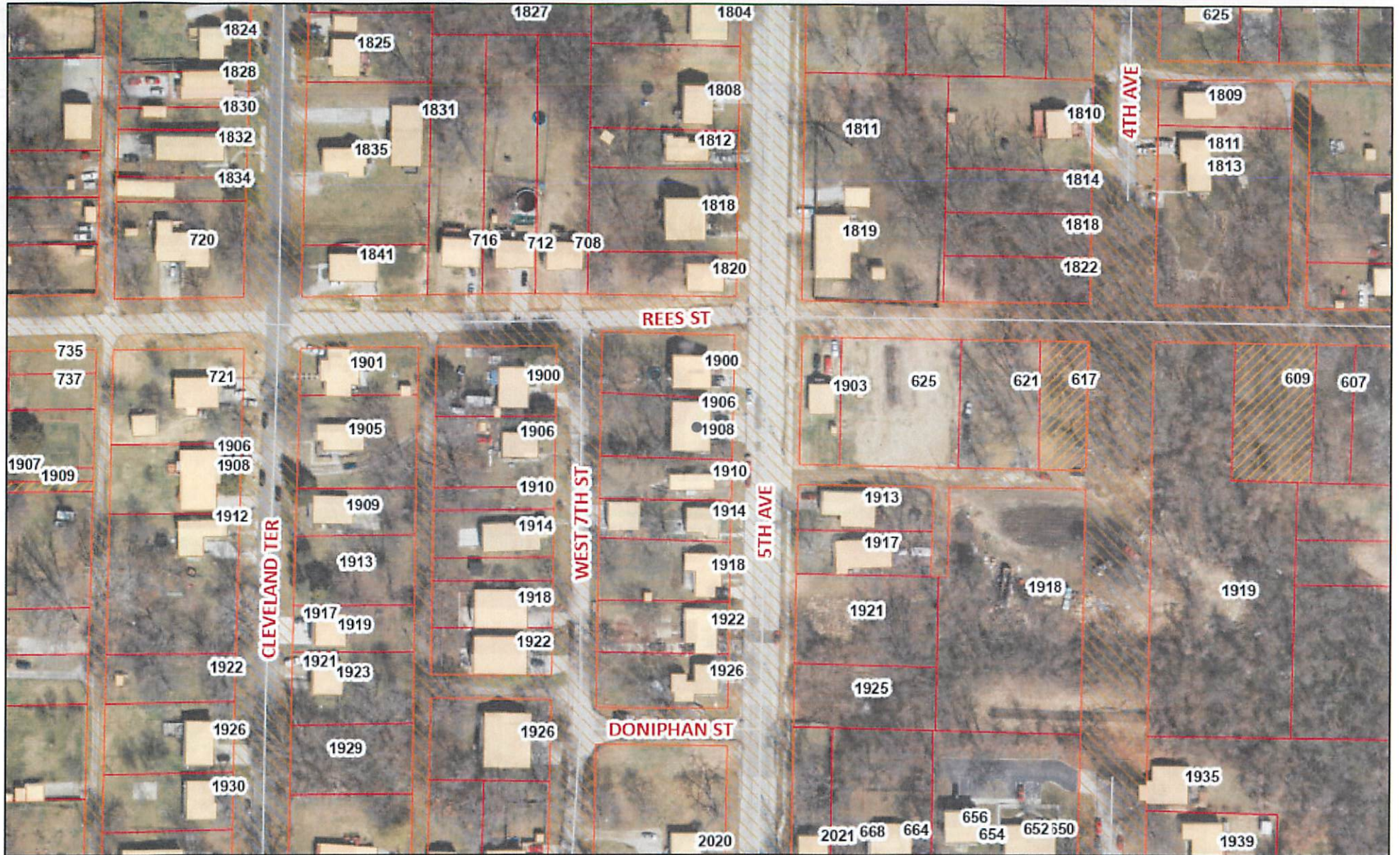
STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

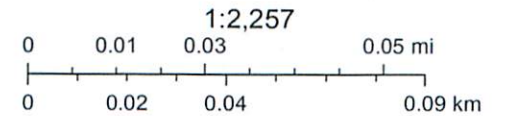
- Motion, based upon findings as stated and conditions as presented, to recommend approval to the City Commission with included conditions
- Motion, to recommend denial to the City Commission
- Table the issue for additional information/consideration.

SUP - 1906 5th Ave



3/21/2023, 2:17:17 PM

- Parcels (City Owned)
- Parcels_Current
- Buildings
- Address (Points)
- Leavenworth City Limits
- City Right-of-Way
- RoadCenterline



Platte County, Missouri Dept. of Conservation, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA

Web AppBuilder for ArcGIS

Platte County, Missouri Dept. of Conservation, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA



SPECIAL USE PERMIT
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO.: 2023-10 SUP

Application No.	<u>12762</u>
Fee (non-refundable)	<u>\$350.00</u>
Filing Date	<u>2/16/23</u>
Received By	
Hearing Date	<u>4-3-23</u>
Publication Date	<u>3-9-23</u>

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 duplex currently legal, but nonconforming as the zoning is R1-6 (single family)

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

Subject Property:	<u>1906 5th Ave, Leavenworth, KS 66048</u>		
Legal Description:	<u>(Attach a full legal description provided by the Register of Deeds Office)</u>		
Real Estate PID #:	<u>052-101-01-0-20-24-001.01-0</u>		
Zoning:	<u>R1-6</u>	Historic District:	

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

Name(s) of Owner (print):	<u>TFP Holds LLC by Andrew Dewhurst (owner)</u>		
Owner Address:	<u>22489 Venido Rd, Woodland Hills, CA 91364</u>		
Contact No.	<u>765-438-8930</u>	Email:	<u>terrafirmaprop@gmail.com</u>
Signature of Owner(s):	<u>[Signature] Andrew Dewhurst, Owner of TFP Holds LLC</u>		

State of _____
County of _____ (SEAL)

SEE ATTACHED CERTIFICATE

Signed or attested before me on:			
Notary Public:			
My Appointment Expires:			
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.

<input checked="" type="checkbox"/>	Non-Refundable Fee of \$350.00 is due at time of application
<input checked="" type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property
<input checked="" type="checkbox"/>	Attach <i>full</i> legal description obtained through the Register of Deeds Office
<input checked="" type="checkbox"/>	Site Plan drawn to scale (See General Instructions)
<input checked="" type="checkbox"/>	Supporting documentation (See General Instructions)

"A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document."

State of California

County of Los Angeles

On this the 16th day of Feb 2023, before me, Ravinder Bhalla, Notary Public, personally appeared Andrew Dewhurst, JR who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

[Handwritten Signature]

Signature of Notary Public



(Seal)

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further Description of Any Attached Document

Title or Type of Document: Special Use Permit - city of Leavenworth, Kansas

Document Date: 02-16-2023 Number of Pages: 1

Signer(s) Other than Named Above: NONE

February 16, 2023

TFP Holds LLC
22489 Venido Road
Woodland Hills, CA 91364

Planning Commission and City Commission,

I am applying for a special use permit for my property at 1906 5th Avenue, Leavenworth, KS 66048. The building is an existing duplex, but currently zoned as R1-6 which is only for single family homes. The home is currently legal, but non-conforming. I am attempting a refinance, but lenders will ^{not} approve the loan without a special use permit as a loss of 50% or greater must be rebuilt as a single family home.

Thank you for your consideration in granting this special use permit.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Dewhurst', with a long horizontal line extending to the right.

Andrew Dewhurst
Owner of TFP Holds, LLC

ENTERED IN TRANSFER RECORD IN
MY OFFICE THIS DAY 09/01/2022

Janet Klasmaker
COUNTY CLERK

Doc #: 2022R08271
TERRILOIS MASHBURN
REGISTER OF DEEDS
LEAVENWORTH COUNTY, KANSAS
RECORDED ON:
09/01/2022 04:01:30 PM
RECORDING FEE: 21.00
PAGES: 1

ADMINISTRATOR'S DEED

ATC
2022 9417

This indenture made August 25th, 2022, by and between Chester L. Lewis, Jr., Administrator of the Estate of Chester L. Lewis, Sr., deceased, Grantor, and TFP HOLDS LLC, Grantee.

Grantor, by virtue of the "Order for Sale of Real Estate at Private Sale, Approving Appointed Appraiser and Confirming Sale", dated May 13, 2022, issued out of the District Court of Leavenworth County, Kansas, in the Estate of Chester L. Lewis, Sr., Case No. 2009-PR-000105, having sold the real estate described below in conformity with the Order, and the sale having been confirmed as provided by law, in consideration of the sum of ONE HUNDRED THIRTY ONE THOUSAND TWO HUNDRED FIFTY DOLLARS AND NO/100 (\$131,250.00), which is not less than three-fourths of the appraised value of the real estate described below, the receipt of which is acknowledged, does grant, bargain, sell and convey unto TFP HOLDS LLC, Grantee's heirs and assigns, all right, title and interest of Chester L. Lewis, Sr., deceased, discharged from liability for decedent's debts, in and to all of the following described real estate, commonly known as 1906 5th Ave., Leavenworth, situated in Leavenworth County, Kansas, and legally described as:

The South 24 feet of Lot 2 and all of Lot 3, Block 20, Rees, Doniphan & Thornton Addition, City of Leavenworth, according to the recorded plat thereof, Leavenworth County, Kansas.

TO HAVE AND TO HOLD the above granted premises, together with the appurtenances and hereditaments and every part thereof, unto TFP HOLDS LLC, Grantee's heirs and assigns.

No Real Estate Sales Validation Questionnaire required: K.S.A. 79-1427e(a)(14)
Exemption No. 14

IN WITNESS, Grantor has executed this instrument on August 25th, 2022.

[Signature]

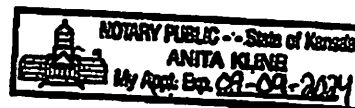
Chester L. Lewis, Jr., Administrator of the Estate of Chester L. Lewis, Sr., Deceased

STATE OF KANSAS, COUNTY OF LEAVENWORTH, SS:

This instrument was acknowledged before me on 25 Aug 2022, 2022, by Chester L. Lewis, Jr., as Administrator of the Estate of Chester L. Lewis, Sr., deceased.

Anita Kline

Notary Public Anita Kline



City of Leavenworth Property Radius Search



Radius Search Report

Properties Found: 26

02/15/2023



Parcel #	Quick Ref.	Property Owner	Site Address	Mailing Address	Property Type
052-101-01-0-20-18-009.00-0	R9896	BLAIR, CALVIN CHRISTOPER	1818 5TH AVE, Leavenworth, KS 66048	1818 5TH AVE LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-01-0-20-18-010.00-0	R9897	RIVERA, MARTHA A & LUCIANO SR	1820 5TH AVE, Leavenworth, KS 66048	1304 CRESTVIEW LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-01-0-20-19-004.00-0	R9902	CHURULICH, GLEN LUCAS & RAFAELA BELTRE	1819 5TH AVE, Leavenworth, KS 66048	429 MUNCIE RD LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-01-0-20-23-007.00-0	R9944	DAVIS, ROBERT L & JANIE M	00000 REES ST, Leavenworth, KS 66048	1823 3RD AVE LEAVENWORTH, KS 66048	Residential highest and best use
052-101-01-0-20-23-008.00-0	R9945	DARDEN, CHARLES R	1903 5TH AVE, Leavenworth, KS 66048	701 COTTONWOOD DR LANSING, KS 66043	Single family residence (detached)
052-101-01-0-20-23-009.00-0	R9946	WOOD, MICHAEL A	1913 5TH AVE, Leavenworth, KS 66048	1913 5TH AVE LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-01-0-20-23-010.00-0	R9947	SCHLIGHT, JUNIOR O; TRUST	1917 5TH AVE, Leavenworth, KS 66048	1917 5TH AVE LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-01-0-20-23-011.00-0	R9948	NELSON, JIMMY R & SAVANNAH E	1921 5TH AVE, Leavenworth, KS 66048	1922 5TH AVE LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-01-0-20-24-001.00-0	R9953	WARFIELD, DARNELL L & LASHANN	1900 5TH AVE, Leavenworth, KS 66048	1900 5TH AVE LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-01-0-20-24-002.00-0	R9955	PINCHEM, BETTY	1910 5TH AVE, Leavenworth, KS 66048	1910 5TH AVE LEAVENWORTH, KS 66048	Single family residence (detached)

Parcel #	Quick Ref.	Property Owner	Site Address	Mailing Address	Property Type
052-101-01-0-20- 24-003.00-0	R9956	REEVES, CHRISTOPHER	1914 5TH AVE, Leavenworth, KS 66048	1914 5TH AVE LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-01-0-20- 24-004.00-0	R9957	TOLBERT, RENITA D	1918 5TH AVE, Leavenworth, KS 66048	1918 5TH AVE LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-01-0-20- 24-005.00-0	R9958	NELSON,JIMMY R & SAVANNAH E	1922 5TH AVE, Leavenworth, KS 66048	1922 5TH AVE LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10- 21-011.01-0	R10841	ESTRADA, ROMEO	708 REES ST, Leavenworth, KS 66048	708 REES ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10- 21-011.02-0	R10842	WRIGHT, PAMELA R	712 REES ST, Leavenworth, KS 66048	712 REES ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10- 21-011.03-0	R10843	WILLIAMS,DANIEL R & ELIZABETH C	716 REES ST, Leavenworth, KS 66048	716 REES ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10- 22-001.00-0	R10847	LOGAN,JOHN W SR & MARY L	1900 W 7TH ST, Leavenworth, KS 66048	1900 W 7TH ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10- 22-002.00-0	R10848	PRICE, MATTHEW	1901 CLEVELAND TER, Leavenworth, KS 66048	1901 CLEVELAND TER LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10- 22-003.00-0	R10849	F & F PROPERTIES LLC	1905 CLEVELAND TER, Leavenworth, KS 66048	400 SHAWNEE ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10- 22-005.00-0	R10850	PETTIS,WILLIAM & ELLEN DARLYENE	1909 CLEVELAND TER, Leavenworth, KS 66048	1909 CLEVELAND TER LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10- 22-015.00-0	R10860	BAF ASSETS 5 LLC	1918 W 7TH ST, Leavenworth, KS 66048	5001 PLAZA ON THE LAKE #51E 200	Single family residence (detached)

Parcel #	Quick Ref.	Property Owner	Site Address	Mailing Address	Property Type
				AUSTIN, TX 78746	
052-101-02-0-10-22-016.00-0	R10862	GARCIA,JOSE M PENA & GUTIERREZ, MIRIAM MEDINA	1914 W 7TH ST, Leavenworth, KS 66048	1914 W 7TH ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10-22-017.00-0	R10863	KINCAID,ROBERT F & JEANNIE L	00000 W 7TH ST, Leavenworth, KS 66048	1906 W 7TH ST LEAVENWORTH, KS 66048	Residential highest and best use
052-101-02-0-10-22-018.00-0	R10864	KINCAID,ROBERT F & JEANNIE L	1906 W 7TH ST, Leavenworth, KS 66048	1906 W 7TH ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10-22-019.00-0	R308673	MONGE, CRISTAL	1922 W 7TH ST, Leavenworth, KS 66048	1922 W 7TH ST LEAVENWORTH, KS 66048	Single family residence (detached)
052-101-02-0-10-22-020.00-0	R308744	TAYLOR,GLYNEE & ALTON,TRISHA	00000 W 7TH ST, Leavenworth, KS 66048	721 DEERFIELD LEAVENWORTH, KS 66048	Residential highest and best use

Add is not available



[Search](#)



[Export](#)

<p>Bill To</p> <p>Last/First Name:Dewhurst/Andrew Company Name:TFP Holds LLC Address:22489 Venido Rd City/State/Postal Code:Woodland Hills CA 91364 Phone:765-438-8930 Email Address:terrafirmaprop@gmail.com Consumer ID:N/A</p>	<p>Ship To</p> <p>Last/First Name:N/A Company Name:N/A Address:N/A N/A City/State/Postal Code:N/A</p>
<p>Order</p> <p>App # :12762 Applicant Nam :TFP Holds LLC Applicant Phone Number :765-438-8930 Location :1906 5th Ave, Leavenworth, KS 66048 Type of Permit :Special Use Permit Fee :350.00</p>	<p>Payment</p> <p>Credit Card #:*****4759 Card Type:VISA Amount:\$ 350.00 Service Fee:\$ 8.93 Sales Tax:\$ 0.00 Proc Card:no Total Amount:\$ 358.93 Date:2/16/2023 1:15 PM PDT Entered By:UNa4IcIFWx</p>

Transaction Details

<p>Detail</p> <p>Transaction ID:69853caa-2f53-4684-9283-027cbcd08571 Status:ready Transaction Type:CC Sale(10) Response Description:APPROVED Ip Address:107.212.208.131 Source:SWPv2.0 Settlement Date:N/A</p> <p>Response Type:A Response Code:A01 Verify Result:N/A Auth Code:06547G Settlement Result:N/A</p>	
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AVS Results

<p>✓ AVS Postal Code:</p>	<p>Match</p>
<p>✓ AVS Street:</p>	<p>Match</p>



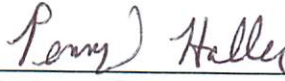
PLANNING COMMISSION AGENDA ITEM
Article 9 Amendment
Development Regulations

April 3, 2023



Prepared By:

Bethany Falvey
City Planner



Reviewed By:

Paul Kramer
City Manager

SUBJECT:

Text amendments to Article 9 – Historic Preservation to the Development Regulations

DISCUSSION:

The City Commission adopted the Development Regulations in June 2016 after a year-long comprehensive update process. The Historic Preservation section, Article 9, has not had a comprehensive update since that time. This update will ensure it remains up to date and comprehensive. The proposed amendments update the code to reflect current practice and laws, add clarification to current practices and policies, and reorganize the existing Article for better flow.

- Removes references to the Environs portion of the Kansas State Preservation Law, which has been removed from the law.
- Removes inconsistent language and corrects language throughout to match current practices.
- Adds clarification and language to differentiate between review processes.
- Combines the section regarding “Alteration, Expansion or Demolition – Major” with Section 9.16 “Procedure for Demolition, Alteration or Expansion.”

ACTION/OPTIONS:

Recommend approval or denial of proposed text amendments to Article 9 for final action by the City Commission.

ARTICLE 9. HISTORIC PRESERVATION

9.01. Purpose

The purpose of this article of the development regulation is to:

- A. Preserve buildings and sites of historic and architectural importance and safeguard the heritage and culture of Leavenworth;
- B. Stabilize and improve property values in such locations of historic resources and thus strengthen the economy of the city;
- C. Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;
- D. Foster civic pride in Leavenworth and the appearance of the community; thereby protecting and enhancing the city's attraction to tourists and visitors and providing support and stimulus to business and industry;
- E. Promote the restoration and productive use of historically and architecturally significant structures, property and areas for the culture, education, enjoyment and economic welfare of the city's citizens and visitors; and
- F. Promote the study of history, culture, and architectural design.

9.02. General

- A. A historic resources preservation code establishing the Leavenworth Preservation Commission, providing for the designation of Leavenworth landmarks and historic property districts, and regulating improvements to and demolition or clearance of buildings, sites, structures, or objects listed as landmarks or located in historic districts.
- B. The City is authorized, under the Kansas Historic Preservation Act, KSA 75-2724, to participate in the Certified Local Government (CLG) program by establishing a partnership with the State Historic Preservation Office~~Department~~, Kansas State-Historical Society,
- C. The City Commission finds and determines that it is desirable to identify and promote the City's prehistoric, historic and cultural heritage, to enhance the attractiveness of the City, thereby promoting business and tourism,
- D. The Code is intended to enhance and promote Leavenworth's contribution to the history of the State of Kansas as well as to this nation.

9.03. Applicability

This Code shall apply to all historically and architecturally important structures, properties, and districts located within the City limits, which have demonstrated and have been determined to be significant through nomination and placement on local, state, or national registers of historic ~~places~~properties.

9.04. Leavenworth Preservation Commission

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- A. **Creation:** The Leavenworth Preservation Commission (hereafter in this article "commission") is created to inventory, promote, list, record, protect, preserve and enhance places, areas, features or sites within the City that have special significance of an architectural, archaeological, cultural or historical sense. The commission shall advise the City Commission and cooperate with other historic agencies and organizations concerning preservation of the City's historic and cultural heritage.
- B. **Membership:** The commission shall consist of ~~seven-five~~ Leavenworth residents by appointment by the mayor with concurrence by the City Commission. The membership shall to every extent possible include a minimum of three of the Board members must The professional fields include: history, architecture, architectural history, historical architecture, archaeology-prehistoric, archaeology-historic, or landscape architecture. at least one architect, one real estate professional, one planning commissioner, and/or one historian (amateur or professional), as well as members at large. Appointments shall be for a term of three years, except that the first commission shall be appointed as follows: three for three-year terms, two for two-year terms and two for one-year terms. The mayor may reappoint, as above, persons who have met the minimum attendance requirement and who otherwise have served adequately. The mayor may remove any member of the commission, for cause. Vacancies shall be filled by appointment as above within 60 days, such appointment for the remainder of the unexpired term.
- C. **Rules of Procedure:** The commission shall adopt bylaws or rules of procedure, which specify attendance requirements, conflict of interest, officer/selection process, quorum, agenda formulation, notice, and such other appropriate matters. Minutes of the meeting will be distributed to commission members, the City Manager and the State Historic Preservation Officer (SHPO).
- D. **Annual Report:** The commission shall prepare an annual report of its activities to be submitted to the City Commission and SHPO. The report shall include an account of the number and type of cases reviewed and their disposition, a listing of new designations made during the year and a record of current and appointed commission members. The report should also assess progress in preserving historically important structures and assess the need for future changes to the Code. The report shall conclude with a statement of goals for the ensuing year and shall be duly authorized by majority vote of the commission.
- E. **Authority and Responsibilities:**

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.04 Leavenworth Preservation Commission

1. *Jurisdiction:* The geographic area of authority shall be the area contained within the Leavenworth corporate limits.
2. *Mission:* The commission's central purpose is the designation and the protection of historic properties in compliance with the Kansas Historic Preservation Act (KSA 75-2724 et seq.). Matters arising under the statute shall require notification of the SHPO.
3. *Nomination Reviews:* The commission shall review all proposed nominations for local, state, and national registers of historic placesproperties. All nominations shall be evaluated by a professional in a specific discipline, if not represented on the commission, prior to commission recommendation.
4. *Certified Local Government (CLG):* The SHPO may, by mutual agreement with the City, delegate responsibilities to the commission.
5. *Training:* Each commission member shall attend at least one information or training meeting each year as approved by the SHPO.
6. *Historic Inventory:* The commission shall review and maintain the historic property inventory to add properties, which may be eligible for designation as landmarks or districts in accordance with procedures established by the SHPO. In addition to the Kansas Historic Structures Inventory form, the City shall use the SurveyUrban-Study Unit Manual prepared by the SHPO for the preservation planning process. Copies of all inventory materials shall be submitted to the SHPO.
7. *Transparency:* The City shall provide for adequate public participation in all aspects of the implementation of this Code. All meetings shall be open to the public pursuant to KSA 75-4318. The commission shall meet at least four times each year. Agenda materials provided to commission members shall be open to the public. Decisions shall be made in a public forum and minutes of all meetings shall be kept on file and available for public inspection. Minutes shall be considered notice of any action or decision.
8. *Programming:* The commission shall have the discretion to establish other programs and services, including but not limited to: create public information programs, use of City funds to promote preservation activities, review other departmental plans being considered that may affect historic structures or properties, and cooperate with local groups or agencies to provide the widest possible promotion of historic programs and places.
9. *Participation Incentives:* The commission shall review and recommend local incentives that may encourage Landmark designation in Leavenworth. These may be in the form of retail discounts, tax rebates, permit fee waivers, utility reductions, and other means to stimulate interest in historic preservation available only to designated Landmark properties. Such incentives shall be by agreement between the city, the Landmark owner and the respective business or utility providing the reduction or rebate.
10. *Review of Public Projects:* The commission shall review and recommend policies regarding historic structures, public streetscape, lighting, and signage in historic

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.04 Leavenworth Preservation Commission

- districts to encourage their development. Resources available to create such places may include general or special tax authority as well as assessment processes.
11. *Grants and Gifts:* The commission shall prepare applications for City Commission approval for any gift, grant, bequest, devise, lease, fee, development right, easement, covenant, or conveyance for the purpose of preservation, including state, federal, or corporate grants or bequests.
 12. *Code Review:* The commission shall review the provisions of this Code at least every five years to make comprehensive or individual changes deemed appropriate. The commission may make recommendations for amendment at any time deemed necessary to improve the enforceability of the Code.
 13. *Compensation and Expenses:* Commission members shall serve without compensation except for necessary expenses sustained in mandatory attendance at state historic preservation meetings and/or training as described above. The City Commission shall establish budget authority to provide for historic preservation administration and promotion activities.

9.05. Administration

- A. *Department:* The Planning and Community Development Zoning Department shall be responsible for the administration of this Code and performing the staff function for the commission. The department is authorized to enforce the provisions of, and to develop such application forms and procedures consistent with, this Code. The department shall process all applications for Landmark designations in accordance with Section 9.10 as described herein.
- B. *Department Staff Director:* The Staff Planning and Zoning Department Director shall review all building permit applications to determine if a Landmarks or listed property may be affected by a proposed development. If so, ~~they~~ the Director shall follow the procedure to either issue a certificate of appropriateness or begin a state preservation law review process in accordance with the provisions further described herein. ~~The Staff Director~~ shall forward the commission's recommendations to the City Commission, record and file all landmark designations, and maintain the Map of Landmarks and keep all agendas, minutes, reports, findings, determinations, and correspondence for the commission.
- C. *Historic Landmark Impact Determination:* No historic property may be occupied or used in a different manner unless/until the Staff Director has made a Historic Landmark Impact Determination, which shall be attached to a certificate of appropriateness or permit (see Sections 9.10 through 9.16). Such determination shall include: Name and address of owner, address of historic property, nature of repair/alteration/demolition, historic or architectural significance, physical condition of the property, county appraised value of the property, detrimental effect of the permit, if any, and Staff ~~the Director's~~ recommendation to approve or deny ~~a certificate of appropriateness~~.

9.06. Enforcement

- A. **Building Permit Required:** It shall be unlawful for any person, firm or corporation to enlarge, alter, repair, convert, demolish or change the use of any property listed ~~in~~ on the National Register of Historic Places/Register of Historic Kansas Places, or located within a ~~listed~~registered Historic District, without first obtaining a building or other permit as lawfully required for such purpose by the City of Leavenworth, Kansas.
- B. **Maintenance:** Normal property maintenance which does not require a permit from the City shall be exempt from the provisions of this Code, unless and/or until a permit for work to be done is required by other City development regulations.
- C. **Sufficient Documentation Required:** No building permit shall be issued until the property owner has submitted accurate building elevations, site plan and construction drawings and material lists in sufficient detail to enable the City to conclude that the project meets the appropriateness test as set by the Secretary of the Interior's Standards~~standards~~ for Rehabilitation~~historic-preservation~~ and the special terms of this Code.
- D. **Compliance with Plans Presented Required:** Building construction shall be halted if inspection staff notes that the project description presented to the City for approval differs in any way from the construction practices being performed on-site. During this stop-construction period, the City shall require compliance with the original approved depiction. The owner may appeal the order to the Leavenworth Preservation Commission by submitting amendments to the original plan and construction may proceed upon their approval. If the Leavenworth Preservation Commission denies the amendment, the owner may appeal to the City Commission.
- E. **Orders to Cease Construction:** The Staff~~Director~~, upon discovery that a demolition or improvement to a property is being made without review of the appropriate permit, shall issue notice to cease to the owner and shall take all appropriate measures to prevent such unlawful act. Notice shall explain the nature of the violation in clear terms and shall allow the owner to give satisfactory evidence that the action will be corrected within 30 days or an appropriate action to comply with the provisions of this Code will be initiated. Failure to comply may result in citation to municipal court and may result in the City taking corrective action to abate the offense and assess the costs of such abatement to the owner.
- F. **Assessment of Compliance Costs:** If the City has filed proper notice and the time has elapsed for correction by the owner, the City may take corrective action and any and all costs incurred by the City under the provisions of this article shall be assessed against each lot or piece of ground, chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.

9.07. Appeals

Any property owner aggrieved by any section of this Article may apply for an appeal. Appeals shall be to the Leavenworth Preservation Commission. Any decision of the commission may be further appealed to the City Commission. All rulings by the City Commission shall be final and binding on all parties unless appealed to a court of valid jurisdiction.

9.08. Variances

Any property owner, or authorized representative, may apply for a variance from specific guidelines ~~for historic preservation~~ as set and amended by the Secretary of Interior's Standards for Rehabilitation, the Interior Department. Variance applications shall be made to the Leavenworth Preservation Commission whose decisions are final. Before the commission may grant a variance from the specific regulation, it must make a finding that all five conditions below are affirmed:

- A. Such variance would not be contrary to the health, safety or best interest of the public;
- B. A literal enforcement of the provision will result in an unnecessary hardship to the property owner;
- C. There is a condition unique to the property which was not created by the property owner;
- D. There is no adverse effect on surrounding properties, and,
- E. The variance would not be contrary to the general spirit or intent of this Article.

9.09. Historic Resources Survey

The commission shall annually update the historical resources survey to identify buildings, structures, sites, neighborhoods and areas that may have historical, cultural, or architectural importance to the community. As part of the survey, the commission shall evaluate studies by other organizations and compile appropriate descriptions, facts, and photographs. All such materials shall be documented in accordance with the survey manual prepared by the SHPO.

9.10. Identification of Landmarks and Historic Districts

The commission shall identify the most significant resources with potential for designation as a local Landmark or historic district, devise and adopt procedures to initiate and consider their nomination to local, state and national registers and prepare and adopt a heritage conservation and promotion plan containing goals, objectives and policies to preserve the community's historic resource.

9.11. Leavenworth Landmarks Register

The commission shall establish a register of local historic places to be called the Leavenworth Landmarks Register. The register will contain a complete description of all buildings, structures, sites, and objects designated as landmarks and a description of boundaries of any area designated a historic district. All landmarks and districts shall be identified on the Landmarks Register Map, on file in the office of the City

Clerk and the Community Development Department. Updated copies of the map will be provided to the reference section of the Leavenworth Public Library.

9.12. Nomination of Landmarks and Historic Districts

Using the required public hearing process nominations for landmark or historic district designation shall be made by application submitted by the owner of a landmark or by written consent signed and acknowledged by seventy-five percent of all property owners within the defined boundaries of a proposed historic district. Each owner or owners of any legal parcel of record shall have one vote in the district per parcel, regardless of parcel size to determine this threshold. Lots that have been historically combined to create one parcel or building site shall be considered one parcel for this purpose. The commission shall review each application and shall apply the following criteria to determine eligibility to the local register:

- A. Character, interest, or value as part of the development, site, or structure that contributes significantly to the heritage or cultural characteristics important to the development of the city, state, or nation.
- B. Identification with a person or persons who significantly contributed to the development of the city, state, or nation.
- C. Architectural style valuable to the study of a period, or to the type, method of construction, materials used, design elements, detailing materials, or craftsmanship embodied in the structure, or identification with a master builder, architect or craftsman whose work influenced the development of the city, state or nation.
- D. Location of a prehistoric or historic site, occupation, or activity possessing significant archeological value.
- E. The weight of any one criterion may be sufficient to accept the nomination and criteria not listed above may be contributed in the nomination, which may render the nomination sufficient for placement on the register. All applications shall be submitted to the Community Development Department, City Hall, 100 N. 5th Street, Leavenworth, KS (Department).

9.13. Report and Recommendation

Within thirty (30) days after close of the public hearing, the commission shall adopt and submit its recommendation to the City Commission that the nominated property does or does not meet the criteria for placement on the register with the following considerations: significance or lack of significance of the nominated property as it relates to the above stated criteria and integrity or lack of integrity of the nominated property as it relates to historical features. Recommendations will be accompanied by a

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9.12 Nomination of Landmarks and Historic Districts

locator map of the subject property and such other photographs or renderings deemed pertinent to the nomination process.

9.14. City Commission Designation

The City Commission shall consider the nomination at the next available regular commission meeting, after the protest petition period has elapsed. The City Commission shall approve acceptable nominations by Code approved by roll call vote. Denials may be by simple motion as recorded in the minutes of the meeting. Any landmark or historic district nomination denied by the City Commission shall not be reconsidered for a period of one year. The Commission may take any of the following actions:

- A. Accept the recommendation of the commission, or reverse the recommendation of the commission.
- B. Amend by reduction or enlargement of the landmark or historic district.
- C. Amend or rescind previous placements on the register (after following the procedure for placement).

9.15. Designation

Within seven (7) days after approval, the City Commission shall forward notice of designation of any landmark or historic district to the SHPO, ~~in the format necessary to request placement on the state and national registers of historic places.~~ All appropriate state and local officials shall receive notice of the designation as well. Designation shall not alter the uses permitted by the existing zoning classification or district regulations affecting the property.

9.16. Procedure for Demolition, Alteration or Expansion

Upon receipt of an application for any demolition, alteration or expansion of a landmark, a property within an historic district, the commission and department shall initiate a process to determine if such permitted action is appropriate. All applications shall be reviewed, issued, or denied in accordance with the process outlined herein.

- A. **Determination of Appropriateness:** Department staff shall prepare a certificate of appropriateness ~~or conduct a state law review~~ before any alteration or demolition permit may be issued for any landmark or historic district property. Certificates shall be classified as either a minor ~~or certificate of appropriateness or a major certificate of appropriateness.~~ All certificates ~~or permits~~ shall include the Director's landmark impact determination.

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9.16 Procedure for Demolition, Alteration or Expansion

- B. **Minor (Administrative) Reviews: City staff Certificates of Appropriateness:** Minor certificates shall have the authority to approve at the administrative level be issued for any demolition or alteration work involving the following list of project types:
1. ~~Repair of architectural elements such of permits which can be demonstrated by the owner to have no adverse effect on a landmark or historic district: demolition of non-contributing structures, most interior improvements except those noted as porches, fascia, windows, doors, with like-kind replacement materials. This includes all roofing.~~
 2. ~~Installation of mechanical plumbing, or electrical systems that require minimal/pertinent to a landmark designation, changes~~
 3. ~~Installations of awnings and to signs on commercial properties~~
 4. ~~Interior modifications that do not affect character-defining elements of the structure~~
 5. ~~Installation of fire safety equipment, or minor alterations to meet the Americans with Disabilities Act~~
 6. ~~Public improvements including improvements to , fences, public walkways, public streets, curbs, sidewalks, parking areas, parks, utilities, and public alleys, public retaining walls and public utilities that do not contribute to the historic character of a landmark or historic district~~
 7. ~~Minor zoning changes (e.g. subdivision of property, vacation of streets or alleys, variances)~~
 8. ~~Minor exterior building changes including installation of decks, patios, and pools, not visible from the public right-of-way, the addition of mechanical or electrical equipment, when not affecting character-defining features of historic properties.~~
 9. ~~Sidewalk dining~~
 10. ~~Minor exterior additions to accessory structures~~
 11. ~~Demolition of non-contributing structures~~
 12. ~~Interior modifications that do not affect or remove character-defining elements of interior space. Including installation of mechanical, plumbing, or electrical systems that require minimal changes to existing features.~~
 13. ~~Changes to existing signs (e.g. sign reface)~~
- If the proposed project meets the Secretary of the Interior's Standards for Rehabilitation, then City staff will administratively approve the proposed project. If staff determines that the proposed project may "damage or destroy" a listed property, then the proposed project will be forwarded to the Leavenworth Preservation Commission.

C. **Major (Commission) Reviews:**

Alteration, expansion, or demolition applications requiring a Major State Law Review or Certificate of Appropriateness shall be processed as follows:

1. The department receives application for a permit which triggers the determination warranting a major review and notifies the applicant within 24 hours that a Commission review is required before a permit can be issued [allow one-two days for this process].
2. Applicant submits request for review in writing within seven days [allow one-seven days for this process].

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9.16 Procedure for Demolition, Alteration or Expansion

3. Department prepares and publishes notice of time, date, place and purpose of public hearing, such notice to be published at least twenty days prior to the date of the hearing [allow 30-45 days for this process]. Notice is also sent by regular mail to all property owners within an affected historic district.
4. The commission conducts the public hearing and determines if the certificate of appropriateness or permit can be issued and submits its decision, in writing with appropriate documentation to the applicant within 10 days. If the certificate of appropriateness or permit can be issued, the permit may be granted by building inspector or other regulating department as appropriate [allow 1-5 days for this process for residential projects, allow 30-60 days for major residential (more than four units per building), commercial or industrial projects]. If the requested action is determined inappropriate or "damages or destroys" the historic resource in order to protect the historic character or integrity of the property, then the applicant may file an appeal, in writing, within seven days asking that the application be reconsidered by the City Commission [allow 5-10 days for this process]. A protest period of at least 14 days must elapse from the date of the public hearing until the appeal may be heard by the City Commission [this time runs concurrently with the notification process, allow an additional 5-10 days for scheduling]
5. The City Commission holds a regularly scheduled meeting and upholds or reverses the decision of the commission.
6. The decision of the City Commission is conveyed, in writing, to the applicant [allow 5-10 days for this process]. If the certificate of appropriateness or permit is issued, the permit may be granted by the building inspector or other regulating department as appropriate [allow 1-5 days for residential or 30-60 days for major residential (more than four units per building), commercial or industrial projects].

DG. Monthly Reports: Minor (Administrative) Review Such certificates shall be authorized by ~~Staff~~the Director and reported monthly to the commission. Such ~~reviews~~certificates may use a standardized checklist of pre-stated reasons and will be issued within twenty-four (24) hours of receipt except on Fridays, Saturdays, Sundays and holidays observed by the City.

ED. Major Reviews~~Certificate of Appropriateness~~: Major certificates ~~or reviews~~ shall be subject to review and approval by the ~~Commission~~commission and may be authorized for the following types of permits: interior space rehabilitation when such space was an important component in approval of the landmark nomination; any exterior alteration or expansion of a landmark or historic district property; any proposed new construction on a landmark property or within a historic district; and demolition of part or all of a landmark or building or structure in a historic district.

FE. Criteria to Determine Appropriateness: The commission shall adopt principles and guidelines establishing criteria for new construction, alterations, additions, moving, and demolition of landmarks or properties in an historic district, including but not limited to, the following:

1. Non-binding conceptual reviews are encouraged and the Leavenworth Preservation Commission shall wherever possible provide written and graphical examples of similar suitable projects.

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9.16 Procedure for Demolition, Alteration or Expansion

2. Specific design criteria for ~~appropriate~~ exterior alterations of landmarks or historic district properties shall be based on the US-Secretary of the Interior's Standards for Rehabilitation as published in Section 36, Code of Federal Regulations, Part 67 as revised from time to time, and by further reference to such specific design criteria as the commission may require;
3. New construction and additions to existing structures shall be sensitive to and take into account the special historic district or landmark characteristics including height, scale, orientation, site coverage, spatial separations, facade and window patterns, entrance and porch size and general design, materials, texture, architectural detail, roof forms, vertical or horizontal elements, walls, fences, landscaping and other features;

GF. *Demolition Delay:* Demolition applications for landmarks or historic district properties shall be denied for a period not to exceed 180 days if a proposed public or private re-use of the property is unknown. The maximum period of delay may be reduced whenever the commission determines the owner will suffer extreme hardship or will be deprived of all beneficial use of the property by virtue of the delay. In either instance, the commission shall use the delay to negotiate with the owner and interested parties to find a means to preserve the landmark or historic district property. If the proposed re-use of the property is known, the use will be examined for relationship and compatibility with the landmark or historic district before demolition of a contributing or landmark structure may proceed. This section also applies to properties nominated or landmark or historic district designation. Once redevelopment plans are known, the commission will determine appropriateness.

9.17. Signs

The commission ~~and/or staff~~ shall review and approve or deny all requests for signs to be located on a landmark or within an historic district in accordance with the following criteria:

- A. Signs shall be designed and placed to be an integral part of the property design, in proportion to the landmark and compatible with the environment in historic districts.
- B. Signs should be relative to the services and shall not block, obscure or distract from the landmark's or historic district's significant design elements.
- C. Wherever possible, actual historic signage should be maintained and restored to original significance regarding design, materials, craftsmanship, or placement.
- D. In Commercial and Industrial Zoning Districts, illuminated signs shall be designed to reduce glare and shall not detract from the landmark's or district's historic character.
- E. Freestanding signs and monument placards explaining the landmark's or district's significance or age shall be compatible with the landmark or district, but are otherwise encouraged. Signs shall be regulated for a distance of not more than 300 feet from a landmark or historic district.
- F. Signs to be placed upon a National Register ~~Landmark~~-property shall not be subject to the public hearing process and may be approved as a minor ~~review certificate of appropriateness~~ if the terms of Section 11.19 are met. ~~National Register Landmark~~ signs which do not meet

all of the stated terms shall be set for review by the Leavenworth Preservation Commission at its next regular meeting with appeal to the City Commission if denied.

G. Signs within Commercial or Industrial Historic Districts shall not be subject to the public hearing process and may be processed as a minor certificate of appropriateness if the terms of Section 11.19 are met. Signs within Commercial or Industrial Historic Districts which do not meet all of the terms of this Section shall be set for review by the Leavenworth Preservation Commission at its next regular commission meeting with appeal to the City Commission if denied.

H. Signs within Residential Historic Districts shall be subject to the following procedure:

~~1. Any sign larger than two square feet proposed to be located within a Residential Historic District or within 300 feet of such District shall require a review by the Leavenworth Preservation Commission prior to issuance of any sign permit.~~

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12. The commission and/or staff shall review the sign for compliance with the terms of this sub-section and shall modify, approve or deny the permit following a scheduled informal hearing set for its next regular meeting. Such informal hearing shall be preceded by written notice to each of the properties within the affected historic district.

23. This is not a formal public hearing process as described elsewhere in this Code for appeals. No notice is required to be advertised. Letters shall be sent by regular mail. Failure to receive notice of such informal hearing shall in no way void the hearing process. The letter mail distribution shall be based upon the addresses of the properties within the district as filed with the nomination for the district in records kept and maintained by the Planning and Zoning Department, City of Leavenworth, Kansas. Such notice shall be mailed at least five workdays prior to the date set for the informal hearing. It shall state the date, time and place of the informal hearing and that the Leavenworth Preservation Commission will meet to discuss a sign permit request and shall give the address where the sign may be located.

34. Should a legal, non-historic commercial or industrial zoned property be located within 300 feet of a Residential Historic District, then the Leavenworth Sign Code shall be used to issue sign permits and no further Historic review shall be required.

45. During the informal hearing the chair may elect to hear public testimony in favor of or opposed to the sign as designed. The commission may encourage modification of the sign to assure historic integrity and compatibility with the character of the historic landmark or district, or the commission may grant or deny the sign permit as presented. The owner of the sign may appeal the decision of the commission to the City Commission, if denied.

56. Appeals shall be in writing received by City staff within seven days of the date of denial.

9.18. Retention of Accessory Structures and Landscaping

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9.18 Retention of Accessory Structures and Landscaping

- A. Existing characteristics such as trees, walls, stairs, paving materials, fencing, walkways, and other site features that reflect the landmark or district's significance shall be retained and protected from demolition or alteration.
- B. Landscaping shall be appropriate to the scale and feature of the landmark or historic district.
- C. Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Non-contributing contributory structures shall not distract or detract from the landmark or historic district properties.
- D. Design criteria shall be applied more stringently to projects of greater significance than those of lesser impact. Accessory facilities are not subject to the public hearing process and will be reviewed at the next regular commission meeting with appeal to the City Commission if denied. Appeals must be submitted in writing within seven days of date of denial.

9.19. Public Properties

Existing historically or architecturally significant public properties shall be nominated to local, state, and federal registers upon authorization by the City Commission after review and approval by the commission of appropriate nominating materials. Unless specifically required elsewhere, normal nomination procedures may be waived.

- A. Normal property maintenance shall be exempt from the provisions of this Code unless or until a permit for work to be done is required by other City development regulations
- B. Demolition, exterior alteration, or expansion of landmark properties owned by such entities shall follow the procedures enumerated in these Development Regulations.

9.20. Promotion of Other Functions

To further the purposes of this Code and to assure maximum public knowledge and involvement in the preservation of Leavenworth's history, the City may enter into agreements with other units of government, other agencies and private corporations. Specifically, the City shall negotiate an agreement with the SHPO whereby the state may delegate certain responsibilities to the City, including, but not limited to, the review of building and/or demolition permit applications for compliance with the above stated historical regulations and objectives.

- A. **Types and purposes of grants, or other agreements:** The commission may recommend and the City Commission may authorize such agreements which address:
 - 1. Designation of landmarks and historic districts;
 - 2. Administration and use of preservation fund resources;
 - 3. Improvements to landmarks and historic districts;
 - 4. Maintenance of landmarks and historic district properties;

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9.18 Retention of Accessory Structures and Landscaping

5. Other mutually acceptable provisions such as contracts with public or private consultants and acceptance of grants or other resources to further the objectives and functions of the commission.

9.21. Promotion

The commission shall be the City's point of contact for all historic associations and organizations within the City, state and nation and shall provide such assistance as practical to promote and develop historical, archeological, or prehistoric interest in Leavenworth within the established budget for the operation of the commission. Activities such as submitting pass-through grants on behalf of these agencies, providing assistance with tax credit and other financial incentives directed toward historic property preservation, and providing basic research materials to interested parties will be conducted by the department as directed by the commission and as authorized by the City Commission through the various agreements. The commission is expected to provide accurate information to news media when appropriate to further the objectives of historic property preservation.

9.22. Public Hearing Process

Except where otherwise specifically excepted, the following process shall be used whenever historic landmarks or districts are proposed.

- A. Landmark nomination as additionally described above shall be processed as follows:
 1. The commission or department generates or receives a nomination and determines the appropriateness of the nomination based on age and character of the property being nominated.
 2. The department advertises the date, time, place and purpose of a public hearing at least 20 days prior to the date set and sends notice to all property owners within 200 feet of such proposed nomination [allow 30-45 days for this process].
 3. The commission conducts the hearing and after a 14-day protest period elapses, recommends approval or denial of the nomination to the City Commission [allow 20-30 days for this process].
 4. The City Commission accepts or reverses the recommendation and approves or denies the nomination.
 5. If approved, proper notifications are made and the property or district is declared a landmark or historic district [allow 10-14 days for designation notification].
 6. If denied, reasons therefore are presented to the owner, in writing, with remedies which the owner may address and resubmit in a future nomination of the same property [requires one-year delay before a future nomination may be submitted].

9.23. Alteration, Expansion or Demolition - Major

~~Alteration, expansion, or demolition applications requiring a Major Certificate of Appropriateness shall be processed as follows:~~

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~~A. The department receives application for a permit which triggers the determination warranting a major certificate of appropriateness and notifies the applicant within 24 hours that a formal review is required before a certificate of appropriateness can be issued [allow one two days for this process].~~

~~B. Applicant submits request for review in writing within seven days [allow one seven days for this process].~~

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~~C. Department prepares and publishes notice of time, date, place and purpose of public hearing, such notice to be published at least twenty days prior to the date of the hearing [allow 30-45 days for this process]. Notice is also sent by regular mail to all property owners within an affected historic district.~~

~~D. The commission conducts the public hearing and determines if the certificate of appropriateness can be issued and submits its decision, in writing with appropriate documentation to the applicant within 10 days. If the certificate of appropriateness can be issued, the permit may be granted by building inspector or other regulating department as appropriate [allow 1-5 days for this process for residential projects, allow 30-60 days for major residential (more than four units per building), commercial or industrial projects]. If the requested action is determined inappropriate in order to protect the historic character or integrity of the property, then the applicant may file an appeal, in writing, within seven days asking that the application be reconsidered by the City Commission [allow 5-10 days for this process]. A protest period of at least 14 days must elapse from the date of the public hearing until the appeal may be heard by the City Commission [this time runs concurrently with the notification process, allow an additional 5-10 days for scheduling].~~

~~E. The City Commission holds a regularly scheduled meeting and upholds or reverses the decision of the commission.~~

~~F. The decision of the City Commission is conveyed, in writing, to the applicant [allow 5-10 days for this process]. If the certificate of appropriateness is issued, the permit may be granted by the building inspector or other regulating department as appropriate [allow 1-5 days for residential or 30-60 days for major residential (more than four units per building), commercial or industrial projects].~~

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